

RULE SYNOPSIS

Proposed rule language for Ohio Administrative Code (OAC) Chapter 3745-31 rules governing “Permits-To-Install New Sources and Permit-To-Install And Operate Program” to incorporate Senate Bill 265 language, to incorporate additional exemptions, and to clarify site preparation activities – 5 Year Review

The Ohio EPA Division of Air Pollution Control (DAPC) has completed proposed rule language for OAC Rules 3745-31-01, 3745-31-03, 3745-31-05, 3745-31-06, 3745-31-11, 3745-31-13, 3745-31-14 and 3745-31-33.

Changes Made in Response to Comments On Draft Rule Language:

The rules governing “Permits-To-Install New Sources and Permit-To-Install and Operate Program” were distributed for interested party comment on November 13, 2014. After one extension, the comment period for this package expired on January 16, 2015. Several commentators were received by DAPC from interested parties. The response to Comments document includes details of these comments and Ohio EPA’s responses. Specific changes made included the following:

OAC 3745-31-01 Definitions

- Revised language contained in 3745-31-01(CCCC)(1) to match the federal definition(s) of “non-road engine” consistent with Title 40 Code of Federal Regulations (CFR) 89.2 and/or 40 CFR 1068.30.
- Revised language contained in 3745-31-01(CCCC)(2)(d) though (g) consistent with the language contained in 40 CFR Part 89.1(b).
- Deleted 3745-31-01(CCCC)(2)(h) as small engines will be covered under OAC rule 3745-31-03(pp).
- Added paragraph under 3745-31-01(MM)(4) to include “conditions where a regional transmission organization notifies electric distributors that an emergency exists or may occur and it is necessary to implement emergency procedures for voluntary load curtailments by customers within Ohio, in response to unusually low frequency, equipment overload, capacity or energy deficiency, unacceptable voltage levels, or other emergency conditions leading to a potential electrical blackout”.
- Added paragraph to included language consistent with 40 CFR 63.6640(f)(1) under 3745-31-01(MM)(5) that “there is no time limit on the use of emergency stationary Reciprocating Internal Combustion Engines (RICE) in emergency situations”.

OAC 3745-31-03 Exemptions and Permits-by-Rule

- Clarified paragraph (B)(1)(xx) to state that construction activities located at a construction site for a project, for which no air pollution permits are required, are permanently exempted.
- Revised paragraph (B)(1)(hhh) to remove the throughput of one thousand tons per year or less for the compost piles, windrows, and associated activities including material receiving, storage, mixing, curing, turning, and load-out at Class II, III and IV solid waste composting facilities as defined by OAC 3745-560-02.
- Added paragraph (B)(1)(jjj) to state that roadways and parking areas (either paved or unpaved) with less than 3800 vehicle miles traveled (VMT) per year, less than 5 tons particulate emissions (PE), and less than 1.45 tons PM10 per year, are permanently exempted.
- Revised language under paragraph (C)(2)(f)(i)(d) consistent with the federal 40 CFR Part 63, Subpart HHHHHH - National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources rule.
- Deleted paragraph (C)(2)(m) for "Horizontal Well Completion Activities."

OAC rule 3745-31-33 Site preparation activities prior to obtaining a new permit-to-install or PTIO.

- Removed draft paragraph (E)(14). OEPA is no longer making that particular change.

Further, Ohio EPA made various minor changes throughout the Chapter for clarity and to address Legislative Services commission (LSC) formatting conventions.

Original Draft Rule Changes:

The original draft changes are discussed below. The draft changes are still valid unless superseded by a change in the above section:

OAC rule 3745-31-01 Definitions

Paragraphs (AAA) and (BBB) are being amended to replace the word Indian with the word Tribal. Language is also being added in paragraph (LLLLLL) to update information on the version and availability of items referenced in the amended rules in this rulemaking package.

OAC rule 3745-31-03 Exemptions and permits by rule.

DAPC suggests making reorganizational changes throughout this rule to clarify the difference between an exemption and a permit-by-rule (PBR). Currently the rule is organized so that permits-by-rule fall under exemptions. However, a permit-by-rule is not a true exemption from New Source Review (NSR) requirements and the requirement to obtain a permit for a new source. Rather, a permit-by-rule is an exemption from obtaining a traditional paper permit issued by DAPC. Changes also include incorporating up-to-date applicable exemption references and additional exemptions and/or permit-by-rule provisions.

- The original paragraph (A) language is relocated as an un-enumerated paragraph at the beginning of the rule where exemptions and PBRs are clarified as discussed above. This change also includes adding new language to clarify that sources exempted or obtaining a permit-by-rule under this chapter are not relieved of the obligation to comply with major NSR, Title V, New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutant (NESHAP) standards (NESHAP), or Maximum Achievable Control Technology (MACT) standards.
- Paragraph (A)(1)(p), the portable source relocation exemption, will be amended to incorporate the portable source relocation site approval requirements previously found in OAC Rule 3745-31-05(H). The portable source site approval language has been removed from rule 3745-31-05(H).
- Paragraph (A)(1)(q) will be deleted and divided into two types of dry cleaning facility exemptions, with the exemption in (A)(1)(q) for dry cleaning facilities that do not use perchloroethylene and the exemption in (A)(1)(r) for dry cleaning facilities that use volatile methyl siloxane solvent.
- Paragraphs (A)(1)(nn) and (A)(1)(oo) are being updated to be consistent with recent amendments to the stationary compression ignition internal combustion engines MACT. The sulfur limits are being removed since all fuel must comply with sulfur limits in 40 CFR Part 80. A facility will not be able to purchase fuel that doesn't comply with these limits, and we wanted to avoid double regulation of the fuel sulfur limits.
- Paragraphs (A)(1)(uu) through (A)(1)(jjj) will be added to incorporate new exemptions for: tanks at a publically operated treated works or semi-public disposal system operating under a valid NPDES permit; powder coating lines; on-site cleaning and painting of outdoor structures; on-site construction activities that are temporary; on-site building demolition and implosion; grading, dragging, and stripping operations for athletic fields, race tracks and roadways and parking areas; concrete or masonry waterproofing and sealing; roof coating and asphalt surface sealing; diesel fuel storage and dispensing operations; outdoor and indoor firing and shooting ranges; heat treating furnaces; heating units burning used oil with a heat input rating less than 500,000 Btu/hr; composting piles and associated activities; beauty salons, barber shops and nail salons; dry cleaning facilities that do not use perchloroethylene solvent; and dry cleaning and laundry facilities that use wet cleaning, liquid carbon dioxide, or non-VOC solvents.
- Paragraph (A)(3)(e) will be amended to clarify the exemption for a temporary source.

- Paragraph (A)(4) was added to clarify that sources may qualify for the de minimis exemption that is described further under OAC rule 3745-15-05.
- The previous paragraph (A)(4) is being changed to paragraph (B) to organize the rule with exemptions listed under paragraph (A) and Permits by rule (PBRs) listed under paragraph (B).
- The previous paragraph (A)(4)(a)(viii), definitions pertaining to emergency electrical generators, has been removed and the definitions are now found in OAC rule 3745-31-01.
- Paragraph (B)(2) was added as a header for “source specific provisions.”
- Paragraph (B)(2)(a) was amended to change “powered by internal combustion engines” to “powered by emergency engines” to be consistent with the definition of “emergency engine” in OAC rule 3745-31-01. The paragraph was also amended to delete the fuel sulfur limit and to add references to 40 CFR Part 60, Subpart IIII, 40 CFR Part 60, Subpart JJJJ, and 40 CFR Part 63, Subpart ZZZZ.
- Paragraph (B)(2)(b), the PBR for equipment used for injection and compression molding of resins, was amended to add the equivalent tonnage for each resin limit.
- Paragraphs (B)(2)(c)(i)(a) and (B)(2)(c)(i)(b) were amended to include plants that process recycled concrete and asphalt paving materials to the PBR for nonmetallic mineral processing plants.
- Paragraph (B)(2)(f), the autobody refinishing facility PBR, was amended to add airless sprayguns as a means of applying paint or coatings, to add counties in which operators of paint applicator equipment should be trained, to add a paragraph describing stack height requirements, and to add a requirement to comply with 40 CFR Part 63, subpart HHHHHH when applicable.
- Paragraph (B)(2)(g), the gasoline dispensing facility (GDF) with Stage I controls PBR, was amended to add that the facility must comply with 40 CFR Part 63, subpart CCCCCC when applicable. Also, paragraph (B)(2)(g)(i)(d) was amended to change the gasoline throughput from less than eight million gallons per year to less than sixteen million gallons per year.
- Paragraph (B)(2)(h), the GDF with Stage I and II controls PBR, was amended to delete the reference to OAC rule 3745-31-03(A)(1)(ee), as the old paragraph (A)(1)(ee) was an exemption for GDFs equipped with Stage I controls and not located in the listed counties. Also, a new paragraph was added to this PBR to require a GDF to decommission the Stage II vapor control system to be eligible for this PBR, and a new paragraph was added requiring compliance with 40 CFR Part 63, subpart CCCCCC when applicable. A new applicable rule, OAC rule 3745-21-09(DDD), was added to this PBR, which requires the installation of low permeation hoses. A new paragraph was added to require an owner or operator of such GDF to notify the appropriate Ohio EPA personnel when decommissioning the Stage II vapor control system.
- Paragraph (B)(2)(j), the small printing facility PBR, was amended to update rule references. Also, a new applicable rule, OAC rule 3745-21-22(A)-(I), was added to this PBR.
- Paragraph (B)(2)(k), the mid-size printing facility PBR, was amended to update rule references. Also, a new applicable rule, OAC rule 3745-21-22(A)-(I), was added to this PBR.

- A new paragraph, (B)(2)(l), was added to include a new PBR for paved and unpaved roadways and parking areas.
- A new paragraph, (B)(2)(m), was added to include a new PBR for natural gas well completion operation.

OAC rule 3745-31-05 Criteria for decision by the director.

- Paragraph (A)(3)(iv) was added to clarify that BAT is not required for sources subject to plant-wide applicability limits approved by the director.
- Paragraph (A)(3)(f) was added to incorporate VOC BAT requirements consistent with the VOC RACT requirements specified in OAC rule 3745-21-09, 3745-21-11 and 3745-21-16. Amending this rule is in response to Ohio EPA's obligation to legislation promulgated under Senate Bill 265. Ohio EPA is also referencing the RACT requirements for fugitive dust sources as being equivalent to BAT for any new fugitive dust source as part of the Senate Bill 265 obligation to provide for BAT in rules in the future.
- Paragraph (F)(1) was amended to clarify language regarding special terms and conditions for voluntary limits on allowable emissions. As currently written, the paragraph does not explicitly provide the authority for the director to issue a permit with such restrictions, when requested by an applicant. This amendment will clarify the authority to do so.
- Paragraph (H) has been removed from OAC rule 3745-31-05 and moved to OAC rule 3745-31-03.

OAC rule 3745-31-06 Completeness determinations, processing requirements, public participation, public notice, and issuance and OAC rule 3745-31-11 Attainment provisions - ambient air increments, ceilings and classifications.

- References to Indian governing bodies were changed to Tribal governing bodies.

OAC rule 3745-31-13 Attainment provisions – review of major stationary sources and major modifications, stationary source applicability and exemptions and OAC rule 3745-31-14 Attainment provisions – preapplication analysis.

- OAC rules 3745-31-13(H)(1)(f) and 3745-31-14(D) were amended to incorporate “or nitrogen oxides for the purpose of ozone” after “VOCs” in each paragraph. This change is necessary to obtain full approval of these rules into Ohio's SIP. During a previous rulemaking Ohio EPA incorporated language related to NOx as a precursor for ozone similar to VOCs in order to mirror the federal regulatory language. However, Ohio EPA inadvertently omitted the addition in these two paragraphs.

OAC rule 3745-31-33 Site preparation activities prior to obtaining a new permit-to-install or PTIO.

- Paragraph (E)(14) was amended to clarify the types of site drainage systems, temporary erosion control and additional sedimentation control systems that are considered an acceptable site preparation activity for any air contaminant source

project for both major and minor sources prior to obtaining a final permit-to-install or PTIO.