

NSR Reform Meeting 1 Comments

Commentors

A	<p>HZW ENVIRONMENTAL CONSULTANTS, INC.</p> <p>Barbara L. Knecht, CHMM Sr. Environmental Compliance Specialist</p> <p>David J. Konrad Compliance Specialist</p> <p>Caroline A. Erak, CHMM Compliance Specialist</p>
B	<p>John A. Paul, Supervisor of RAPCA</p>
C	<p>Michael E. Born, Shumaker Loop & Kendrick LLP, on behalf of the Environmental Committee of the Ohio Electric Utilities and the following member companies:</p> <p>American Electric Power Buckeye Power, Inc. Columbus Southern Power Company, dba AEP Cinergy Corp. Dayton Power & Light Company Ohio Power company, dba AEP Ohio Valley Electric Corporation</p>
D	<p>The Ohio Environmental Council</p>

E	<p>Industry Members of the Industry – Ohio EPA PPEC (Permit Processing Efficiency Committee)</p> <p>By: Chris Korleski Honda of America Mfg., Inc.</p> <p>Maxine Dewbury Procter & Gamble</p> <p>*Ohio Chemistry Technology Council supports the PPEC comments</p>
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General Comments

Comment 1 - Commentor A:

HzW concurs with the letter from Industry Members of the Industry-Ohio Permit Processing Efficiency Committee (PPEC) NSR workgroup dated September 19, 2003 regarding their comments on the meeting format, the Pollution Control Projects (PCPs), the Clean Unit Designation and the relationship between the new NSR rules and Ohio existing Title 5 rules

Comment 2 - Commentor B:

In April of 1994, national associations representing state and local air pollution control program administrators (STAPPA/ALAPCO) members approved a set of principles that served to guide its representatives in NSR reform stakeholder meetings. These principles remain as excellent guides today and should be used by Ohio EPA in its deliberations. We recommend these principles be applied to the Ohio process.

- The best time to control a source is at the time of its installation or modification.
- We support the application of BACT and use of the “Top Down BACT Process”.
- New or modified sources must have legally enforceable limits on their future emissions. These emissions limits must be compatible with the SIP and should be analyzed at their future allowable rate.
- Emission increases must be analyzed with regard to their potential ambient impact. The increases may not interfere with the attainment and maintenance of the NAAQS, or cause a violation of a PSD increment. The new source or modification should be analyzed with regard to toxics. The effect of any increase on air quality related values also must be analyzed.
- The impact of future MACT and RACT controls on the new source review process is currently unknown but should be significant, and could lessen our anxiety about sources netting out of controls.

- Sources should not be allowed to “net out” of control requirements (BACT or LAER).
- New Source Performance Standards (NSPS) are not a good surrogate for BACT, since many are outdated and were never intended to represent BACT in the first place.
- We support the RACT/BACT/LAER Clearinghouse and consider it reasonable to expect data entries by State and Local Agencies. We also support the concept of a major source application data sheet submission to the Clearinghouse.
- Plantwide Applicability Limits (PALS) are supportable under Title V with all units identified and allowable emissions stated in the permit. However, even under the PAL concept, new units should apply BACT.
- We favor a simplification process which gives industry timeliness and certainty, but retains a strong technology requirement for all new or modified sources.

Comment 3 - Commentor B:

We want to take this time to make two important observations.

- Ohio has maintained the “dual-source” definition. This is important as it gives us the ability to address new emissions units and require best available technology regardless of contemporaneous emissions decreases which may have taken place at a plant. We urge Ohio EPA to maintain this definition.
- Ohio has a strong minor source review program which requires the application of best available technology for new minor sources. Again, we urge Ohio to maintain this program. We note that USEPA, in their discussion of the new federal rules and the various exemptions from major new source review, makes numerous references to the value of the backup programs at the state and local level that make sure minor source growth is addressed.

Comment 4 - Commentor D:

As an initial matter, applicable law provides that in order to receive delegated authority to enforce the Clean Air Act in Ohio, Ohio’s air pollution control program needs to be at least as stringent as, yet can be more stringent than, the federal air pollution control program. In this instance, U.S. EPA through administrative fiat has relaxed and weakened the requirements of the Clean Air Act, and both of the federal rules that Ohio EPA is proposing to adopt would further relax and weaken Ohio’s air pollution control program. Specifically, one of the federal rules proposed for adoption expands the category of activities that are exempt from the definition of “major modification,” (“PCP’s”) while the other proposed federal rule exempts an entire category of stationary sources from having to undergo New Source Review, i.e., “clean units.” Consequently, Ohio’s decision not to adopt these rules would make Ohio’s program more stringent than the federal program. Accordingly, the OEC recommends that Ohio EPA not adopt the proposed federal rules in their entirety

Comment 5 - Commentor D:

As a secondary matter, the rules package presented by Ohio EPA at the NSR discussion group meeting on September 15th was not very clear. For example, there is no draft proposed Ohio rule that corresponds to each of the two federal rules that Ohio EPA considers adopting. Moreover, it is not clear which of the December 31, 2002 federal revisions to existing federal rules Ohio EPA is proposing to adopt; is Ohio EPA adopting the December 31, 2002 federal rules in their entirety or just portions of those rules? Moreover, it is not clear whether Ohio EPA is asking for comments to all of the December 31, 2002 federal rules or just portions of them. In addition, it is not clear from the materials presented whether Ohio EPA is asking for comments to the federal rules as promulgated on December 31, 2002 or whether comments are sought on existing Ohio EPA rules and the effect the federal rules will have on existing Ohio EPA rules. Finally, it is not clear whether the adoption of the December 31, 2002 federal rules would result in Ohio EPA promulgating entire new rules or amendments to existing Ohio EPA rules. For all of these reasons, the OEC recommends that further rulemaking and public participation and comment take place before any proposed rules are submitted to JCARR.

Comment 6 - Commentor E:

Given the large number of attendees, we feel the location and format was appropriate and conducive to discussion, as evidenced by the number of comments made during the meeting. The format seems especially beneficial, because while it allows interested parties to provide comments and concerns to Ohio EPA, those comments and concerns are also heard by the other parties present. Consequently, all the participants gain a broader and better understanding of the diverse perspectives from which the issue of NSR can be viewed. We commend Ohio EPA for hosting these public meetings, and we look forward to participating in the monthly sessions to come.

Relationship Between NSR Rules, Ohio PTI Rules and Title V Rules

Comment 7 - Commentor C:

One of the key issues highlighted during the discussions was the interaction of the major NSR program with the minor source pre-construction permit program and the Title V operating permit program. The Utilities urge Ohio EPA to coordinate the new rules with Ohio's existing Title V program and minor source Permit to Install ("PTI") program. Revising the current structure of the PTI program to allow activities to proceed without further permitting (if there is no change in allowable emissions) is necessary to allow many PCP projects to move forward, even if one could project a collateral increase in actual emissions for another regulated pollutant. Similarly, recognizing that a project that qualifies for an NSR exclusion means that no "Title I modification" will occur as a result of the project often means that no Title V permit modifications will be required for many PCP projects. Every effort should be made

to encourage PCP projects to move forward, including encouraging the use of existing regulatory provisions that minimize permitting burdens. The advantages offered by NSR reform need to be maintained and Ohio EPA should make the coordination and intergration of these programs a top priority in developing new rules and revising existing ones.

Comment 8 - Commentor E:

We certainly acknowledge that the meshing of the new federal rules with the existing PTI rules is a complicated matter and will require considerable attention by all parties as we move further into this process. We stand committed to provide our perspective and assistance on this issue as this process moves along.

Comment 9 - Commentor E:

We concur with Ohio EPA that it is not too soon to be looking at the issue of how changes that can be made under the new federal NSR rules should be handled in the context of Title V modification procedures. It is important that Title V not be administered in a way that frustrates the objectives and benefits of NSR reform.

**12/31/02 NSR Reform Rules and 8/27/03 Routine Maintenance,
Replacement & Repair (RMRR) Rules**

Comment 10 - Commentor C:

The Utilities are concerned with Ohio EPA's proposal to delay discussion of the RMRR until January/February, 2004. The recently signed Routine Maintenance and Repair Rules ("RMRR") are a focal point of NSR reform for industry as a whole and the Utilities in particular. It is important for Ohio EPA to begin discussions on this aspect of the rules prior to next year. The Utilities would like to begin a dialogue with Ohio EPA to review the RMRR as soon as possible, if not as a part of the already scheduled meetings, then as a part of separate meetings with Ohio EPA. Ohio EPA's adoption of revised NSR rules, including the RMRR, is critical to Ohio's industry and utilities. The Utilities encourage Ohio EPA to move as expeditiously as possible to implement the RMRR and would like to discuss its adoption on an accelerated basis.

Comment 11 - Commentor E:

While not a specific topic of discussion at the meeting, we do seek clarification that Ohio EPA intends to address both the 12/31/02 and the 8/27/03 federal NSR rulemakings in one single rule package. Although we believe that to be Ohio EPA's present intention, perhaps this issue can be quickly addressed at the next meeting.

Pollution Control Project Comments

Comment 12 - Commentor A:

Regarding the need to notify the Ohio EPA of the “potential and projected increases and decreases of a PCP: what level of evidence will the Ohio EPA require to document these increases and decreases? Engineering information? Stack testing? The same question can apply for Clean Unit Designation where a BACT/LAER analysis has not been previously conducted.

Comment 13 - Commentor B:

We note the definition of PCP in the new federal rule (paragraph (b)(32)) and suggest the following:

- The definition should be modified to require the primary purpose of the project to be emissions reduction.
- Replacement of an existing emissions unit with a newer or different emissions unit or the reconstruction of an existing unit should be specifically excluded from the definition.
- Projects listed in the definition ((b) (32) (i) through (vi)) should carry the rebuttable presumption (as opposed to an automatic presumption) that they are environmentally beneficial.

Comment 14 - Commentor B:

With regard to the specific provisions for the PCP exclusion listed in section (z) of the federal rule, we offer the following:

- The federal rule is essentially a “notice and go” process for PCPs listed in the definition and a permit process for projects not listed. We suggest an “application and go” process for listed projects and an expedited permit process for projects not listed. Thus, we suggest the facility should apply for a permit to go forward with the PCP and then be allowed to proceed at its own risk for listed projects and await the permit for projects not listed. We will comment at a future date regarding recommended contents of the permit application.
- We note that under the federal rule, emissions decreases from a PCP are not credible as offsets or netting. We urge Ohio EPA to maintain this prohibition of emissions reduction credits, since the collateral emissions increases that may have been generated are excused as a part of the PCP exclusion.

Comment 15 - Commentor B:

More specific wording for the definition of Pollution Control Project and the PCP exclusion will be offered once the STAPPA/ALAPCO model rule options are published.

Comment 16 - Commentor C:

The Utilities endorse the expansion of the PCP program to non-electric steam generating units, and believe that the experience gained from the application of the 1992 WEPCO rule to electric steam generating units should inform the structure and implementation of the expanded program. No formal notice has been required for utilities installing conventional pollution controls under the WEPCO provisions, although we have made every effort to keep Ohio EPA's local and district offices advised of the measures taken to meet the reductions imposed under the Acid Rain program and in response to the NOx SIP call. We urge Ohio EPA to recognize the value of the flexibility afforded all sources under the PCP program, and to adopt notice requirements for listed projects that will not inhibit that flexibility. Moreover, for innovative measures that are not currently "listed" and for which additional information must be provided, we urge Ohio EPA to limit that information to the minimum requirements under the federal rules, so that pollution control, pollution prevention, and emission reduction efforts are encouraged and not discouraged.

Comment 17 - Commentor D:

51.165(a)(1). . .(v)(C)(8) and 51.166(b) . . .(2)(iii)(h)

- the prefatory language should be changed to read "any physical change in, or change in the method of operation of" in order to be consistent with OAC Chapter 3745-31.
- the word "addition" should be replaced with the word "installation" to be consistent with the definitional section of OAC chapter 3745-31; the word "install" is defined whereas the word "addition" is not so defined.
- the word "replacement" should be clarified, i.e. does it mean "total" replacement or does it mean "partial" replacement. This clarification is necessary in order to avoid any ambiguity or confusion. The federal rules have a definition for "replacement" but Ohio does not have a definition for "replacement." Therefore, Ohio EPA should either adopt the federal definition of "replacement" or Ohio EPA should clarify what is meant by replacement. Is "replacement" defined by pieces of equipment, cost, weight, volume, contribution to emissions?
- the word "use" needs to be clarified. Does Ohio EPA intend that "existing uses" of "existing PCPs" at "existing" units be included in the scope of the proposed rule? In other words, will only future PCPs be considered exempt from the modification provisions, or will all existing and future PCPs be exempted?
- the phrase "unless the director determines" should be clarified. Does this mean the Director needs to take formal administrative action in the form of a final action? Since legal benefits and obligations accrue from a project being designated a PCP, OEC recommends that this determination be in the form of

a final action.

Comment 18 - Commentor D:

51.165(a)(1) . . .(vi)(E)(5) and 51.166(b) . . .(3)(vi)(d)

- An additional subsection [for example, (vi)(E)(6)] should be added. The additional subsection should state that a decrease in actual emissions is creditable only to the extent that the PCP is not already required by applicable law, by an existing or pending Findings and Orders, and by an existing or pending Consent Order/Decree.

Comment 19 - Commentor D:

51.165(a)(1) . . .(xxv) and 51.166(b) . . .(31)

- does Ohio EPA intend for “pollution *prevention* projects” to be included within the definition of “pollution control projects”? Ohio EPA has an “office of pollution prevention” that encourages pollution prevention projects, and Ohio EPA has a policy of encouraging P2 projects, either through a voluntary program initiated by the regulated community, through findings and orders, or through enforcement orders negotiated with the attorney general’s office. If P2 projects are to be included in the scope of this rule then the definition of PCP needs to be changed and “prevention” needs to be added to this portion of the rule.
- anytime the phrase “any activity or project” is used, it should be changed to read “any operation, activity or project.” This is necessary to be consistent with the definition of “air contaminant source,” which is defined in OAC chapter 3745-31 as an “operation or activity.”

Comment 20 - Commentor D:

51.165(a)(2) . . .(iv)

- It is not clear from the materials provided by Ohio EPA whether the owner or operator that is undertaking the PCP needs to provide written notice to the director prior to undertaking the PCP. It should be made clear somewhere in Ohio EPA’s rules that written, prior notice from the director is required before a project, operation and/or activity qualifies as a PCP.

Comment 21 - Commentor D:

51.165(a)(3)(ii) . . (H) and 51.165(a)(3)(ii) . . . (I)

- The methodology for determining “decreases in actual emissions” needs to be specified. For example, is a baseline of prior actual emissions required? Are actual emissions compared over a consecutive 24 month period, over the highest two months within a consecutive 24 month period, over five years? If the methodology for calculating a decrease in actual emissions is specified in the existing NSR rules, then that method should be referenced.

Comment 22 - Commentor D:

51.165(e) and 51.166(v)

- as an initial matter, the OEC recommends that the federal list of “approved” PCPs for which a permit application is not necessary should not be adopted by Ohio EPA. Any attempt to further relax the standards of the clean air act through federal administrative fiat should be rejected by Ohio EPA.
- the language in (e/v)(1) which reads “the owner or operator must submit a permit application and obtain approval” should be changed to read “the owner or operator must submit a modified permit application and receive a modified permit.”
- the word “outweigh” in (e/v)(2)(i) should be defined, or some concrete, objective criteria developed before an “environmental benefit” is determined
- the following language in (e/v)(2)(i) should be deleted: “A statement that a technology from paragraphs * * * of this section is being used shall be presumed to satisfy this requirement.” The entity seeking the PCP exclusion should be required to perform the requisite analysis to demonstrate the “environmentally beneficial” aspect of the PCP.
- an additional criteria should be included in paragraph (e/v)(2)(ii), such as “emissions increases from the project will not cause a violation of any applicable law.”
- under section (e/v)(3)(i), the description of the project should include the costs and the timetable.
- the language in (e/v)(3)(iii) that reads “should be sufficient” should be changed to read “shall be those specified in part 70 and part 71.”
- the language in (e/v)(3)(iv) that reads “in such a way as to minimize” should be changed to read “in such a way as to minimize or prevent.”
- the language in (e/v)(3)(v) that reads “an air quality impact analysis is not required for any pollutant which will not experience a significant emissions increase as a result of the project” should be deleted. If this language is not deleted, then “significant” should be defined in a manner consistent with OAC chapter 3745-31.

- the language in (e/v)(3)(v) that reads “an air quality impact analysis is not required for any pollutant which will not experience a significant emissions increase as a result of the project” should be deleted. If this language is not deleted, then “significant” should be defined in a manner consistent with OAC chapter 3745-31.
- the language in (e/v)(4) that reads “shall respond to any requests by its reviewing authority for additional information” should be changed to read “shall, within 10 days, provide any additional information requested by the director.”
- the only comment the OEC has to section (e/v)(5) is that Ohio EPA should consider the environmentally beneficial analysis a public record and not subject to any claim of “trade secret” or “proprietary business record,” since it contains and basically consists of only emissions data
- the language in (e/v)(6)(i) that reads “in such a way as to minimize” should be changed to read “in such a way as to minimize or prevent.”
- the language in (e/v)(6)(ii) that reads “must maintain copies on site” should be changed to read “must maintain copies on site for a minimum of three years.”
- the language in (e/v)(6)(iv) that reads “unless the emissions unit further reduces emissions” should be changed to read “unless the emissions unit demonstrates that further emissions reductions will be achieved.”
- The sentence in (e/v)(6)(iv) that begins with “The owner or operator may generate a credit for the difference” should be deleted in its entirety because this language allows what the rest of this and the other proposed regulations prohibit, i.e., emissions reductions created by a PCP shall not be used for calculating offsets or credits
- the language in (e/v)(6)(iv) that reads “For purposes of generating offsets, the reductions must also be federally enforceable” should be changed to read “For purposes of generating offsets, the further emissions reductions that are demonstrated after the emissions unit qualifies for the PCP exclusion must also be federally enforceable”

Comment 23 - Commentor E:

As demonstrated at the meeting, there seems to be widespread support for the fundamental notion that the installation of environmentally-beneficial PCPs should be as free as possible from time consuming and formalistic permitting procedures, which can obviously discourage a company’s desire and ability to go forward with such projects. We believe the concept of exempting PCPs from the definition of a “major modification”, as embodied in the federal rule, is reasonable, and we urge Ohio EPA to implement it in Ohio.

Comment 24 - Commentor E:

We reiterate some of the comments made at the meeting and urge Ohio EPA to carefully consider the manner in which an exemption from such projects under the federal major

modification rules should mesh with the existing requirements to obtain PTIs as set forth in Chapter 3745-31. It is our position, (and we believe Mr. Hodanbosi iterated this position as well) that Ohio must think carefully about how to mesh the new federal PCP rules with the PTI program so as to not detract from the federal incentives for undertaking PCP projects. Stated more succinctly: If an environmentally-beneficial PCP meets the criteria to be exempt from the definition of a “major modification” per 40 CFR 51.166(b)(2)(iii)(h) (and is therefore exempt from major NSR); and meets the criteria currently set forth in OAC Rule 3745-31-01(VV)(1)(a)(vi); then such a project should be exempt from the PTI process as well.

Clean Unit Comments

Comment 25 - Commentor A:

HzW concurs with the general concept raised at the September 15, 2003 meeting to somewhat “de-couple” the Clean Unit Designation from the Permit to Install application process so a source can move forward with source installation. However, if this occurs, where in the process would the public notice requirement come in?

Comment 26 - Commentor B:

This is a very difficult topic to cover in all its specifics, since the topic covers the definition of a Clean Unit and its subsequent use in applicability determinations, PALs, and baseline calculations. The following comments are meant to address major points (specific wording regarding clean units throughout the new rules will be offered once the STAPPA/ALAPCO model rule options document is finalized).

- The Clean Unit designation should be reserved for emissions units which meet today’s BACT. The federal rule allows for automatic designation of units which obtained a federal NSR permit within the past 10 years. We feel BACT determinations which are up to 10 years old may not represent true BACT. Our preferred approach is that only future units which install current BACT should be eligible for the Clean Unit designation
- We make the observation that much of Ohio will be designated nonattainment for 8-hour ozone and/or PM_{2.5} by January 1, 2005. The Ohio rules regarding Clean Units will likely not be effective until late 2005. Thus, when the Clean Unit provision becomes available, most urban areas in Ohio will be designated nonattainment, and the control requirement will be LAER rather than BACT. This will likely limit the use of the Clean Unit designation in the state. We note the federal rule does not require that units designated as Clean Units in attainment areas be upgraded to LAER if the area is

redesignated to nonattainment. We feel this is a deficiency in the federal rule.

- We note that the federal rule does not allow the creation of emissions reduction credits for controls implemented to qualify a unit as a Clean Unit. We support this federal exclusion.
- We caution Ohio EPA with regard to the treatment of synthetic minors which accepted operational restrictions in order to avoid federal BACT. If such units wish to be classified as Clean Units, they must first install federal BACT.

Comment 27 - Commentor D:

51.165(a)(1) . . .(vi)(C)(3) and 51.166(b) . . .(3)(iii)(c)

- Commentor reiterated "Comment 21" except to change "decreases in actual emissions" to "an increase or decrease in actual emissions"

Comment 28 - Commentor D:

51.165(a)(1) . . .(xxix) and 51.166(b) . . .(41)

- The language that reads "that is complying with such BACT/LAER requirements" should be changed to read "that has been in continuous compliance with all applicable BACT/LAER requirements for 24 consecutive months."

Comment 29 - Commentor D:

51.165(a)(2)(ii) . . .(E) and 51.166(a)(7)(iv) . . .(e)

- This section should be deleted in its entirety. Because "clean unit" is defined by events that occur in the future, i.e., compliance with all BACT/LAER requirements, it is not possible to determine at the time of construction and/or operation whether a project will cause the unit to lose its "clean unit" designation.

Comment 30 - Commentor D:

51.165(a)(2)(ii) . . .(F) and 51.166(a)(7)(iv) . . .(f)

- This section is not as clear as it could be. Does this section mean that a projected increase of 30 tons per year of VOC from an existing unit and a projected increase of 15 tons per year of VOC from a "clean unit" "equals or exceeds the significant amount for that pollutant?" Or does this section mean that all projected increases of emissions from only the "clean units" have to equal or exceed the threshold levels?

Comment 31 - Commentor D:

51.165(a)(3)(ii) . . .(H) and 51.165(a)(3)(ii) . . .(I)

- Commentor reiterated "Comment 21"

Comment 32 - Commentor D:

51.165(c) and 51.166(t)

- the language in (c/t)(1) that reads "within the past 10 years" should be changed to read "within the past 5 years."
- the word "project" in section (c/t)(2)(i) and those sections following should be defined. Does this encompass any physical change in or change in the method of operation of a source?
- the last sentence in (c/t)(2)(ii) that reads "the emissions unit remains a Clean Unit" should be changed to read "the emissions unit remains a Clean Unit for that project."
- the language in (c/t)(2)(iii) that reads "then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit requalifies as a Clean Unit pursuant to paragraph (c)(3)(iii) of this section)" should be deleted in its entirety and should be replaced with the following "then actual construction on the project is prohibited."
- the language in (c/t)(2)(v) that reads "In addition, the requirements of * * * do not apply to emissions units that qualify for Clean Unit status under this paragraph * * *" should be deleted. The clean unit's allowable emission limit will be already established by the PSD permit and any off-sets that may have been allowed will already have been accounted for.
- the beginning language in (c/t)(3) that reads "An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in paragraphs (c/t)(3)(i) and (ii) of this section" should be deleted because it is inconsistent with the language of 51.165(a)(1) . . . (xxix).
- the language in (c/t)(3)(ii) that reads "through the use of an air pollution control technology" should be changed to read "through the use of an installed air pollution control technology approved by the director."
- the language in (c/t)(4)(i) that reads "the emissions unit's air pollution control technology" should be changed to read "the emissions unit's approved air pollution control technology", and the language that reads "for incorporation into the plan and become effective for the State" should be changed to read "for incorporation into the plan and that become enforceable in the State."
- the language in (c/t)(5)(i) and (ii) should be consistent with section (c/t)(2)(iii).

- The sentence in (c/t)(8) that begins with “However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, * * * should be deleted in its entirety because this language allows what the rest of this and the other proposed regulations prohibit, i.e., emissions reductions created by a Clean Unit shall not be used for calculating offsets or credits.
- the language in (c/t)(8) that reads “For purposes of generating offsets, the reductions must also be federally enforceable” should be changed to read “For purposes of generating offsets, emissions that are reduced below the level that qualified the unit as a Clean Unit must also be federally enforceable”

Comment 33 - Commentor D:

51.165(d) and 51.166(u)

- the word “project” in section (d/u)(2)(i) and those sections following should be defined. Does this encompass any physical change in or change in the method of operation of a source?
- the last sentence in (d/u)(2)(ii) that reads “the emissions unit remains a Clean Unit” should be changed to read “the emissions unit remains a Clean Unit for that project.”
- the language in (d/u)(2)(iii) that reads “then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit requalifies as a Clean Unit pursuant to paragraph (c/t)(3)(iii) of this section)” should be deleted in its entirety and should be replaced with the following “then actual construction on the project is prohibited.”
- the beginning language in (d/u)(3) that reads “An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in paragraphs (d/u)(3)(i) and (ii) of this section” should be deleted because it is inconsistent with the language of 51.165(a)(1) . . . (xxix).
- the language in (d/u)(3)(i) that reads “through the use of an air pollution control technology” should be changed to read “through the use of an installed air pollution control technology approved by the director.”
- the language in (d/u)(4) that reads “the emissions unit’s control technology” should be changed to read “the emissions unit’s approved air pollution control technology.”
- the sentence in (d/u)(10) that begins with “However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, * * * should be deleted in its entirety because this language allows what the rest of this and the other proposed regulations prohibit, i.e., emissions reductions created by a Clean Unit shall not be used for calculating offsets or credits.
- the language in (d/u)(10) that reads “For purposes of generating offsets, the reductions must also be federally enforceable” should be changed to read “For

purposes of generating offsets, emissions that are reduced below the level that qualified the unit as a Clean Unit must also be federally enforceable”

Comment 34 - Commentor E:

We also support the concept embodied in the federal rules relating to the designation of certain process units as “Clean Units” because of the high degree of emissions control associated with such units. As we see it, the Clean Unit designation is simply a common sense determination that once a process unit achieves a BACT level of technology (or the equivalent thereto), then the regulated entity should, for a reasonable period of time thereafter, not have to undergo procedurally burdensome and time consuming permitting reviews as long as the entity continues to comply with existing emission limitations and does not alter any of the characteristics that formed the basis of the original BACT determination. [See 40 CFR 51.166(t)(2)(ii).] We strongly support this concept and encourage Ohio EPA to implement this concept in Ohio.