

Ohio EPA

Division of Air Pollution Control

Engineering Guide #2

Question:

Can a permit to operate be issued pursuant to OAC Chapter 3745-35 for an emissions unit which is currently in compliance with Ohio EPA sulfur dioxide regulations, but which is not in compliance with the applicable U.S. EPA sulfur dioxide regulations? (This question was submitted by Don Moline, of the Toledo Division of Environmental Services, on October 19, 1979.)

Answer:

A permit to operate may be issued to an emissions unit pursuant to Chapter 3745-35 only if the emissions unit is in compliance with applicable air pollution control law or, in the case where the emissions unit is not in compliance with applicable air pollution control law, the permit contains an acceptable compliance schedule. The basic issue presented here is whether or not “applicable air pollution control law,” as used in rule 3745-35-02 (C)(1), also encompasses the applicable U.S. EPA rules and regulations.

The term “applicable air pollution control law” is defined in rule 3745-35-01(B)(2) to include “Chapter 3704. and 3745. of the Ohio Revised Code, as amended; rules and orders of the Ohio environmental protection agency; the Clean Air Act, as amended; and rules and regulations of the administrator of the United States environmental protection agency.” Therefore, a permit to operate cannot be granted to an emissions unit pursuant to Chapter 3745-35 unless the permit properly addresses all of the applicable Ohio EPA and U.S. EPA sulfur dioxide regulations.

(Title V permits also must address all applicable State and federal regulations; and, like Chapter 3745-35, Chapter 3745-77 allows the incorporation of a compliance schedule into the terms and conditions for an emissions unit that is not in compliance with one or more of those applicable requirements.)

EL/JO/vs

December 13, 1979

(reviewed and revised March 19, 1986 and May 18, 2005)