

## **RULE SYNOPSIS**

Draft rule language for Ohio Administrative Code (OAC) Chapter 3745-31 to incorporate the PM 2.5 NSR Implementation Final Rules.

The Ohio EPA Division of Air Pollution Control (DAPC) has completed draft rule language for incorporation of the U.S. EPA requirements for implementation of the New Source Review (NSR) program for fine particulate matter (that is, particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, generally referred to as “PM 2.5”), promulgated on May 16, 2008. As a fully approved NSR program, DAPC is required to incorporate U.S. EPA’s rules, or a version at least as stringent as U.S. EPA’s rules, within three years of their promulgation. Please reference the federal register document (73 FR Vol. 96, page 28321) published on May 16, 2008 for a detailed synopsis of the changes drafted by U.S. EPA. This document, and additional information related to NSR, can be found at: <http://www.epa.gov/nsr/>.

Moreover, as a part of this rule package, DAPC is also incorporating changes in OAC Chapter 3745-31 not directly related to U.S. EPA’s PM2.5 NSR implementation final rule. These second set of changes contain a host of revisions, including; revising and adding definitions, updating permit-by-rule (PBR) and exemption language, adding exemptions, incorporating “VOC RACT requirements equivalent to BAT” language, adding federal land manager notification requirements and incorporating minor organizational or typographical changes.

In addition to OAC Chapter 3745-31 revisions, DAPC is also incorporating changes to OAC rule 3745-17-08. These revisions are a part of DAPC’s effort to update best available technology (BAT) requirements as a result of changes required by Senate Bill 265 of the 126<sup>th</sup> legislature (Senate Bill 265). We are amending this rule to identify that reasonably available control technology (RACT) requirements for fugitive dust sources is considered equivalent to BAT for any new fugitive dust source.

Ohio EPA plans to put forth new rules in a separate OAC Chapter that will incorporate the BAT requirements as included in Senate Bill 265. The new rules will be provided for comment as a separate rule package in the near future.

The suggested changes for this entire rule package are described in more detail below under each rule heading:

### **OAC 3745-31-01 Definitions**

DAPC is suggesting several changes to this rule as presented below in descending order (Paragraph (A) through paragraph (IIIIII)).

- Paragraph (L) “applicable laws” definition will be revised to include any standard or other requirements provided for in the Ohio state implementation plan (including revisions) approved or promulgated by U.S. EPA. We are suggesting this amendment to provide clarity and maintain consistency with OAC rule 3745-77-01.

- Paragraph (MM) defines the new term; “emergency”. This new term corresponds with the emergency exemptions in OAC rule 3745-31-03.
- Paragraph (NN) defines the new term; “emergency generator”. This new term corresponds with the emergency generator exemptions in OAC rule 3745-31-03.
- Paragraph (VVV) “Net emissions increase” definition will be revised to incorporate clarifying language for the contemporaneous period of an increase or decrease of actual emissions.
- Paragraph (QQQQ) defines a new term; “permanent”. This term is one of the federally required criteria for an air quality emission offset and the incorporation will maintain consistency with OAC rule 3745-111-01.
- Paragraph (TTTT) defines a new term; “PM2.5 direct emissions” or “PM2.5 emissions” as prescribed by U.S. EPA’s PM2.5 NSR Implementation final rule.
- Paragraph (UUUU) defines a new term; “PM2.5 precursor” as prescribed by U.S. EPA’s PM2.5 NSR Implementation final rule.
- Paragraph (GGGGG) defines a new term; “publicly owned treatment works” or “POTW”. This term corresponds with a new POTW exemption in OAC rule 3745-31-03.
- Paragraph (HHHHH) defines a new term; “quantifiable”. This term is one of the federally required criteria for an air quality emission offset and this incorporation will maintain consistency with OAC rule 3745-111-01.
- Paragraph (LLLLL) “regulated NSR pollutant” will be amended to incorporate PM2.5 precursors for direct PM2.5 emissions and PM2.5 condensable emissions language. Ohio EPA suggests the incorporation of NO<sub>x</sub> and SO<sub>2</sub> as PM2.5 precursors. Condensable emissions will be accounted for in applicability determinations and emission limitations on or after January 1, 2011 (or an earlier date established in upcoming federal rulemaking codifying test methods). The amended language is found in both the nonattainment and attainment sections of this paragraph.
- Paragraph (RRRRR) defines a new term; “semi-public disposal system”. This term corresponds with a new POTW exemption in OAC rule 3745-31-03.
- Paragraph (TTTTT) “significant” definition will be amended to incorporate net emissions significant rates for PM2.5 and PM2.5 precursors; SO<sub>2</sub> and NO<sub>x</sub>.
- Paragraph (IIIII) “incorporation by reference” section will now be called “referenced materials”. Clarifying language and updated references are also incorporated in this paragraph.

### **OAC rule 3745-31-03 Exemptions**

DAPC suggests making reorganizational changes throughout this rule to clarify the difference between an exemption and a permit-by-rule. Currently the rule is organized so that permit-by-rules fall under exemptions. However, a permit-by-rule is not a true exemption from 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.

- DAPC suggests changing the rule name to “Exemptions and permits-by-rule”.
- 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.

The original paragraph (A)(1) is reorganized and amended to incorporate the applicable exemptions and federal references for 40 CFR Part 60 the new source performance standards (NSPS), 40 CFR Part 61, the national emission standards for hazardous air pollutants (NESHAPs) and 40 CFR Part 63, the NESHAPs for source categories, maximum available control technology (MACT) standards. This change also includes adding new language to clarify that sources covered under U.S. EPA generally available control technology (GACT) requirements will qualify for exemptions under this rule, when applicable.

- The following paragraphs will be amended to incorporate applicable references pertaining to sources required to comply with NESHAP and/or MACT standards.
  - Paragraph (A)(1)(y)
  - Paragraph (A)(1)(z)
  - Paragraph (A)(1)(hh)
  - Paragraph (A)(1)(ii)
  - Paragraph (A)(1)(kk)(iv)
- Paragraph (A)(1)(nn) is being updated to be consistent with recent amendments to the stationary compression ignition internal combustion engines MACT, including the reduced percent by weight Sulfur content requirements.
- Paragraph (A)(1)(tt) will be added to incorporate a new exemption for tanks at “POTWs” or “semi-public disposal systems” operating under a valid NPDES permit.
- Paragraph (A)(1)(uu) will be added to incorporate a new exemption for “powder coating lines” using less than 300 tons of coatings per year.
- Paragraph (A)(4) will be moved from (B)(5) under the new format that provides clarity between exemptions and PBRs.
- Paragraph (B) is being amended to provide clarity in the PBR program..
- The following paragraphs will be amended to incorporate applicable references pertaining to NSPS and/or MACT standards:
  - Paragraph (B)(2)(a)
  - Paragraph (B)(2)(f)(i)(g)
  - Paragraph (B)(2)(f)(ii)(a)
  - Paragraph (B)(2)(f)(iii)(d)
  - Paragraph (B)(2)(f)(iii)(e)
  - Paragraph (B)(2)(f)(iv)(a)(d)
  - Paragraph (B)(2)(f)(v)(g)(i)(e)
  - Paragraph (B)(2)(f)(v)(g)(ii)(a)

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

- Paragraph (A)(3)(f) will be 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) is being 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.

**OAC rule 3745-31-06 Completeness determinations, processing requirements, public participation, public notice, and issuance**

- Paragraph (I) will be added to incorporate clarifying language for notification procedures to the federal land managers (FLMs). This language specifies how Ohio EPA will notify FLMs when their respective area(s) is affected by any proposed new major stationary source or major modification that may affect visibility in any Federal Class I area. It also indicates how Ohio EPA will respond to any analysis performed by the FLMs.

**OAC rule 3745-31-11 Attainment provisions - ambient air increments, ceilings and classifications**

- Paragraph (B) will be amended to incorporate PM2.5 maximum allowable increases.

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

- Paragraph (H) will be amended to incorporate PM2.5 exemption levels with respect to ambient monitoring.

**OAC rule 3745-31-22 Nonattainment provisions conditions for approval**

- Paragraph (A)(3)(b) will be amended to incorporate permissible language for emission offset interprecursor trading for PM2.5 emissions and PM2.5 precursors.
- Paragraph (A)(5) will be added to incorporate reasonable further progress language consistent with 40 CFR Part 51, Appendix S.

**OAC rule 3745-31-24 Nonattainment provisions - baseline for determining credit for emission and air quality offsets**

- Paragraph (B) will be reorganized and amended to provide clarity and maintain consistency with the latest amendments of 40 CFR Part 51, Appendix S.
- Paragraph (F) will be reorganized and amended to provide clarity and maintain consistency with 40 CFR Part 51, Appendix S.
- Paragraph (G) will be added to maintain consistency with 40 CFR Part 51.165.

**OAC rule 3745-31-25 Nonattainment provisions - location of offsetting emissions**

- Paragraph (B) will be amended to maintain consistency with 40 CFR Part 51, Appendix S.
- PM2.5 emissions will be incorporated in this rule as prescribed by U.S. EPA's PM2.5 NSR implementation final rule.

**OAC rule 3745-31-26 Nonattainment provisions - offset ratio requirements**

- Paragraph (A) will be reorganized to provide clarity and amended to incorporate PM2.5 and PM2.5 interprecursor emission offset trading.
- Paragraph (B) will be relocated from paragraph (C)(7).
- Paragraph (C) will be relocated from paragraph (A) and revised to maintain consistency with 40 CFR Part 51, Appendix S.

- Paragraph (D) is a new paragraph that incorporates the PM2.5 nonattainment area interprecursor offset ratios for SO<sub>2</sub> and NO<sub>x</sub>.
- Paragraph (E) will be relocated from paragraph (B) and revised for simplicity and clarity.

**OAC rule 3745-31-33**

- Paragraph (E)(14) will be 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.

**OAC rule 3745-17-08 Restriction of emission of fugitive dust**

- Paragraph (A)(1) will be amended to change the applicability of this rule to include new sources as defined in OAC rule 3745-31-01. This amendment is in response to Senate Bill 265 requirements to incorporate BAT requirements into Ohio EPA's rules by August 2009.

Lastly, DAPC is also correcting typographical error or reorganization in; OAC rule 3745-31-02, OAC rule 3745-31-07, OAC rule 3745-31-09, OAC rule 3745-31-14, OAC rule 3745-31-21, and OAC rule 3745-31-27.