

RULE SYNOPSIS

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

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 well as U.S. EPA’s requirements for establishing increments, significant impact levels, and a significant monitoring concentration for fine particulate pollution, promulgated on October 20, 2010. 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 and the federal register document (75 FR 64863) published on October 20, 2010 for a detailed synopsis of the changes drafted by U.S. EPA. These documents, 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; adding or clarifying requirements to address Infrastructure State Implementation Plan (SIP) deficiencies identified by U.S. EPA (77 FR 65478), revising and adding definitions, adding federal land manager notification requirements and incorporating minor organizational or typographical changes.

Changes made as a result of draft review:

On April 25, 2009, Ohio EPA released a draft of these rules for a 32-day public draft review. Ohio EPA received numerous comments on the draft. The numerous comments and various federal rule changes led Ohio EPA to release another draft of these rules on April 10, 2013. Ohio EPA received numerous comments on this draft issuance and made the following changes:

OAC 3745-31-01 Definitions

- Paragraph (L) will be amended to clarify that any Ohio rule or law or provision in the Ohio state implementation plan (including revisions) approved or promulgated by U.S. EPA is included in the “applicable laws” definition. We are suggesting this amendment to provide clarity and maintain consistency with OAC rule 3745-77-01.
- Paragraph (NN) will be amended to change the definition to “emergency engine” instead of “emergency generator” to be consistent with the exemptions in OAC rule 3745-31-03. Additional changes were made to paragraph (NN) to be consistent with federal rule changes.
- Paragraph (LLL) – the numbering and some language in this paragraph will be changed for clarity.

- Paragraph (NNN) will be amended to change “nitrogen dioxides” to “nitrogen oxides” as the regulated pollutant.
- Paragraph (VVV)(3)(e) will be amended to clarify when a decrease in actual emissions is creditable.
- Paragraph (XXX) will be amended to clarify that NSR projects are those that require a permit.
- Paragraph (UUUU) will be amended to clarify that PM_{2.5} direct emissions are solid particles “with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.” The term “sea salt” was also deleted as a source of PM_{2.5} direct emissions, since this would not be a source encountered in Ohio.
- Paragraph (YYYY) will be amended to include condensable emissions as part of PM₁₀ emissions.
- Paragraph (KKKK) – the term “the following applies” will be changed to “the following apply” to be grammatically correct.
- Paragraph (NNNN)(2)(a)(ii) will be amended to delete the language “to the administrator.”
- Paragraph (LLLL) will be amended to change the language “the following occurs” to “the following occur” to be grammatically correct.
- Paragraph (DDDDD) will be amended to change the word “construction” to “operation” to clarify the definition and timeframe for a temporary source.

OAC 3745-31-10 NSR projects at existing emissions units at a major stationary source

- Paragraph (A) of this rule will be amended to reflect the language in the federal rule and to clarify that NSR projects are only those projects that require an installation permit. A definition for “reasonable possibility” was added to clarify when this rule is applicable and to be consistent with the federal rule.

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

- The table header in this rule will be amended to change $\mu\text{g}/\text{cm}$ to $\mu\text{g}/\text{m}^3$, to clarify that the denominator is cubic meters, not centimeters.

OAC 3745-31-19 Attainment provisions - notice to the United States environmental protection agency

- Paragraph (D) of this rule will be amended to change the maximum allowable increase for PM₁₀ from 20 to 30 $\mu\text{g}/\text{m}^3$ to be consistent with federal rules.

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

- Paragraph (F) of this rule will be amended to add the term “legally and practicably enforceable by the state” to be consistent with the definition for “potential to emit.”

- Paragraph (G) of this rule will be deleted because a commenter pointed out that the paragraph is redundant and unnecessary. The following paragraphs in the rule were renumbered as a result of this deletion.

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

- Paragraph (D)(2)(a)(i) of this rule will be renumbered and reformatted as (D)(2)(b).

OAC 3745-31-27 Nonattainment provisions - administrative procedures for emission offsets

- Paragraph (A)(1)(b) of this rule will be amended by adding a paragraph break to maintain consistency with rule formatting. Also, the term “legally and practicably enforceable by the state” was added to be consistent with the definition of “potential to emit.”

OAC 3745-31-29 General permit-to-install and general PTIO

- Paragraph (B) of this rule will be amended to change the term “if the following apply” to “if all of the following apply” to clarify that all conditions must be met for a general permit to be obtained. Also, the term “source are not affected sources” was changed to “source is not an affected source” to be grammatically correct.

The original changes presented in the draft are enumerated below, and along with the above changes resulting from public comments, are the changes which will be proposed to the Joint Committee on Agency Rule Review (JCARR).

Original draft changes presented for comment in April 23, 2013 draft:

OAC 3745-31-01 Definitions

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

- Paragraph (L) will be amended to include any standard or other requirements provided for in the Ohio state implementation plan (including revisions) approved or promulgated by U.S. EPA in the “applicable laws” definition. We are suggesting this amendment to provide clarity and maintain consistency with OAC rule 3745-77-01.
- Paragraph (M) will be amended to delete the term “light-duty” to specify that auto body refinishing facilities are able to perform collision repair and refinishing on any type of truck, when complying with the requirements in the auto body refinishing facility permit-by-rule.
- Paragraph (P) defines the PM2.5 air quality impact as 0.3 micrograms per cubic meter.
- Paragraph (II) includes PM2.5 and PM10 as criteria pollutants and deletes particulate matter as a criteria pollutant.
- 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 (LLL) identifies “nitrogen dioxides” as a precursor to ozone. This change also addresses Infrastructure SIP deficiencies identified by U.S. EPA (77 FR 65478). This is consistent with the federal rule language in 40 CFR 51.166(b)(1)(ii). Also deleted a typo: OAC rule 3745-31-31 does not exist.
- Paragraph (MMM) identifies the major source baseline date for PM10 and PM2.5.
- Paragraph (NNN) identifies “nitrogen dioxides” as a precursor to ozone. This change also addresses Infrastructure SIP deficiencies identified by U.S. EPA (77 FR 65478).
- Paragraph (QQQ) identifies the minor source baseline date for PM10 and PM2.5.
- Paragraph (SSS) will be amended to update the significant ambient air quality impact levels for triggering a minor source permit modification for NAAQS pollutants. These levels reflect the federal significant monitoring concentrations for PSD sources.
- Paragraph (VVV) will be revised to incorporate clarifying language for the contemporaneous period of an increase or decrease of actual emissions in the “net emissions increase” definition.
- 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” as prescribed by U.S. EPA’s PM2.5 NSR Implementation final rule.
- Paragraph (UUUU) defines a new term, “PM2.5 direct emissions” as prescribed by U.S. EPA’s PM2.5 NSR Implementation final rule.
- Paragraph (VVVV) defines a new term, “PM2.5 emissions” as prescribed by U.S. EPA’s PM2.5 NSR Implementation final rule.
- Paragraph (WWWW) defines a new term, “PM2.5 precursor” as prescribed by U.S. EPA’s PM2.5 NSR Implementation final rule. This change also addresses Infrastructure SIP deficiencies identified by U.S. EPA (77 FR 65478).
- Paragraph (IIII) 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 (JJJJ) 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 (NNNNN) 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_x and SO₂ as PM2.5 precursors. The amended language is found in both the nonattainment and attainment sections of this paragraph.
- Paragraph (TTTTT) defines a new term, “semi-public disposal system.” This term corresponds with a new POTW exemption in OAC rule 3745-31-03.
- Paragraph (UUUUU) will be updated to change particulate matter to PM10 and PM2.5.
- Paragraph (VVVVV) defines significant emission rates for PM10 (instead of PM) and PM2.5, and adds nitrogen oxides as an indicator for the ozone significant emissions rate. This change also addresses Infrastructure SIP deficiencies identified by U.S. EPA (77 FR 65478).

- Paragraph (BBBBBB) defines a new term, “surplus.” 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 (DDDDDD) clarifies the time at which the two year timeframe begins for a temporary source.
- Paragraph (KKKKKK) “incorporation by reference” section will be called “referenced materials.” Clarifying language and updated references will also be incorporated in this paragraph.

OAC rules 3745-31-02, 3745-31-12, 3745-31-15, 3745-31-17, 3745-31-18, 3745-31-20, 3745-31-28, 3745-31-29 and 3745-31-32

- These rules contain the term “incorporation by reference.” The only change to these rules is to change this term to “referenced materials.”

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 3745-31-07 Termination, revocation, expiration, renewal, revision and transfer

- A misspelling of the word “variance” will be corrected in paragraph (B)(2).

OAC rule 3745-31-08 – Registration status permit-to-operate

- The rule contains several minor changes for clarification and to fix formatting issues.

OAC rule 3745-31-09 Variances on operation

- Paragraph (F)(1)(d) will be deleted and added to paragraph (F)(2). Paragraph (F)(2) now clarifies that a reduction in emissions does not constitute a significant difference that warrants a renewal of an approved variance.

OAC rule 3745-31-10 NSR projects at existing emissions units at a major stationary source

- The reference to paragraph (AAAAA) of OAC rule 3745-31-01 will be updated to reference paragraph (GGGGG) of OAC rule 3745-31-01. This references the same rule, the lettering has changed.

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

- The table in paragraph (B) of this rule will be amended to define the maximum allowable increases in ambient air pollutant concentration over the baseline concentration in Class I, II and III areas for PM2.5, pursuant to U.S. EPA’s

requirements for establishing increments, significant impact levels, and a significant monitoring concentration for fine particulate pollution.

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, pursuant to U.S. EPA's requirements for establishing increments, significant impact levels, and a significant monitoring concentration for fine particulate pollution.

OAC rule 3745-31-16 OAC rule 3745-31-13 Attainment provisions - review of major stationary sources and major modifications, stationary source applicability and exemptions.

- Paragraph (C) will be added to incorporate significant impact levels for PM2.5, pursuant to U.S. EPA's requirements for establishing increments, significant impact levels, and a significant monitoring concentration for fine particulate pollution.

OAC rule 3745-31-19 Attainment provisions – notice to the United States environmental protection agency

- The table in paragraph (D) will be amended to include maximum allowable increases for PM2.5 and to revise the maximum allowable increase for PM10 from 20 to 30 micrograms per cubic meter, pursuant to U.S. EPA's requirements for establishing increments, significant impact levels, and a significant monitoring concentration for fine particulate pollution.

OAC rule 3745-31-21 Nonattainment provisions - review of major stationary sources and major modifications - stationary source applicability and exemptions

- Paragraph (D) will be amended to clarify that major modifications (in addition to major stationary sources) of PM10 precursors shall be subject to the control requirements that are applicable under plans in effect under Section 189 of the Clean Air Act.

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 3745-31-23 Nonattainment provisions - stationary sources locating in designated clean or unclassifiable areas which would cause or contribute to a violation of a national ambient air quality standard

- The table in Paragraph (A) will be amended to delete significant levels for TSP and to add significant levels for PM2.5.
- Paragraph (C) will be amended to include PM2.5 in the list of pollutants for which the air quality impact must be assessed on a case-by-case basis using dispersion modeling.

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.
- To meet Legislative Services commission requirements, because the changes to this rule constituted deleting and/or replacing more than 50% of the text of the rule, the rule is being rescinded and replaced as a new rule with the above changes to the original language.

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 SO₂ and NO_x.
- Paragraph (E) will be relocated from paragraph (B) and revised for simplicity and clarity.
- To meet Legislative Services commission requirements, because the changes to this rule constituted deleting and/or replacing more than 50% of the text of the rule, the rule is being rescinded and replaced as a new rule with the above changes to the original language.

OAC rule 3745-31-27 Nonattainment provisions - administrative procedures for emission offsets

- Paragraph (A)(1)(b) will be amended to clarify that emission reductions will be federally enforceable if reductions are written into a federally enforceable permit.

OAC rules 3745-31-30 and 3745-31-31

- These rules are currently [Reserved], but have been determined to be unnecessary, so DAPC will be rescinding these rules.