

RULE SYNOPSIS

Draft rule language for Ohio Administrative Code (OAC) Chapter 3745-14 (NOx Budget Trading Program) and OAC Chapter 3745-109 (Clean Air Interstate Rule)

The Ohio EPA Division of Air Pollution Control (DAPC) has prepared draft amendments to the NOx Budget Trading (NBT) Program rules in Ohio Administrative Code (OAC) Chapter 3745-14 and the Clean Air Interstate Rule (CAIR) in OAC Chapter 3745-109. Revisions to OAC Chapter 3745-14 are necessary to demonstrate continued compliance by large non-Electric Generating Units (non-EGUs) with the NOx State Implementation Plan (SIP) Call following U.S. EPA's discontinuation of compliance trading options under the NBT Program. Rescission of OAC Chapter 3741-109 is proposed due to the promulgation of the federal Cross State Air Pollution Rule (CSAPR) Program which superseded the CAIR program.

Interested parties were invited to comment on the planned rescission for a 30-day comment period ending September 8, 2017. No changes were made to the draft rule language distributed for interested party review.

Under the revised rules, Electric Generating Units (EGUs) would continue to demonstrate compliance with the NOx SIP Call through the CSAPR trading program. Non-EGUs would be required to conduct Part 75 monitoring and reporting, and would be required to submit compliance certifications indicating they have met the Part 75 monitoring and reporting requirements. These requirements would continue to be included in a Title V or non-Title V permit. However, non-EGUs would no longer receive individual NOx allowances, be part of a trading program, or be required to certify compliance with any allocation or budget. Rather, Ohio would use the Part 75 reporting to perform an annual review to show all existing and new non-EGU NOx SIP Call units continue to meet the state-wide NOx budget. Note: Ohio EPA intends to follow this rulemaking with a second phase of rulemaking to incorporate alternatives to the existing Part 75 monitoring and reporting requirements.

Specifically, OAC rules 3745-14-02, 3745-14-05, 3745-14-06, 3745-14-07, 3745-14-09 and 3745-14-10 and all of OAC Chapter 3745-109 will be rescinded. Amendments to OAC rules 3745-14-01, 3745-14-03, 3745-14-04 and 3745-14-08 include:

- Moving the statewide NOx budget from OAC rule 3745-14-05 (which is being rescinded) to OAC rule 3745-14-01
- Adding provisions for Ohio EPA to conduct an annual review to determine if the statewide budget is met, and provisions should the statewide budget be exceeded
- Removing unit allocation and trading provisions
- Specifying non-EGU NOx budget units subject to OAC Chapter 3745-14
- Updating the EGU exemption to reference CSAPR
- Removing the retired unit exemption, as it is no longer applicable
- Removing unnecessary definitions
- Adding a definition for "designated representative"

- Replacing “NOx budget trading program” with “NOx budget program” to reflect the absence of trading
- Replacing “NOx Authorized Account Representative” with “designated representative”, the term used in Part 75 monitoring
- Updating referenced material
- Eliminating requirements for NOx budget permit to be included as a complete and segregable portion of a Title V or non-title V permit (note: terms related to OAC Chapter 3745-14 will still be included in a Title V or non-title V operating permit)
- Requiring the owner or operator of a NOx budget unit to submit an application for a Title V or non-title V operating permit for each subject NOx budget source
- Revising compliance certification provisions to remove unnecessary provisions (streamlining the amount of information that must be contained in the compliance certification)
- Eliminating the requirement for the compliance certification to be submitted to USEPA (it will have to be submitted to Ohio EPA only)
- Updating monitoring/reporting provisions
- Eliminating NOx budget opt-in provisions, as they are no longer applicable

Note: There are two other rules in OAC Chapter 3745-14 (3745-14-11 portland cement kilns and 3745-14-12 stationary internal combustion engines) which will remain unchanged and are not part of this rulemaking, as they were not affected by the CAIR or CSAPR rules or elimination of U.S. EPA’s NOx budget trading program.

Pursuant to Part D of Title I of the Clean Air Act (CAA), Ohio EPA is required to establish a state implementation plan (SIP) for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The above-mentioned rules are a part of Ohio’s SIP and the proposed amendments will be submitted to U.S. EPA as a modification of the SIP. This SIP action requires a demonstration pursuant to CAA section 110(l) that the action will not interfere with attainment of the NAAQS, reasonable further progress toward attainment, or any other applicable requirement of the CAA. Ohio EPA’s draft 110(l) demonstration is also being made available for comment.