

Rule Summary and Fiscal Analysis (Part A)**Ohio Environmental Protection Agency**

Agency Name

Division of Air Pollution Control (DAPC)

Division

Jennifer Hunter

Contact

50 West Town Street, Suite 700 PO Box 1049
Columbus OH 43216-1049

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3745-31-29

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

General permit-to-install.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3704.03(F), 3704.03(G)**

5. Statute(s) the rule, as filed, amplifies or implements: **3704.03(G), 3704.03(F), 3704.03(A)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Ohio EPA is developing a new permitting process called the Permit-to-install and operate (PTIO) program. The PTIO program will condense two separate permitting processes into one; the permit-to-install (contained in OAC Chapter 31) and permit-to-operate (contained in OAC Chapter 35) processes. The current duplication of effort requires a considerable amount of staff time and increases paperwork and Agency costs. By combining the processes and eliminating duplicative tasks, both Ohio EPA and permit applicants can allocate resources more efficiently. By reducing staff time and other costs, the Agency will be able to increase compliance assurance activities that provide greater benefits to the

environment and the public. By consolidating the installation and operation requirements into one permit, Ohio EPA anticipates that permit holders will be better able to understand and comply with permit requirements. The result should be an increase in the number of facilities in compliance, which achieves Ohio EPA's objective of obtaining cleaner air.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The current rule states the requirements for sources of air pollution which 'elect' to request a general permit-to-install in lieu of a regular PTI. The amendments to this rule incorporates the same general permit requirements for operation from OAC rule 3745-35-08. For full details of the changes please see the attached "Synopsis of Changes."

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule contains references to the Ohio Administrative Code (OAC). While copies of these rules are generally available to the public through libraries and on-line sources, including the Ohio EPA website, ORC 121.76 (A) exempts such references from the provisions of ORC 121.71 through 121.75.

This rule also contains references to the Clean Air Act (CAA). The CAA is generally available through libraries, Ohio EPA and Government Printing Office's websites. References to the CAA have also been dated to reference the specific version of the act. ORC 121.75 (D) exempts such references from the requirements of ORC 121.71 through 121.74.

This rule also contains references to the Weekly Review. The Weekly Review is generally available through libraries and Ohio EPA's website. References to the Weekly Review have also been dated to reference the specific version of the act. ORC 121.75 (D) exempts such references from the requirements of ORC 121.71 through 121.74.

Referenced materials are cited, dated and availability noted in OAC rule 3745-31-01 (AAAAAA).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date: **12/1/2011**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0

This rule contains requirements for sources of air pollution which 'elect' to request a general permit-to-install or PTIO in lieu of a regular PTI or PTIO and therefore there is no direct budget impacts associated with this specific rule.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There is no cost of compliance. This rule states the requirements for sources of air pollution which 'elect' to request a general permit-to-install or PTIO in lieu of a regular PTI or PTIO. This is an option for the facility and generally results in a savings over the traditional PTI or PTIO.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

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Rule Number: 3745-31-29

Environmental Rule Adoption/Amendment Form

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
 - (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
 - (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
 - (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.
-

- (A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted ? **Yes**

Please list each contact.

Please see the attached list of "Interested Parties."

- (B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered ? **Yes**

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

40 CFR Parts 51 and 52, Clean Air Act, and OAC Chapters 3745-31 and 3745-35 in their entirety to ensure consistency between the programs.

- (C) Is the proposed rule or rule amendment being adopted or amended to enable

the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program ?

Yes

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **No**

(D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? **No**

Not Applicable

PTIO Rules - Draft Rule Language E-mails Sent to interested Parties with Distribution ListInitial Draft Language E-mail – Sent March 14, 2007

Notice is hereby given that the Ohio Environmental Protection Agency, Division of Air Pollution Control (DAPC) proposes the following changes to the Ohio Administrative Code (OAC) related to implementation of the permit-to-install and operate (PTIO) program. The PTIO program combines the current permit-to-install (PTI) and permit-to-operate (PTO) programs. Rather than requiring a source to apply for a PTI, which is issued with both installation and operation terms, and then apply for a PTO within a year of construction, the new program will require one application for both a PTI and PTO and both installation and operation requirements will be issued under one document. The PTIO program was approved by Director Chris Jones in February 2004 after an extensive analysis of the current PTI and PTO programs by a team of DAPC staff members and public participation and review of draft documents and rule language.

In order to implement the PTIO program, DAPC has drafted rule changes that combine the PTI and PTO rule language. Ohio EPA is suggesting rescission of all rules in OAC Chapter 3745-35:

- 3745-35-01 Definitions
- 3745-35-02 Permits to operate
- 3745-35-03 Variances
- 3745-35-04 General Policy
- 3745-35-05 Permit exemptions and registration status
- 3745-35-06 Permits to operate for grain and feed processing operations and fertilizer mixing operations
- 3745-35-07 Federally enforceable limitations on potential to emit
- 3745-35-08 General Permit to Operate

The pertinent sections of the above rules will be incorporated into various rules of OAC Chapter 3745-31. Ohio EPA is suggesting amendments to the following rules in OAC Chapter 3745-31:

- 3745-31-01 Definitions
- 3745-31-02 Requirements will be renamed Applicability, requirements and obligations.
- 3745-31-03 Permit to install exemptions will be renamed Exemptions.
- 3745-31-04 Applications
- 3745-31-05 Criteria for decision by the director
- 3745-31-07 Revocation will be renamed Termination, revocation, expiration, renewal, revision and transfer.
- 3745-31-10 Air stationary source obligations will be renamed NSR projects at existing emissions units at a major stationary source.
- 3745-31-20 Attainment provisions - innovative control technology
- 3745-31-29 General Permit to Install will be renamed General permit-to-install and general PTIO.
- 3745-31-30 Clean Unit
- 3745-31-32 Plantwide Applicability Limit
- 3745-31-33 Site preparation activities prior to obtaining a final permit-to-install will be renamed Site preparation activities prior to obtaining a final permit-to-install or PTIO.

Ohio EPA is also suggesting rescission of the following existing rules in OAC Chapter 3745-31 and then the addition of all new language. This procedure is required by the legislative service commission (LSC) whenever an agency is striking 50% or more of an existing rule and a comparable amount of new text is being added.

- 3745-31-06 Termination will be renamed Completeness determinations, processing requirements, public participation, public notice and issuance.
- 3745-31-08 Procedure for decision by director will be renamed Registration status permit-to-operate.
- 3745-31-09 Air permit to install completeness determinations, public participation and public notice will be renamed Variances on operation.

In order to incorporate reporting requirements, Ohio EPA is also suggesting amendment of OAC rule 3745-15-03, "Submission of emission information." This specific rule is also being submitted in accordance with Ohio Revised Code 119.032 (5-year rule review).

As part of the rule-making process, DAPC is required by Section 121.39 of the Ohio Revised Code to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the rules. The DAPC is offering your organization the opportunity to comment on these rules before the division formally proposes them.

Attached, please find the draft amended, draft new, and draft rescinded rules, mentioned above. These rules are also available at <http://www.epa.state.oh.us/dapc/regs/regs.html>. We request that you provide us with any comments you may have to the changes that have been recommended by Friday, April 13, 2007.

Please e-mail or mail your comments or suggestions to the following addresses:

E-mail: Jennifer.hunter@epa.state.oh.us

Mailing address: Jennifer Hunter
Ohio Environmental Protection Agency, DAPC
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049
Phone: (614) 644-3696

Thank you,

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

Extension of Draft Language Comment Period – Sent March 29, 2007

Notice is hereby given that Ohio EPA is extending the draft rule language comment period for the new Permit-to-install and operate (PTIO) program. This rule package includes amendments to Ohio Administrative Code (OAC) rules 3745-15-03, 3745-31-01 to 3745-31-05, 3745-31-07, 3745-31-10, 3745-31-20, 3745-31-29, 3745-31-30, 3745-31-32 and 3745-31-33, the rescission and replacement with new text of OAC rules 3745-31-06, 3745-31-08, and 3745-31-09, and the rescission of all of the rules in OAC Chapter 3745-35 with no replacement. The PTIO program will condense two separate permitting processes into one. By consolidating the installation and operation requirements into one permit, Ohio EPA anticipates that permit holders will be better able to understand and comply with permit requirements. The result should be an increase in the number of facilities in compliance, which achieves Ohio EPA's objective of obtaining cleaner air. For background information on the development of the PTIO program, please see the PTIO program webpage (<http://www.epa.state.oh.us/dapc/permits/ptio.html>).

As part of the rule-making process, DAPC is required by Section 121.39 of the Ohio Revised Code to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the rules. The DAPC is offering your organization the opportunity to comment on these rules before the division formally proposes them.

Ohio EPA will now be accepting comments through April 30, 2007. Please see the Rule language, Synopsis and Interested Party Notice, available at <http://www.epa.state.oh.us/dapc/regs/regs.html> (<http://www.epa.state.oh.us/dapc/regs/regs.html>) , for additional information on the draft rule language.

Please e-mail or mail your comments or suggestions to the following addresses:

E-mail: Jennifer.hunter@epa.state.oh.us

Mailing address: Jennifer Hunter
Ohio Environmental Protection Agency, DAPC
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049
Phone: (614) 644-3696

Thank you,

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

Ethanol Plant Draft Language IP E-mail – Sent May 31, 2007

Notice is hereby given that the Ohio Environmental Protection Agency, Division of Air Pollution Control (DAPC) proposes the following changes to the Ohio Administrative Code (OAC) related to federal changes affecting certain ethanol production facilities. On May 1, 2007, the United States Environmental Protection Agency (USEPA) published final revisions to 40 CFR Parts 51, 52, 70 and 71 pertaining to the treatment of “certain ethanol production facilities under the “major emitting facility” definition.” [72 FR 83, page 24060] The final changes to the federal regulations affect the corresponding definitions for “major source” under paragraph (W) of Ohio Administrative Code (OAC) rule 3745-77-01 and “major stationary source” under paragraph (KKK) of OAC rule 3745-31-01. In order to remain consistent with these definitions implemented under the Clean Air Act (CAA), Ohio EPA is suggesting draft changes to the corresponding definitions under the Ohio EPA rules approved under the Ohio State Implementation Plan (SIP).

As part of the rule-making process, DAPC is required by Section 121.39 of the Ohio Revised Code to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the rules. The DAPC is offering your organization the opportunity to comment on these rules before the division formally proposes them.

Attached, please find the draft amended rule paragraphs, mentioned above. These draft changes are also available at <http://www.epa.state.oh.us/dapc/regs/regs.html>. We request that you provide us with any comments you may have to the changes that have been recommended by Thursday, June 14, 2007.

Please e-mail or mail your comments or suggestions to the following addresses:

E-mail: Jennifer.hunter@epa.state.oh.us

Mailing address: Jennifer Hunter
Ohio Environmental Protection Agency, DAPC
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049
Phone: (614) 644-3696

Thank you,

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

DAPC Interested Parties E-mail notification List for Above E-mails.

Message Id:

465E8F35.DE0 : 194 : 56837

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Ohio EPA DAPC Rulemaking - OAC Rules 3745-31-01 and 3745-77-01 - Draft Amendments

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Paul.Braun@epa.state.oh.us

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BC: Kyle Nay (kyle.nay)			
BC: Tamara Sands (tami.sands)			
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BC: David Schmidt (djs)			
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BC: Cindy Gleason (gleascl)			
BC: George Garcia (garcige)			
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BC: Scott Haney (haneysa)			
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BC: Henry Cooke (hpcooke)			
BC: Martin Krentz (mkrentz)			
BC: Sarah Beth Ennis (sennis)			
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BC: Tonja Hardin (tonja.hardin)			
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BC: Michael Giffen (mgiffen)			
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BC: Melanie Kendrick (mkendrick)			
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BC: Mike Bradley (mbradley)			
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BC: Greg Morris (greg.morris)			
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BC: Cindy Hafner (chafner)			
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BC: Mark Somerson (msomerson)			
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BC: Lisa Moerner (lisa_c_moerner)			
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BC: Dave Moore (dave.moore1)			
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BC: Gary Bramble (gary.bramble)			
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BC: Kim Bradford (bradfordkj)			
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BC: Michelle Kolozsvary (kolozsm)			
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BC: Richard Brewer (dick.brewer)			
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BC: George Harmon (georgeharmon2)			
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BC: Jonathan Amos (jonathan.amos)			
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BC: Doug DeWalt (d.dewalt)			
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BC: Holly Padovani (hpadovani)			
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BC: Juan Rios (juan.rios)			
BC: Ravindra Kura (ravindra.kura)			
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BC: James Stouch (jstouch)			
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BC: Marilyn Wall (marilyn.wall)			
BC: Marti Sinclair (marti.sinclair)			
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BC: John Wellman (jwellman)			
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BC: Robert Chaffee (rchaffee)			
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BC: Joe Gosney (jgosney)			

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BC: Jaime Julian (julian.jaime)			
BC: John Paskevica (paskevicz.john)			
BC: Kaushal Gupta (gupta.kaushal)			
BC: Pamela Blakeley (blakley.pamela)			
BC: Steven Rosenthal (rosenthal.steven)			
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BC: Jeffrey Bratko (bratko.jeffrey)			
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BC: Heidi Griesmer (Hgriesme)		
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BC: Mike VanMatre (Mvanmatr)		
BC: Misty Parsons (Mparsons)		
BC: Muhammad Elsalahat (Msalahat)		
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BC: Bob Niemi (rniemi1)			

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BC: Marvin Asbury (marvin.k.asbury)			
BC: Rusty Helm (rusty.helm)			
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BC: abubakr (almarwany)			

BC: Craig Miller (cmill89)			
BC: Duane Rasey (onthego58)			
BC: Ellen Shea (lnshea)			
BC: John Price (jmprice3)			
BC: Lisa Rainer (lisarainer)			
BC: Rita Robinett (ritarobinett)			
BC: Sarah Schakow (jadewind9)			
BC: Tricia McKinnon (triciah358)			
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BC: Susan Rojeck (srojeck)			
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BC: Jim Kantola (jim_kantola)			
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BC: Christine Pedersen (cpederse)			
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BC: Maggie Vance (maggie)			
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BC: Dana Neely (dana.neely)			
BC: Erica Dromgoole (erica.dromgoole)			
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BC: Henry Beiro (henry.biero)			
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BC: Dave Badertscher (d.badertscher)			
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BC: Michael Hill (michael.r.hill)			
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BC: Leonard Allen (leonard.allen)			

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BC: Dwain Kincaid (dkincaid)			
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BC: Charles Storrow (cfs)			
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BC: Dennis TenWolde (dtenwolde)			
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BC: Karen Walter (krwl)			
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BC: Charles Kramek (cekramek)			
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BC: Joy Taylor Morgan (taylorj1)			
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BC: Mark Renick (mark.renick)			
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BC: Bill Habig (whabig)			
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BC: Anissa Phillips (aphillips21)			
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BC: Andrew Porter (aporter1)			
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BC: Roger Suppes (rsuppes)			
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BC: Zachary Williams (zach.williams)			

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BC: Chuck Hart (hartc)			
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BC: Jannifer Klein (jklein)			
BC: Kristin Clingan (kclingan)			
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BC: Jack Pounds (jpounds)			
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BC: Rachel Belz (rbelz)			
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BC: Shawn Bennett (sbennett)			
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BC: Ryan Augsburg (raugsburger)			
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BC: Kevin Connair (kevin.connair)			
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BC: Dory Montazemi (dorym)			
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BC: Bruce French (b-french)			
BC: Heather Caprette (h-caprette)			
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BC: Donald Fulkers (dfulkers)			
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BC: Kimberly Morris (kimberly.morris)			

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BC: Ashish Kumar (ashishmsj2)			
BC: Chad Best (chadbest30)			
BC: Drew Nicholson (nicholson_drew)			
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BC: Nicole Byrd (nicoleabyrd)			
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Post Offices			
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abbott.com		abbott.com	
acme-chrome.com		acme-chrome.com	
adelphia.net		adelphia.net	
advancedspecialtycontractors.com		advancedspecialtycontractors.com	
ae.ge.com		ae.ge.com	
aep.com		aep.com	
affinityconsultants.com		affinityconsultants.com	
ag.state.oh.us		ag.state.oh.us	
aircomp.com		aircomp.com	
airqualityspecialist.com		airqualityspecialist.com	
alcoa.com		alcoa.com	
aleris.com		aleris.com	
all4inc.com		all4inc.com	

alleghenyludlum.com		alleghenyludlum.com
alleghenypower.com		alleghenypower.com
alliancecityhealth.org		alliancecityhealth.org
alltel.net		alltel.net
altechenvironmental.com		altechenvironmental.com
americansteeltreating.com		americansteeltreating.com
amkinney.com		amkinney.com
amtex-lh.com		amtex-lh.com
amtrim.com		amtrim.com
anheuser-busch.com		anheuser-busch.com
aol.com		aol.com
api.org		api.org
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arcadis-us.com		arcadis-us.com
arenet.net		arenet.net
artifex.ws		artifex.ws
asc-ind.com		asc-ind.com
ashland.com		ashland.com
augustmack.com		augustmack.com
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bapm.com		bapm.com
battelle.org		battelle.org
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bwxt.com		bwxt.com
calfee.com		calfee.com
cantonhealth.org		cantonhealth.org
capstoneassoc.com		capstoneassoc.com
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ccbh.net		ccbh.net
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centurytel.net		centurytel.net
cera.com		cera.com
cfl.rr.com		cfl.rr.com
ch2m.com		ch2m.com
champion-newera.com		champion-newera.com

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chemtron-corp.com		chemtron-corp.com
churchdwight.com		churchdwight.com
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coopertire.com		coopertire.com
cornerstoneeg.com		cornerstoneeg.com
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dtees.com		dtees.com

duke-energy.com		duke-energy.com
earthdaycoalition.org		earthdaycoalition.org
earthlink.net		earthlink.net
earthtech.com		earthtech.com
eastgatecog.org		eastgatecog.org
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fhai.com		fhai.com
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Synopsis of Rule Changes

Permit-to-install and operate (PTIO) Program

BACKGROUND

Ohio EPA is dedicated to its mission of protecting the environment and public health by ensuring compliance with environmental laws and demonstrating leadership in environmental stewardship. Two ways we strive to meet this mission are by constantly improving the efficiency of our internal processes and ensuring that facilities understand and adhere to permit requirements.

In December of 2003, staff within Ohio EPA's Division of Air Pollution Control (DAPC) completed an analysis of the existing permit-to-install (PTI) and permit-to-operate (PTO) programs for non-Title V facilities. Independent from other DAPC initiatives, the purpose of this analysis was to see if improvements could be made to help increase compliance, reduce the staff time required for permit issuance and monitoring, reduce paperwork, simplify the process and clarify requirements for facilities.

Based on this internal analysis, DAPC recommended that the non-Title V PTI and PTO programs be combined. Benefits achieved by combining the two programs into one include reduced paperwork, elimination of redundant steps in the process for both facilities and Ohio EPA, reduction in material resource usage, increased staff efficiency and increased compliance with air pollution regulations. Rather than requiring a source to apply for a PTI, which is issued with both installation and operation terms, and then apply for a PTO within a year of construction, the new program will require one application for both a PTI and PTO and both installation and operation requirements will be issued under one document.

Director Chris Jones approved the proposed Permit-to-Install and Operate (PTIO) program in February 2004. A team of DAPC staff were subsequently assembled to develop the necessary rules, regulations and processes to implement the new program. This team is called the PTIO Implementation Team. The PTIO Implementation Team developed a series of flowcharts, forms, guidance and rule language changes in early 2006. A public comment period was provided and several comments were received. After review of the comments pertaining to the rule language changes, the PTIO Implementation Team further developed the draft rule language. This draft rule language was provided to Interested Parties for comment on March 13, 2007. After considering comments received, additional changes were made which are being provided today for your comment. Ohio Administrative Code (OAC) Chapter 3745-35, Air Permits-to-Operate and Variances; OAC Chapter 3745-31, Permits-to-Install New Sources; and OAC rule 3745-15-03, Submission of emission information, will be affected by the proposed rule changes. The changes suggested are described below.

In addition to these changes related to the PTIO program, the following two changes are also occurring:

1. On May 30, 2007, interested parties were provided an opportunity to comment on a change to the definition of “major stationary source” contained in OAC rule 3745-31-01. This amendment was not previously included in the PTIO program rulemaking notice because the changes resulted from revisions to the same definition under the federal program which occurred on May 1, 2007. [72 FR 83, promulgated May 1, 2007, effective July 2, 2007]. This change addresses requirements for “corn milling facilities as well as any facility that produces ethanol by processing carbohydrate feedstock such as corn through a natural fermentation.” No comments were received during the comment period.
2. After an extensive public participation process, Ohio EPA incorporated the 2002 federal NSR Reform Regulations into Chapter 31 of the Ohio Administrative Code (“OAC”) in October of 2004. On June 24, 2005, the D.C. Circuit Court of Appeals (“Court”) made a decision regarding challenges to the 2002 federal NSR Reform regulations. The results include the vacation of the Clean Unit applicability test and the Pollution Control Project (PCP) exemption.

Ohio EPA has provided information to stakeholders during previous rulemaking activity regarding OAC Chapter 3745-31 that we have no intention of implementing the PCP and Clean Unit provisions vacated by the court until such time that the Court, or U.S. EPA, incorporates changes or renders a new decision regarding their vacation. Previously we decided not to amend the OAC to remove these provisions until further decisions are rendered. Ohio EPA has informed stakeholders in the past that we intend to amend the relevant portions of our rule, if necessary, when a final decision regarding the NSR Reform regulations is made in the appellate system.

On June 13, 2007, the USEPA adopted a final action to amend their PCP and Clean Unit rules based on the court’s decision. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007] Ohio EPA has now decided it is the appropriate time to also amend our relevant rules to remove the PCP and Clean Unit provisions that implemented the vacated federal program. This affects the following rules and is discussed in the remaining portions of this synopsis: OAC rule 3745-31-01(Y), (JJJ), (TTT), (SSSS); OAC rule 3745-31-10(C); OAC rule 3745-31-22(A)(3); OAC rule 3745-31-30; and OAC rule 3745-31-31.

REORGANIZATION OF OAC CHAPTERS 3745-35 AND 3745-31

In order to combine the PTI and PTO rule language, Ohio EPA is suggesting rescission of all rules in OAC Chapter 3745-35:

- 3745-35-01 Definitions
- 3745-35-02 Permits to operate
- 3745-35-03 Variances
- 3745-35-04 General Policy
- 3745-35-05 Permit exemptions and registration status
- 3745-35-06 Permits to operate for grain and feed processing operations and fertilizer mixing operations
- 3745-35-07 Federally enforceable limitations on potential to emit
- 3745-35-08 General Permit to Operate

The pertinent sections of the above rules will be incorporated into various rules of OAC Chapter 3745-31.

Ohio EPA is suggesting amendments to the following rules in OAC Chapter 3745-31:

- 3745-31-01 Definitions
- 3745-31-02 Requirements – *will be renamed “Applicability, requirements and obligations.”*
- 3745-31-03 Permit to install exemptions – *will be renamed “Exemptions.”*
- 3745-31-04 Applications
- 3745-31-05 Criteria for decision by the director
- 3745-31-07 Revocation – *will be renamed “Termination, revocation, expiration, renewal, revision and transfer.”*
- 3745-31-10 Air stationary source obligations – *will be renamed “NSR projects at existing emissions units at a major stationary source.”*
- 3745-31-20 Attainment provisions - innovative control technology
- 3745-31-22 Nonattainment provisions - conditions for approval
- 3745-31-29 General Permit to Install – *will be renamed “General permit-to-install and general PTIO.”*
- 3745-31-30 Clean Unit

- 3745-31-31 Pollution Control Project
- 3745-31-32 Plantwide Applicability Limit
- 3745-31-33 Site preparation activities prior to obtaining a final permit-to-install – *will be renamed “Site preparation activities prior to obtaining a final permit-to-install or PTIO.”*

Ohio EPA is also suggesting rescission of the following existing rules in OAC Chapter 3745-31 and then the addition of all new language. This procedure is required by the legislative service commission (LSC) whenever an agency is striking 50% or more of an existing rule *and* a comparable amount of new text is being added.

- 3745-31-06 Termination – *will be renamed “Completeness determinations, processing requirements, public participation, public notice and issuance.”*
- 3745-31-08 Procedure for decision by director – *will be renamed “Registration status permit-to-operate.”*
- 3745-31-09 Air permit to install completeness determinations, public participation and public notice – *will be renamed “Variances on operation.”*

The next three sections of this synopsis document identify in detail the significant changes being suggested along with an explanation of the change. We have continued to identify all changes that were suggested to Interested Parties under the heading “*Draft changes provided to Interested Parties on March 13, 2007.*” We have also identified any changes that occurred after the Interested Parties comment period under the heading “*Additional changes being provided under the Proposal.*”

This document only identifies the significant portions of the rules that are being relocated, stricken and/or amended; therefore, it is not the full text of each rule. The full text of each proposed rule is provided as separate documents to this synopsis. Many of the proposed rules in these chapters contain minor administrative changes which are not necessarily identified or discussed in this synopsis but are represented in the actual full text proposed rule language documents attached.¹ These minor administrative changes include:

1. Incorporating the term “PTIO” when referring the types of permits that will now be covered under OAC Chapter 3745-31 (i.e., permit-to-install or PTIO).
2. Incorporating the word “operation,” where appropriate, when language in this chapter refers to installation and/or modification.
3. Changes to cross references.

¹ Changes to OAC rules 3745-31-20, 3745-31-30, 3745-31-32 and 3745-31-33 are not discussed in this synopsis because they ONLY contain the minor administrative changes discussed above.

OAC CHAPTER 3745-31

In order to combine the PTI and PTO rule language, Ohio EPA is suggesting rescission of all rules in OAC Chapter 3745-35. The pertinent sections of the OAC Chapter 3745-35 rules will be incorporated into various rules of OAC Chapter 3745-31. This section of the synopsis identifies which portions of OAC Chapter 3745-35 are being incorporated into OAC Chapter 3745-31, with references. It also identifies additional language that is being suggested for amendment or addition to OAC Chapter 3745-31 in order to implement the PTIO program. Significant portions of OAC Chapter 3745-31 are also being re-organized for better flow. These portions are identified in this section of the synopsis.

DRAFT and PROPOSED CHANGES TO OAC CHAPTER 3745-31

3745-31-01 **Definitions.**

Additional changes being provided under the Proposal

1. (P) – corrected a cross reference.
2. (Y) – stricken and reserved due to the same revision to the federal definition of Clean Unit. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]
3. ~~(TT)~~(UU) - The rule referenced under the definition for “general permit-to-install” or “general PTIO” was inadvertently amended and identified as 3745-21-10 in the draft language. The correct rule citation is being re-instated in the proposed language.
4. ~~(HH)~~(JJ)(4)(c), last sentence of (4)~~(d)~~(c), and (5)(h)- stricken due to the same revision to the federal definition of major modification. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]
5. ~~(KKK)~~(LLL) – The "Major stationary source" definition is being amended under both paragraph (2)(a)(xxi) and (4)(t) to incorporate the following:

Chemical process plants; except for ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

This amendment is necessary to address revisions to the same definition under the federal program [72 FR 83, promulgated May 1, 2007, effective July 2, 2007] to address requirements for “corn milling facilities as well as any facility that produces ethanol by processing carbohydrate feedstock such as corn through a natural fermentation.”

6. ~~(SSS)~~(TTT)(3)(d) and (3)~~(d)~~(e)(iv)– stricken due to the same revision to the federal definition of net emissions increase. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]
7. ~~(RRRR)~~(SSSS)– stricken and reserved due to the same revision to the federal definition of pollution control project. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]
8. ~~(UUUUU)~~ – struck this paragraph as recent amendments to OAC Chapter 3745-17 will be removing the definition for TSP, which is defined as such in this rule. The equivalent federal NSR rules do not define TSP.
9. ~~(KKKKK)~~(MMMMM) – replaced the term “TSP matter” with “particulate matter” consistent with the federal equivalent of the NSR rules (see 40 CFR 51.166(b)(23)(i)).

10. ~~(ZZZZZ)~~~~(AAAAAA)~~ (2)~~(iii)~~ and (2)~~(jj)~~- remove these two incorporated references as the references themselves were part of language stricken from paragraph ~~(RRRR)~~~~(SSSS)~~.

Draft changes provided to Interested Parties on March 13, 2007

This rule also contains updates to the incorporation by reference section at the end of the rule. Please consult the full draft copy of the rule language for the specific changes.

(NN) "Express permit-to-install" or "express PTIO" means a registration status permit-to-install or registration status PTIO that is registered for express processing and issuance pursuant to paragraph (F) of rule 3745-31-05 of the Administrative Code and pursuant to the division (A) of section 3704.037 of the Revised Code.

Incorporated above definition to address new terminology for what has been referred to, and identified in current OAC 3745-31-05 (D) (under this proposal, (F)), as a "registration status" PTI. This change will reduce confusion over what has always been, and will continue to be, a method for "express" processing of PTI applications. It will also reduce confusion between the "registration" program that was in OAC Chapter 3745-35 as part of the PTO program. Registration status PTOs will no longer exist under the PTIO program because all installation and operating terms are included in the PTIO at the time of issuance, eliminating the need for registration status on operations.

~~(UUUU)~~~~(VVVV)~~ "Potential to emit" means the maximum capacity of an emissions unit or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the emissions unit or stationary source to emit an air pollutant, which includes any federally regulated air pollutant as defined in paragraph (DD) of rule 3745-77-01 of the Administrative Code, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by the state. Secondary emissions do not count in determining the potential to emit of a stationary source. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

The definition for potential to emit from OAC 3745-35-07(A) was incorporated into the same definition of this chapter. Both definitions have been approved as part of Ohio's state implementation plan, one to address new source review, and the other to address federally enforceable state operating permits (FESOP). FESOPs will not be issued under the PTIO program, rather FEPTIOs (Federally Enforceable Permit-to-install and operate) will be issued.

(BBBBB) "PTIO" or "permit-to-install and operate" means a permit-to-install and/or a permit-to-operate applicable to facilities not subject to Chapter 3745-77 of the Administrative Code.

This definition is being incorporated to address the numerous references to permits-to-install and permits-to-operate in the Ohio Administrative Code and Ohio Revised Code. Those terms continue to reflect the type of permits that are issued under the combined system.

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraphs (E) and (F).
2. (A)(1) - Amended language further to address concerns raised by a commenter. The new language more clearly identifies which types of sources require a PTI or PTIO and clarifies that sources operating under a currently effective permit (or expired PTO under ORC 119.06(C) protection) can continue to operate under such permits until their air contaminant sources are later incorporated into the PTIO program, when applicable.
3. (A)(1)(c) – Amended language as suggested by a commenter to ensure that sources grandfathered under the registration status rule contained in OAC 3745-31-08 would not be required to obtain a PTIO unless requested as such under that rule.
4. (A)(2) – Amended language to add “[The director may require the owner or operator of the air contaminant source submit an updated application for the PTIO](#)” as suggested by a commenter. This may be appropriate if the prior application does not contain sufficient information necessary to issue the PTIO.
5. (A)(2) and (B)(1)(c) – Added “will terminate” to clearly identify when a permit is superseded by the issuance of another permit under the conditions identified in this paragraph, the superseded permits terminate.
6. (B)(1)(c) and (C) – Amended the draft language to refer to “standard” terms and conditions rather than “general” terms and conditions due to terminology change in these terms and conditions.

Draft changes provided to Interested Parties on March 13, 2007

Incorporating “obligations” into the title because a large portion of OAC 3745-31-10, “Air Stationary Source Obligations,” is being moved into this rule. Added the term “applicability” to the title because this rule incorporates suggested new language to more clearly define what type of permit is applicable to the various types of sources.

[This chapter provides requirements for installation, modification and operation of new and existing air contaminant sources that are not subject to Chapter 3745-77 of the Administrative Code. This chapter also provides requirements for installation and modification of air contaminant sources which are subject to Chapter 3745-77 of the Administrative Code. The operating requirements for air contaminant sources, defined as Title V sources, can be found in Chapter 3745-77 of the Administrative Code.](#)

[Comment: Prior to the effective date of this rule, requirements for permits-to-operate for sources not subject to Chapter 3745-77 of the Administrative Code were contained in Chapter 3745-35 of the Administrative Code. Upon the effective date of this rule, Chapter 3745-35 was rescinded and all operating requirements for sources not subject to Chapter 3745-77 of the Administrative Code were incorporated into this chapter. Rules 3745-31-01 to 3745-31-07 of the Administrative Code provide regulatory requirements for installation and modification for all sources. Rules 3745-31-01 to 3745-31-07 of the Administrative Code also provide regulatory requirements for operation of sources not subject to Chapter 3745-77 of the Administrative Code. Rule 3745-31-08 of the Administrative Code provides the on-going regulatory requirements for sources not subject to Chapter 3745-77 of the Administrative Code which previously received registration status for permit-to-operate purposes under the now rescinded Chapter 3745-35 of the Administrative Code. Updated requirements for registration status, now defined as express permit-to-install or express PTIOs, are incorporated into rule 3745-31-05 of the Administrative Code. Rule 3745-31-09 of the Administrative Code provides for operation or other use of an air contaminant source that emits any air pollutant in violation of any applicable law for sources not subject to Chapter 3745-77 of the Administrative Code. This provision was previously established in the now rescinded rule 3745-35-03 of the Administrative Code. Rule 3745-31-29 of the Administrative Code provides for general permits-to-install and general PTIOs. Rule 3745-31-33 of the Administrative Code identifies activities that are included and excluded from meaning of begin actual construction, as defined in rule 3745-31-01 of the Administrative Code. The remaining rules in this chapter, rules 3745-31-10 to 3745-31-28 and rules 3745-31-30 to 3745-31-32 of the Administrative Code, provide additional regulatory requirements for installation and modification of air contaminant sources that are located at a major stationary source or are considered major modifications, as defined in rule 3745-31-01 of the Administrative Code. Installation or modification of air contaminant sources that are located at a major stationary source or are considered major modifications, are, or will become, subject to Chapter 3745-77 of the Administrative Code. The operating regulatory requirements for these types of sources are contained in Chapter 3745-77 of the Administrative Code.]

Incorporating the above language to more clearly identify the changes to, and purpose of, this chapter.

(A) Permit-to-install or PTIO:

- (1) Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the: ~~installation of a new source of air pollutants, or cause, permit, or allow the modification of an air contaminant source, without first obtaining a permit to install from the director.~~

Last sentence above is being stricken and incorporated, along with additional language, into paragraphs (A)(1)(a) to (A)(1)(c) below in order to describe when sources need to apply for the various permits required under this chapter. This does not change the current requirements.

- (a) Installation and operation of a new source without first obtaining a permit-to-install or PTIO from the director; or
- (b) Modification and operation of a new source without first obtaining a permit-to-install or PTIO from the director; or
- (c) Operation of any air contaminant source not defined as a new source under rule 3745-31-01 of the Administrative Code and not subject to Chapter 3745-77 of the Administrative Code without first obtaining authority to operate through issuance of a PTIO from the director, which may include:
 - (i) Requirements for equipping the air contaminant source with instrumentation and sensing devices to monitor and record emission data and other information about the operation of the air contaminant source; and
 - (ii) Requirements for performance tests that demonstrate that the source is in compliance with applicable emission limitations and other applicable laws, at the applicant's expense, in accordance with methods prescribed by the Ohio environmental protection agency. The Ohio environmental protection agency, or its representatives may observe, participate in, or conduct any performance test required.

Including language from OAC 3745-35-02(C)(2) and (C)(3) as paragraphs (A)(1)(c)(i) and (A)(1)(c)(ii) above. Paragraph (A)(1)(c) above is intended to cover sources which are pre-1974 sources. Chapter 35 included the above two requirements for sources that fit this category to ensure they would meet certain requirements in the operating permit when they were not required to get a permit-to-install or meet BAT requirements.

- (2) An owner or operator who currently holds a permit-to-install and/or permit-to-operate for an air contaminant source that was issued prior to the effective date of this rule may be issued a PTIO for the same air contaminant source. Upon final issuance of the PTIO, any permit-to-install and/or permit-to-operate for the air contaminant source will be superseded by the issuance of the PTIO. The superseded permits will cease to be enforceable.

Incorporating above new paragraph (A)(2) to afford Ohio EPA the ability to, over time, ensure all sources not subject to Chapter 77 (Title V) have all emissions units required to be permitted incorporated into the PTIO program with ease. This paragraph does not afford Ohio EPA the ability to impose requirements not applicable to a source, rather it affords Ohio EPA the ability to incorporate existing PTI and/or PTO documents into a PTIO document without requiring a revocation procedure.

- ~~(2) The owner or operator of any air contaminant source may apply for a permit to install to voluntarily limit the allowable emissions from the air contaminant~~

~~source or limit the type of air contaminants authorized to be emitted from the air contaminant source. The director shall act upon such application in accordance with the requirements of rule 3745-31-05 of the Administrative Code, provided that paragraphs (A)(3) and (B) of that rule shall not apply unless the application is for the installation of a new source as defined by rule 3745-31-01 of the Administrative Code or is for a modification of an air contaminant source as defined by rule 3745-31-01 of the Administrative Code.~~

Language moved to new OAC 3745-31-05(E).

- ~~(3) The transferee of any permit to install shall assume personally the responsibilities of the original permit holder transferor. The Ohio environmental protection agency must be notified in writing of any transfer of a permit to install.~~

Language moved to new OAC 3745-31-07(E).

(B) Changes in applicability: Title V versus non-Title V

This paragraph (B) is new language to provide requirements for sources that have a change in applicability related to the Title V program. It does not impose any additional requirements compared to what exists today.

This paragraph is applicable to an owner or operator where a change in the air contaminant source, stationary source, or applicable law results in a change in the source's applicability under this chapter and/or Chapter 3745-77 of the Administrative Code. A change may include, for example, a modification or major modification as defined in this chapter, a relaxation of a federally enforceable limitation on the potential to emit applicable under paragraph (C) of rule 3745-31-05 of the Administrative Code, or the imposition of a federally enforceable, or legally and practicably enforceable by the state, limitation on the potential to emit that restricts a stationary source's potential to emit below major size cutoffs applicable under paragraph (C) of rule 3745-31-05 of the Administrative Code.

- (1) The following is applicable to an owner or operator who holds a permit-to-install, permit-to-operate and/or PTIO where a change subjects them to the requirements of Chapter 3745-77 of the Administrative Code.

(a) The owner or operator shall submit a Title V permit application and obtain a Title V permit from the director, as required under Chapter 3745-77 of the Administrative Code.

(b) If the change is defined as a new source, modification or major modification under this chapter, the owner or operator shall submit the required application and obtain a permit-to-install, as required under this chapter, from the director.

(c) Upon final issuance of the permit required under paragraph (B)(1)(a) of this rule, and, if applicable, under paragraph (B)(1)(b) of this rule, any permit-to-operate and/or any terms and conditions specifically identified in the general terms and conditions of a PTIO as no longer enforceable under this scenario will be superseded by the issuance of the Title V permit required under paragraph (B)(1)(a) of this rule, and, if applicable, the permit-to-install required under paragraph (B)(1)(b) of this rule. When applicable, all superseded permits-to-operate and superseded terms and conditions of any PTIO will cease to be enforceable.

Above paragraph (B)(1)(c) is necessary to alleviate burdens with removing non-applicable language from PTIOs or previously issued PTOs when a source makes a change that requires they now obtain a Title V permit. The operating requirements of the Title V permit will replace (supersede) any operating requirements of the PTIO that are identified specifically in the PTIO general terms and conditions as such while the installation terms remain enforceable. On the other hand, all terms & conditions of a previously issued PTO would be superseded by the terms & conditions of a Title V permit.

(2) The following is applicable to an owner or operator who currently holds a Title V permit where a change eliminates the applicability of Chapter 3745-77 of the Administrative Code but the change does not exempt the owner or operator from requirements to obtain a PTIO.

(a) The owner or operator shall submit the required application and obtain a PTIO or Federally Enforceable PTIO (FEPTIO) from the director, as required under this chapter.

(b) Final issuance of any permit required under paragraph (B)(2)(a) of this rule does not release the owner or operator from the requirements contained in Chapter 3745-77 of the Administrative Code or the owner or operator's Title V permit, unless expressly identified as such in rule or a federally enforceable permit.

Above paragraph (B)(2)(b) is incorporated because Ohio EPA currently does not have the authority to supersede Title V permit terms & conditions. Obtaining a PTIO or FEPTIO does not relieve the permittee from the requirements of their Title V permit. Any rulemaking that would include this would be incorporated into Chapter 3745-77 or in the terms & conditions of the Title V permit.

(C) Permanent shutdown of an air contaminant source subject to the terms and conditions of a permit-to-install or PTIO

When expressly identified in the terms and conditions of a permit-to-install or PTIO, the owner or operator of a permanently shutdown air contaminant source may be

relieved from certain requirements of the permit-to-install or PTIO, without obtaining a modification or administrative modification, upon meeting the requirements for permanently shutdown air contaminant sources contained in the general terms and conditions of the permit. Said terms and conditions will cease to be enforceable upon meeting the requirements for permanently shutdown air contaminant sources contained in the terms and conditions of the permit.

Above paragraph (C) is new language to allow Ohio EPA to alleviate burdens associated with removing non-applicable language for air contaminant sources that are PERMANENTLY shutdown. Although the installation terms of a permit always remain effective and enforceable, when an air contaminant source is permanently shutdown, operation terms are no longer needed. The appropriate operational terms and conditions which meet these criteria will be clearly identified in the general terms and conditions of the permit.

(D) If, in the director's judgment, based on a review of mass emission test data, visible emission readings, emission factors, mass balance data, source inspection information, or other pertinent information, an air contaminant source exempted under rule 3745-31-03 of the Administrative Code, has violated, may presently be violating, or may in the future violate applicable law, the director shall notify the owner or operator of the source in writing that the source is no longer exempt pursuant to rule 3745-31-03 of the Administrative Code. The owner or operator may contest the withdrawal of exemption by filing with the hearing clerk, within thirty days of receipt of the written notification, a request for adjudication hearing. At the close of hearing procedures, the director shall restore the exemption if the owner or operator has demonstrated that the source has not violated, is not presently violating, and will not in the future violate applicable law. Nothing in this paragraph shall be construed as to abrogate the responsibility of the source to comply with all other applicable requirements or law of other political subdivisions of the State of Ohio or with the Clean Air Act.

Above paragraph (D) incorporates the requirements of former OAC 3745-35-05(A)(2) and (A)(3).

~~(B)~~(E) The director, in his discretion, may issue an order requiring any person planning to install or modify, or in the process of installing or modifying, any air contaminant source as defined in rule 3745-31-01 of the Administrative Code, which are otherwise exempted, to obtain a permit-to-install or PTIO, before proceeding with installation or modification, if in the director's judgment, operation of the air contaminant source after installation or modification might result in a violation of the criteria established in paragraph (A) of rule 3745-31-05 of the Administrative Code.

~~(C)~~(F) The director, in his discretion or where required to do so by federal laws or regulations, may issue a single permit-to-install or PTIO having application to all pollutants of any kind emanating from any air contaminant source, or issue a single permit-to-install or PTIO having applicability to more than one air contaminant source, controlled by a common owner or operator, located in the same county.

(G) The approval to construct and/or operate under this chapter shall not relieve any owner or operator of a stationary source of the responsibility to comply fully with applicable provisions of this chapter and any other requirements under local, state or federal law.

Above paragraph (G) incorporates the requirements of former OAC 3745-31-10(A) and OAC 3745-35-02(G).

(H) If any provision of this chapter or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Above paragraph (H) incorporates the requirements of former OAC 3745-31-10(E).

3745-31-03 ~~Permit to install exemptions~~Exemptions.

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraph (A)(3).

Draft changes provided to Interested Parties on March 13, 2007

(A)

(1)

- (t) An incinerator located at a dwelling designed and used to dispose of residential wastes and having a capacity for serving ~~no more than five~~ six or fewer households or units per dwelling.

Incorporates OAC 3745-35-05(A)(1)(b).

(5) De minimis exemption

Air contaminant sources which meet the requirements of rule 3745-15-05 of the Administrative Code and section 3704.011 of the Revised Code are exempt from the requirements of this chapter.

Incorporates language from OAC 3745-35-02(A)(4)

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraph (B)(1).

Draft changes provided to Interested Parties on March 13, 2007

(D) PTIO applications for grain and feed processing operations and fertilizer mixing operations

(1) A single PTIO application may be submitted for the following sources:

(a) Shellers, hammer mills and aspirated bagging operations and other air contaminant sources subject to rule 3745-17-11 of the Administrative Code and which are located at a stationary source which constitutes a grain and feed processing operation.

(b) Air contaminant sources which are subject to rule 3745-17-11 of the Administrative Code and which are located at a stationary source which constitutes a fertilizer mixing operation.

(2) A PTIO application for air contaminant sources of fugitive dust at grain and feed processing operations or a fertilizer mixing operation and which are subject to rule 3745-17-08 of the Administrative Code shall be submitted in accordance with applicable law.

Incorporation of OAC 3745-35-06 into above paragraph (D).

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraphs (A) and (I).
2. (A)(3)(a) – Incorporate changes to draft language to address commenter concern that changes to BAT that may be necessary outside of a modification may be inadvertently excluded due to the way the draft language was written.

Amended as such:

Any previous BAT determination shall be complied with during operation of the air contaminant source until a new determination of BAT for the air contaminant source is issued in the appropriate permit.

3. (F)(1)(d) – Incorporating clarifying language to address commenter. Language is clarified to show that the requirement for express PTI process is for five tons “per pollutant”.

Amended as such:

~~(3)~~(d) Have maximum uncontrolled emissions as defined in rule 3745-31-01 of the Administrative Code of less than five tons per pollutant per each year for particulate matter, sulfur dioxide, nitrogen oxides, and OCs,

Draft changes provided to Interested Parties on March 13, 2007

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" section at the end of rule 3745-31-01 of the Administrative Code.]

(A) Permit-to-install or PTIO ~~The~~ director shall issue a permit-to-install, on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio environmental protection agency, or both, if he determines that the installation or modification and operation of the air contaminant source will:

Shifting last sentence in above paragraph (A) down below to provide for title header to paragraph (A).

The director shall issue a permit-to-install or PTIO, on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio environmental protection agency, or both, if he determines that ~~the installation or modification and operation of the air contaminant source will:~~

The last sentence in the above paragraph is now the beginning sentence of paragraphs (A)(1), (A)(2) and (A)(3).

- (1) During the installation, modification, or operation, the air contaminant source does not, or shall ~~Not~~ not prevent or interfere with the attainment or maintenance of applicable -ambient air quality standards; and
- (2) During the installation, modification, or operation, the air contaminant source does not, or shall~~Not~~ not result in a violation of any applicable laws, except when the compliance plan requirements in paragraph (A)(4) of this rule are met, including but not limited to:

Incorporated the last sentence into above paragraph (A)(2) to include the ability for compliance plans to be built into a PTIO as they were pursuant to OAC 3745-35-02(C)(1) which is being placed in paragraph (A)(4) of this rule.

- (a) Emission standards adopted by the Ohio environmental protection agency;
 - (b) Federal standards of performance for new stationary sources adopted by the administrator of the United States environmental protection agency pursuant to Section 111 of the Clean Air Act and the regulations promulgated thereunder;
 - (c) Requirements pertaining to installation of major stationary sources or major modifications in attainment and nonattainment areas as contained in rule 3745-31-10 to rule 3745-31-27 of the Administrative Code.
 - (d) National emission standards for hazardous air pollutants adopted by the administrator of the United States environmental protection agency pursuant to Section 112 of the Clean Air Act and the regulations promulgated thereunder (including 40 CFR Part 61 and 40 CFR Part 63);
- (3) During the installation, modification, or operation, the air contaminant source shall ~~Employ~~employ BAT, except:

- (a) When the only requirement to obtain a permit-to-install or PTIO is due to:
 - (i) A modification as a result of the requirements of paragraph ~~(PPP)(1)(b)-~~ (QQQ)(1)(b) of rule 3745-31-01 of the Administrative Code; or
 - (ii) The requirements of paragraph ~~(A)(2)(E)~~ of this rule ~~3745-31-02 of the Administrative Code, or.~~

Any previous BAT determination shall be complied with during operation of the air contaminant source until a modification results in a new determination of BAT for the air contaminant source.

Adding last sentence to clarify requirement to continue to comply with existing BAT until a “modification” as defined in OAC 3745-31-01 triggers the need for a new determination. This is not a change from current requirements.

- (b) When the new or modified air contaminant source is installed or modified on or after August 3, 2006 and has the potential to emit, taking into account air pollution controls installed on the source, less than ten tons per year of emissions of an air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the Clean Air Act.

(4) During installation, modification, or operation, the air contaminant source shall be in compliance with applicable requirements and laws at the time of permit issuance or the owner or operator has submitted an approvable compliance plan, as required by division (G) of section 3704.03 of the Revised Code, for incorporation into the permit terms and conditions. A compliance plan shall be approvable where it shows to the satisfaction of the director that:

- (a) Operation of the air contaminant source under the compliance plan will result in compliance with all applicable requirements and laws as expeditiously as practicable but no later than any date required by applicable law;
- (b) All reasonable interim control measures are identified; and
- (c) Where applicable, is consistent with and at least as stringent as any compliance schedule contained in any judicial consent decree or administrative order to which the air contaminant source is subject.

Adding language under above paragraph (A)(4) to include the ability for compliance plans to be built into a PTIO as they were pursuant to OAC 3745-35-02(C)(1).

(B) Conditional PTIOs

If a new source has been constructed, installed, located or modified in accordance with the provisions of a permit-to-install or PTIO, and otherwise in accordance with applicable law, and which is not subject to Chapter 3745-77 of the Administrative Code, is unable to comply with the terms and conditions of the permit and/or applicable law as of the date the source began operation, the director may grant a conditional PTIO to operate such source for a period not to exceed six months from beginning operation, provided:

- (1) The period is used to remedy any defect which prevents such compliance and the applicant demonstrates that compliance with emission standards prescribed by applicable law will be achieved as expeditiously as practicable; and
- (2) Any reasonably available alternative operating procedures and interim control measures have been used or will be used to reduce excess emissions; and

(3) The continued operation of the source pursuant to the conditional PTIO will not endanger or threaten to endanger human health.

Conditional PTIOs may not be renewed, and the conditional PTIO shall contain such terms and conditions as the Ohio environmental protection agency determines necessary and appropriate.

Incorporating language from OAC 3745-35-02(H) under above paragraph (B).

(C) Special terms and conditions including federally enforceable limitations on potential to emit

Paragraphs (C)(1) to (C)(5) below incorporate OAC 3745-35-07 FESOP (federally enforceable state operating permit) requirements into this rule. Other parts of Chapter 3745-31 are also relocated here from other rules in the chapter or other paragraphs in this rule, as identified specifically below.

The director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality.

(1) Special terms and conditions necessary to ensure compliance with requirements mandated by the Clean Air Act, which include regulations promulgated by the administrator there under, include synthetic minor emissions unit terms and conditions issued in a permit-to-install or PTIO and/or Federally Enforceable PTIO (FEPTIO). Such terms and conditions shall be federally enforceable and may restrict a stationary source's potential to emit below major size cutoffs, below cutoffs for other Clean Air Act requirements, or place other restrictions on an air contaminant source or stationary source in order to avoid a Clean Air Act requirement(s). Federally enforceable terms and conditions, including limitations on the potential to emit of a source, will be designated as such through one of the following:

The above paragraph (C)(1) (and subparagraphs (a) to (c) below) incorporate old paragraph (C) of this rule. The language is clarified to show that under the PTIO program we can have a synthetic minor PTI or a FEPTIO (federally enforceable permit to install and/or operate). The paragraph also identifies that restrictions may take other forms other than just an emission limit and will be federally enforceable if the restriction is to avoid a federal Clear Air Act requirement.

(a) Terms and conditions of a final permit-to-install issued under this chapter; or

(b) Terms and conditions of a final FEPTIO issued under this chapter; or

- (c) Rules or orders of the director that are submitted to and approved by the administrator as revisions to the Ohio state implementation plan under Section 110 and 112(l) of the Clean Air Act.
 - (2) In order to be federally enforceable, a limitation on the potential to emit of an air contaminant source or stationary source:
 - (a) Must specify an annual limit on emissions from the source;
 - (b) Must specify a short-term limit on emissions for each pollutant to be restricted, and specify a short-term limit on production or operation, provided that for purposes of limiting potential to emit, acceptable short-term limitations on production or operation shall include but not be limited to:
 - (i) A thirty day summation or three hundred and sixty-five day rolling summation limitation computed each calendar day,
 - (ii) A monthly limitation, or
 - (iii) A rolling twelve-month summation limitation; and
 - (c) Must specify adequate and enforceable methods for establishing compliance with the annual and short-term limits, using methods from 40 CFR Part 60, Appendix A or 40 CFR Part 51, Appendix M where appropriate; and
 - (d) Must be no less stringent than any federally applicable requirement to which the source is subject; and
 - (e) Must first be issued as a draft or proposed action with an opportunity for public comment under rule 3745-47-05 of the Administrative Code with concurrent notice and opportunity for comment given to the administrator of the United States environmental protection agency region five.
 - (i) During the public comment period, if the administrator objects that the terms and conditions of the permit are not federally enforceable, the director shall not issue the permit until such objection has been resolved.
- (3) Only those terms and conditions issued in a permit under this chapter and in accordance with paragraph (C)(2) of this rule that are necessary to avoid a Clean Air Act requirement(s), including a limitation on the potential to emit of an air contaminant source or stationary source, and expressly designated as federally enforceable, shall be federally enforceable.
- (4) Upon the request of the owner or operator, any of the mechanisms provided in paragraph (C)(1) of this rule shall allow for trading of emissions increases and decreases among air contaminant sources located at the same stationary source

that is consistent with the Clean Air Act for the purpose of complying with a federally enforceable cap on the potential to emit of the source. Such limitations shall ensure that the trades are quantifiable and enforceable and require seven-day advance notification to the appropriate Ohio environmental protection agency district office or delegated local air agency.

(5) Approval of this rule by the administrator is a prerequisite of federal enforceability of such designated terms and conditions in a permit or rules or order of the director identified under paragraphs (C)(1) of this rule.

(6) Relaxation of federally enforceable limitations

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any federally enforceable term and condition or limitation established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit an air pollutant, such as a restriction on hours of operation, the requirements of rules 3745-31-10 to 3745-31-27 and 3745-31-30 to 3745-31-32 of the Administrative Code shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

Paragraph (C)(6) above is relocated from OAC 3745-31-10(B).

~~(B) In deciding whether to grant or deny a permit to install, the director may take into consideration the social and economic impact of the air contaminants, water pollutants, or other adverse environmental impact that may be a consequence of issuance of the permit to install.~~

Relocated language in above old paragraph (B) to new paragraph (H) of this rule.

~~(C)~~(D) State-only enforceable limitations~~The~~ director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality. Special terms and conditions necessary to ensure compliance with requirements mandated by the Clean Air Act or regulations promulgated by the administrator thereunder, including synthetic minor emissions unit conditions that restrict the stationary source's potential to emit below major size cutoffs, shall be federally enforceable and designated as such in the permit-to-install. The director may impose terms and conditions necessary to ensure compliance with any provisions of the statutes or regulations of the state of Ohio that are not mandated by the Clean Air Act or regulations adopted by the administrator thereunder, but such terms and conditions shall be enforceable as state law only, and shall be designated as such in the permit-to-install.

The text above is moved down to the paragraph below in order to create a title for this paragraph.

~~The director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality. Special terms and conditions necessary to ensure compliance with requirements mandated by the Clean Air Act or regulations promulgated by the administrator thereunder, including synthetic minor emissions unit conditions that restrict the stationary source's potential to emit below major size cutoffs, shall be federally enforceable and designated as such in the permit to install.~~ **The director may impose terms and conditions necessary to ensure compliance with any provisions of the statutes or regulations of the state of Ohio that are not mandated by the Clean Air Act or regulations adopted by the administrator thereunder, but such terms and conditions shall be enforceable as state law only, and shall be designated as such in the permit-to-install, PTIO or FEPTIO.**

The beginning, stricken portion of old paragraph (C) (new paragraph (D)) above has been moved to new paragraph (C)(1) of this rule.

(E) Voluntary limits on allowable emissions

The owner or operator of any air contaminant source may apply for a permit-to-install or PTIO to voluntarily limit the allowable emissions from the air contaminant source or limit the type of air contaminants authorized to be emitted from the air contaminant source. The director shall act upon such application in accordance with the requirements of this rule, provided that paragraphs (A)(3) and (H) of this rule shall not apply unless the application is for the installation of a new source as defined by rule 3745-31-01 of the Administrative Code or is for a modification of an air contaminant source as defined by rule 3745-31-01 of the Administrative Code.

New paragraph (E) above relocates the requirements from old OAC 3745-31-02(A)(2).

(F) Express permit-to-install or express PTIO processing

Amending language in new paragraph (H) and it's subparagraphs to clarify new terminology of PTIO "express" processing.

~~(D)~~**(1)** An applicant whose air contaminant source(s) meets the following criteria may request in writing that the air contaminant source(s) ~~be issued an application receives~~ express permit-to-install ~~(registration status) or express PTIO processing as defined in rule 3745-31-01 of the Administrative Code.~~ In order to be considered for express ~~permit-to-install~~ processing ~~(registration status)~~, the air contaminant source owner or operator must:

(a) Apply for a permit-to-install or a PTIO for a source undergoing installation or modification as defined in rule 3745-31-01 of the Administrative Code.

~~(4)~~**(b)** Submit a complete permit-to-install or PTIO application,

- ~~(2)~~(c) Demonstrate compliance with all applicable law including the employment of BAT,
- ~~(3)~~(d) Have maximum uncontrolled emissions as defined in rule 3745-31-01 of the Administrative Code of less than five tons per each year for particulate matter, sulfur dioxide, nitrogen oxides, and OCs,
- ~~(4)~~(e) Not be subject to the United States environmental protection agency new source performance standards, and
- ~~(5)~~(f) Not be subject to the national emission standards for hazardous air pollutants or a United States environmental protection agency promulgated standard for HAPs.

~~Within sixty days of the receipt of a complete request, the director shall notify the applicant whether the air contaminant source will be accepted for express permit-to-install processing (registration status). Installation or construction of the air contaminant source may commence after sixty days if the applicant has not been notified or upon the issuance of the express permit-to-install (registration status).~~

Relocating above stricken paragraph into new OAC 3745-31-06(E)(4)(a).

~~The~~ issuance of an express permit-to-install (registration status) does not relieve the applicant from compliance with any applicable air pollution control requirement (including the requirement to apply for a permit-to-operate) and is at the discretion of the director.

Relocating above paragraph into new paragraph (F)(2) below.

- (2) **The issuance of an express permit-to-install ~~(registration status)~~ or express PTIO does not relieve the applicant from compliance with any applicable air pollution control requirement ~~(including the requirement to apply for a permit-to-operate)~~ and is at the discretion of the director.**

(G) Site approval for portable sources

- ~~(E)~~(1) In determining whether the director issues a site approval for a portable source, the applicant must demonstrate that the following criteria have been met:
 - ~~(4)~~(a) The portable source continues to comply with the currently effective Ohio environmental protection agency permit-to-install, PTIO or ~~express permit-to-install (registration status), and/or any applicable permit-to-operate.~~
 - ~~(2)~~(b) The portable source was issued a permit-to-install or PTIO and where BAT requirements were defined in that permit-to-install or PTIO, the portable source continues to comply with any applicable BAT requirements.

~~(3)~~(c) The portable source owner has identified the proposed site to Ohio environmental protection agency.

~~(4)~~(d) Ohio environmental protection agency has determined that the portable source, at the proposed site, will have an acceptable environmental impact.

~~(5)~~(e) A public notice, consistent with Chapter 3745-47 of the Administrative Code, is published in the county where the proposed site is located.

~~(6)~~(f) The owner of the proposed site has provided the portable source owner with approval or equivalent declaration that it is acceptable to the site owner to move the portable source to this proposed site.

~~(7)~~(g) The portable source owner has provided Ohio environmental protection agency with fifteen days written notice of the relocation.

~~Any site approvals issued by Ohio environmental protection agency shall be valid for no longer than three years and are subject to renewal.~~

Relocating above stricken paragraph to new OAC 3745-31-07(C)(2) and below.

[Comment: Relocation of any portable source that results in the installation of a major stationary source or the modification of a major stationary source must also meet all applicable requirements under this chapter, including the requirement to obtain a permit-to-install or PTIO prior to relocation. Relocation of any portable source that results in the creation of a major source, as defined in rule 3745-77-01 of the Administrative Code, must also meet all applicable requirements under the Title V program contained in Chapter 3745-77 of the Administrative Code, which may include the requirement to apply for a Title V permit.]

(2) Site approvals expire and are renewed according to paragraph (C)(2) of rule 3745-31-07 of the Administrative Code.

(H) In deciding whether to grant or deny a permit-to-install or PTIO, the director may take into consideration the social and economic impact of the air contaminants, water pollutants, or other adverse environmental impact that may be a consequence of issuance of the permit-to-install or PTIO.

Above language in paragraph (H) is from old paragraph (B) of this rule.

~~(F) The director may modify the site approval to add or delete certain portable sources or add or delete certain terms and conditions as appropriate.~~

Relocating to new OAC 3745-31-07(D)(2).

~~(G) Within one hundred eighty days after a completed application is filed, the director shall issue or propose to issue or deny a permit to install or express permit to install (registration status), and such action shall be in accordance with Chapter 3745-47 of the Administrative Code.~~

Relocating to new OAC 3745-31-06(E)(2)(a) and (E)(4)(b).

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraphs (A), (B), (C), (C)(1) and (F).

Draft changes provided to Interested Parties on March 13, 2007

Due to the significant number of changes that would have occurred to this rule, the Legislative Service Commission requires rule makers to rescind the existing rule and develop a new rule. The rescinded rule contained two paragraphs. Paragraph (A) of the rescinded rule is being incorporated into new OAC 3745-31-07(A)(1). Paragraph (B) of the rescinded rule is being incorporated into new OAC 3745-31-07(A)(2) and we have replaced use of the word “expire” with “terminate” to be consistent with ORC 3704.03(F) and the other language contained in these paragraphs. The rescinded rule is included as a part of this package for your reference.

(A) Completeness review time restriction

Within sixty days after the director or his agent or authorized representative receives an application for the issuance of a permit to install or PTIO pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, or an application to modify such a permit, the director shall determine whether the application is substantially complete or materially deficient and shall notify the applicant, in writing, of the determination. If the director fails to make such a completeness determination and provide written notice of the determination to the applicant within sixty days after the application was submitted, the applicant may submit a written request to the director for the making of such a completeness determination.

New paragraph (A) above, incorporates language from old OAC 3745-31-09(A).

(B) Request for completeness determination

Within thirty days after receiving a written request for the making of a completeness determination on an application under paragraph (A) of this rule, the director shall determine whether the application is substantially complete or materially deficient and, in writing, notify the applicant of his determination. If the director fails to make a completeness determination and provide written notice of his determination to the applicant within thirty days after receiving the applicant's written request for the making of the determination, the application shall be deemed to have been complete in all material respects at the time that it was submitted to the director or his agent or authorized representative.

New paragraph (B) above, incorporates language from old OAC 3745-31-09(B).

(C) Materially deficient applications

If, within the time prescribed in paragraph (A) and, if applicable, paragraph (B) of this rule, the director or his agent or authorized representative determines that an application is materially deficient, the director shall return the application to the applicant. The running of the time prescribed under paragraph (A) of this rule and, if applicable, paragraph (B) of this rule ceases at the time that the determination is made. If the applicant subsequently resubmits the application to the director, the time prescribed in paragraph (A) of this rule and, if applicable, paragraph (B) of this rule shall resume running at the time that the application is resubmitted. The resubmission of the application constitutes a request for the making of a completeness determination on the application. The director shall do one of the following within the time remaining pursuant to paragraph (A) and, if applicable, paragraph (B) of this rule at the time that the application is resubmitted:

- (1) Make a completeness determination on the application and, in writing, notify the applicant of his determination;
- (2) Issue or deny or propose to issue or propose to deny the permit or modification.

New paragraph (C) above, incorporates language from old OAC 3745-31-09(C).

(D) Completeness date notification

The director shall include in each written notice of the completeness of an application provided under paragraph (A), (B), or (C)(1) of this rule the date on which the application was determined to be complete.

New paragraph (D) above, incorporates language from old OAC 3745-31-09(D).

(E) Permit decision time limits and issuance or denial

Incorporating new paragraph (E), and associated subparagraphs below, from old OAC 3745-31-09 but also clarifying the language and adding additional language for the different scenarios under the PTIO program.

A permit-to-install or PTIO shall be issued, modified or denied and may be challenged in accordance with the provisions of the rules of procedure of the Ohio environmental protection agency, Chapter 3745-47 of the Administrative Code.

The above paragraph is incorporating old OAC 3745-35-02(E) and OAC 3745-31-08.

(1) For the purposes of this paragraph, "initial construction PTIO" means a PTIO for an air contaminant source that is not currently regulated under a permit-to-install or PTIO.

(2) Permit-to-install, initial construction PTIO, or modification

(a) The director shall issue or deny or propose to issue or deny a permit-to-install or initial construction PTIO pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, or modification, as defined in rule 3745-31-01 of the Administrative Code, of such a permit within one hundred eighty days after the date the application for the permit or modification was determined to be complete as that date is set forth in the written notice of the determination of the completeness of the application provided under paragraph (A), (B), or (C)(1) of this rule or within one hundred eighty days after the application is deemed to be complete under paragraph (B) of this rule, as appropriate. If the director fails to issue or deny or propose to issue or deny the permit or modification within the appropriate one-hundred-eighty-day period, the applicant may bring a mandamus action to obtain a judgment that orders the director to take a final action on the application.

(3) PTIO for air contaminant sources currently regulated under a permit-to-install

(a) The director may issue or deny or propose to issue or deny a PTIO, where the applicant holds a previously issued permit-to-install for the same air contaminant source, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code as expeditiously as practicable, except:

(i) When the air contaminant source is considered a modification as defined in rule 3745-31-01 of the Administrative Code, then paragraph (E)(2) of this rule shall be applicable.

(4) Express permit-to-install or express PTIO

(a) Within sixty days of the receipt of a complete request, the director shall notify the applicant whether the air contaminant source will be accepted for express processing of a permit-to-install or PTIO pursuant to paragraph (F) of rule 3745-31-05 of the Administrative Code. Installation or construction of the air contaminant source may commence after sixty days if the applicant has not been notified or upon the issuance of the express permit-to-install or express PTIO.

Above new paragraph (E)(4)(a) incorporates old OAC 3745-31-05(D)

(b) Within one hundred eighty days after a completed application is filed, the director shall issue or deny or propose to issue or deny an express permit-to-install or express PTIO.

Above new paragraph (E)(4)(b) incorporates old OAC 3745-31-05(G)

(5) Administratively modified permit-to-install or PTIO

- (a) The director may issue or deny or propose to issue or deny a permit-to-install or PTIO that meets the definition of an administrative modification in rule 3745-31-01 of the Administrative Code, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, as expeditiously as practicable.

Incorporating above paragraph (E)(5) to identify that administrative modifications of a permit may occur that do not have to meet the same requirements as changes to a permit resulting from a modification as defined in OAC 3745-31-01.

(6) Renewal PTIO

- (a) The director shall issue or deny or propose to issue or deny a renewal PTIO pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code within one hundred eighty days after the date the application for the renewal PTIO was determined to be complete as that date is set forth in the written notice of the determination of the completeness of the application provided under paragraph (A), (B), or (C)(1) of this rule or within one hundred eighty days after the application is deemed to be complete under paragraph (B) of this rule, as appropriate. If the director fails to issue or deny or propose to issue or deny the renewal PTIO within the appropriate one hundred eighty day period, the applicant may bring a mandamus action to obtain a judgment that orders the director to take a final action on the application.

Incorporated above paragraph (E)(6)(a) consistent with ORC 3704.03.4(E).

- (b) In accordance with division (C) of section 119.06 of the Revised Code, when an applicant submits a timely and complete renewal application pursuant to applicable law and the terms and conditions of the PTIO, the permittee's failure to have a renewed PTIO is not a violation of this chapter. Upon expiration of the PTIO, the permittee shall continue to operate under the terms and conditions of an expired PTIO until issuance of a renewal PTIO by the director.

Incorporated above paragraph (E)(6)(b) consistent with ORC 119.06(E).

(F) Extension of the permit review time period for the public

The director, upon his own motion or upon the written request of the applicant and in writing, may extend the time provided under paragraph (E) of this rule for issuing or denying or proposing to issue or deny the permit or modification for an additional

sixty days if a public meeting or public hearing was held on the application for the permit or modification.

Above paragraph (F) incorporates old OAC 3745-31-09(F)

(G) Extensions of the permit review time period for the applicant

Upon the written request of the applicant, the director, in writing, may extend the time provided under paragraph (E) of this rule for issuing or denying or proposing to issue or deny the permit or modification for the additional time specified in the applicant's request for the extension.

Above paragraph (G) incorporates old OAC 3745-31-09(G)

(H) Public participation/notification requirements

This paragraph (H), and associated subparagraphs, incorporates old OAC 3745-31-09(H).

The director shall:

- (1) Notify the public, by advertisement in a newspaper of general circulation in each county in which the proposed air contaminant source would be constructed and operated, of the application, the draft action (if issued), the ambient air impact that is expected from the nonattainment NSR permit or the PSD permit, if any, and of the opportunity to request a public hearing, comment at that public hearing and/or submit written comments on any draft action. This notice shall follow the requirements under Chapter 3745-47 of the Administrative Code.
- (2) Send a copy of the notice of public comment to the applicant, the administrator of the United States environmental protection agency, and to officials and agencies having jurisdiction over the location where the proposed air contaminant source would be built as follows:
 - (a) Any other state or local air pollution control agencies;
 - (b) The chief executives of the city and county where the air contaminant source would be located;
 - (c) Any comprehensive regional land use planning agency; and
 - (d) Any federal land manager, Indian governing body, or state whose lands may be affected (in the director's judgment) by emissions from the air contaminant source or modification.
- (3) For all draft action permits-to-install or PTIOs, upon request, provide opportunity for a public hearing for interested persons to appear and submit written or oral

comments on the air quality impact of the air contaminant source, alternatives to it, the control technology required, and other appropriate considerations.

- (4) Consider all written comments submitted within the period specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The director shall make all comments available for public inspection.
- (5) Notify the applicant in writing of the final determination and make such notification available for public inspection.

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

Additional changes being provided under the Proposal

1. (A)(2) – Added language to make it clear that when a PTI, PTO or PTIO is superseded under the circumstances described in OAC rule 3745-31-02(A)(2) or (B)(1)(c), the permits terminate.
2. (C) – Removed draft language for 10-year renewal and incorporated requirement that the renewal period be consistent with the requirements contained in ORC 3704.03(F) and (G).

Amended as such:

“...issued for a period of time consistent with the requirements of paragraph (-) of section 3704.03 of the Revised Code...”

3. (C)(2) – Incorporated new language to address commenters concern that PTIs be identified as not expiring or subject to renewal.

Amended as such:

(2) A permit-to-install does not expire and is not renewable.

Draft changes provided to Interested Parties on March 13, 2007

Renaming rule to include termination from OAC 3745-31-06. Also included expiration, renewal, revisions and transfer because language regarding those requirements was relocated from other rules in this chapter, from Chapter 3745-35 or is new language being incorporated.

~~The director may revoke a permit-to-install, if the director concludes at any time that any applicable laws have been or are likely to be violated.~~

The above paragraph has been moved to new paragraph (B)(1) below.

~~The~~ director may also revoke a permit-to-install if the permittee requests revocation for cause and the director determines that granting the requested revocation will not result in the violation of any applicable laws. When a permittee requests a revocation, the director, without prior hearing, shall make a final determination on the application.

The above paragraph has been moved to new paragraph (B)(2) below.

(A) Termination

- (1) A permit-to-install or PTIO shall terminate within eighteen months of the effective date of the issuance of the permit-to-install or PTIO that authorized the installation or modification, if the owner or operator has not undertaken a

continuing program of installation or modification or has not entered into a binding contractual obligation to undertake and complete within a reasonable time a continuing program of installation or modification.

(2) The director may administratively modify a permit-to-install or PTIO to extend these dates of termination by up to twelve months if the applicant submits, within a reasonable time before the termination date, a request for an administrative modification, containing information that, in the judgment of the director, adequately justifies an extension of time. No appeal taken from denial of extension of a termination date shall prevent termination of a permit during the period between denial of extension and final disposition of the appeal unless prohibited by any court or administrative body having jurisdiction over the matter.

Above new paragraph (A) incorporates old OAC 3745-31-06.

(B) Revocation

(1) The director may revoke a permit-to-install or PTIO, if the director concludes at any time that any applicable laws have been or are likely to be violated.

Above paragraph (B)(1) incorporates old OAC 3745-35-02(F)(1) and also the first paragraph of stricken text above.

(2) The director may also revoke, or partially revoke, a permit-to-install, PTIO or variance if the permittee requests revocation for cause and the director determines that granting the requested revocation will not result in the violation of any applicable laws. When a permittee requests a revocation, the director, without prior hearing, shall make a final determination on the application.

Above paragraph (B)(2) incorporates old OAC 3745-35-02(F)(2) and also the second paragraph of shaded text above. Included language to partially revoke a portion of a PTI in cases where multiple emissions units are covered under the same PTI and revocation of only one emissions unit is applicable (e.g., a permittee makes a change where the emissions unit is now subject to a permit-by-rule under OAC 3745-31-03). This eliminates the redundancy of revoking the entire permit and re-issuing the portion that does not need revoked.

(3) Revocation, pursuant to paragraph (B)(1) of this rule, of a permit-to-install, PTIO or variance shall be final thirty days after service of notice to the permit holder.

Above paragraph (B)(3) incorporates old OAC 3745-35-02(F)(3).

(4) The Ohio environmental protection agency shall afford a prompt hearing to any permit holder whose permit-to-install or PTIO is revoked, except as described in paragraph (B)(2) of this rule, in the manner prescribed in Chapter 3745-47 of the Administrative Code.

Above paragraph (B)(3) incorporates old OAC 3745-35-02(F)(4).

(5) A variance issued pursuant to rule 3745-31-09 of the Administrative Code may be revoked if:

(a) The director determines that any of the terms, conditions, standards, or requirements of rule 3745-31-09 of the Administrative Code have been or will be violated or that circumstances have changed so that the applicant is no longer eligible for a variance under that rule, or

(b) The signatory fails to file an interim report as required pursuant to paragraph (G)(4) of rule 3745-31-09 of the Administrative Code, or if such report fails to satisfy the director that the source is making satisfactory progress, or

(c) False or misleading statements are made in an interim report required pursuant to paragraph (G)(4) of rule 3745-31-09 of the Administrative Code.

Above new paragraph (B)(5) and associated subparagraphs incorporates old OAC 3745-35-03(H)(9) and (J)(1).

(C) Expiration and renewal

(1) A PTIO may be issued for a period not to exceed ten years, and is subject to renewal pursuant to rule 3745-31-05 of the Administrative Code.

Above new paragraph (C)(1) incorporates old OAC 3745-35-02(D)(1). The renewal cycle for PTOs was 5 years. We are suggesting a renewal cycle of up to 10 years for PTIOs, except as described in the two scenarios below.

(a) A conditional PTIO issued pursuant to paragraph (B) of rule 3745-31-05 of the Administrative Code may not be renewed.

Above new paragraph (C)(1)(a) incorporates old OAC 3745-35-02(H)

(b) A FEPTIO issued pursuant to paragraph (C) of rule 3745-31-05 of the Administrative Code shall be effective for a period not to exceed five years, and is subject to renewal.

Above new paragraph (C)(1)(b) is new language to identify federally enforceable operating permits will retain the 5 year renewal cycle that is currently applicable.

(2) Any site approval for a portable source issued pursuant to paragraph (G) of rule 3745-31-05 of the Administrative Code may be issued for a period not to exceed ten years, and is subject to renewal pursuant to paragraph (G) of rule 3745-31-05 of the Administrative Code.

Above new paragraph (C)(2) incorporates old OAC 3745-31-05(E). Includes changing the validity from 3 years to 10 years.

(3) Any variance issued pursuant to rule 3745-31-09 of the Administrative Code may be issued for a period not to exceed ten years, and is subject to renewal. A variance may be renewed only when the Ohio environmental protection agency is satisfied that the source for which the variance was granted is making satisfactory progress toward achievement of the program specified in any compliance schedule incorporated into the variance and/or is complying with any other terms and conditions of the variance. Renewal shall be considered pursuant to rule 3745-31-09 of the Administrative Code.

Above new paragraph (C)(3) incorporates old OAC 3745-35-03(H)(3).

(D) Revision

(1) Any PTIO or variance issued by the director shall be subject to revision in response to changes in applicable law or other factors affecting the compliance of the air contaminant source with the standards or conditions of any currently effective permit.

Above new paragraph (D)(1) incorporates old OAC 3745-35-03(H)(5) and 3745-35-02(D)(2)

(2) The director may revise any site approval for a portable source issued pursuant to paragraph (G) of rule 3745-31-05 of the Administrative Code to add or delete certain portable sources or add or delete certain terms and conditions as appropriate.

Above new paragraph (D)(2) incorporates old OAC 3745-31-05(F)

(3) The director may require a permit application pursuant to rule 3745-31-05 of the Administrative Code to fulfill the requirements of paragraph (D) of this rule.

Above new paragraph (D)(3) incorporates a new requirement to allow Ohio EPA to obtain an updated permit application when a revision, pursuant to this rule, is necessary.

(E) Transfer

(1) The transferee of any permit-to-install, PTIO or variance shall assume personally the responsibilities of the original permit holder-transferor. The Ohio

environmental protection agency must be notified in writing, in a manner prescribed by the director, of any transfer of a permit once the transfer has been completed.

Above new paragraph (E) incorporates old OAC 3745-35-02(D)(3), 3745-35-03(H)(6) and 3745-31-02(A)(3).

Additional changes being provided under the Proposal

No additional changes are being suggested under this proposal than those suggested during the Interested Party review period.

Draft changes provided to Interested Parties on March 13, 2007

Due to the significant number of changes that would have occurred to this rule, the Legislative Service Commission requires rule makers to rescind the existing rule and develop a new rule. The rescinded rule, "procedures for determination by the director," contained one paragraph which has been relocated to new OAC 3745-31-06(E). The rescinded rule is included as a part of this package for your reference.

This new rule incorporates the registration PTO requirements from old OAC 3745-35-05(B). We have modified the language to show that this is now an old system for registration PTOs that we no longer will use but we are retaining for historical purposes and for those that still exist prior to this rule change (grandfathered).

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraphs (C)(2)(f), (E)(3)(a), (F)(1)(b), and (F)(1)(c).
2. (B)(1) – Exchanged the word “thereof” with “herein” at the request of a commenter.
3. (B)(2) – Added “an” in the following:

“An application which seeks a variance pursuant to this rule which allows an applicant...”

Draft changes provided to Interested Parties on March 13, 2007

Due to the significant number of changes that would have occurred to this rule, the Legislative Service Commission requires rule makers to rescind the existing rule and develop a new rule. The rescinded rule, “Air permit to install completeness determinations, public-participation-and public notice,” contained several paragraphs which have been relocated to new OAC 3745-31-06. The rescinded rule is included as a part of this package for your reference.

This new rule incorporates the PTO variance requirements from old OAC 3745-35-03.

3745-31-10 ~~Air stationary source obligations~~ NSR projects at existing emissions units at a major stationary source.

Additional changes being provided under the Proposal

1. ~~(C)~~(A)– struck reference to “clean unit” due to the same revision to the federal rule. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]

Draft changes provided to Interested Parties on March 13, 2007

We have renamed this rule consistent with the specific obligations contained in new paragraph (A) below. The remaining obligations have been moved elsewhere in this chapter as identified below.

~~(A) Compliance with other requirements~~

~~The approval to construct under this chapter shall not relieve any owner or operator of a stationary source of the responsibility to comply fully with applicable provisions of this chapter and any other requirements under local, state or federal law.~~

The above paragraph (A) has been moved to new OAC 3745-31-02(G).

~~(B) Relaxation of enforceable limitations~~

~~At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit an air pollutant, such as a restriction on hours of operation, the requirements of rules 3745-31-10 to 3745-31-27 and 3745-31-30 to 3745-31-32 of the Administrative Code shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.~~

The above paragraph (B) has been moved to new OAC 3745-31-05(C)(6).

~~(C)~~(A) The following provisions apply to NSR projects at existing emissions units at a major stationary source (other than NSR projects at a clean unit or at a stationary source with a PAL) in circumstances where there is a reasonable possibility that a NSR project that is not part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraph ~~(ZZZZ)~~(AAAAA) of rule 3745-31-01 of the Administrative Code for calculating projected actual emissions.

- (1) Before beginning actual construction of the NSR project, the owner or operator shall document and maintain a record of the following information:
 - (a) A description of the NSR project;

- (b) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the NSR project; and
 - (c) A description of the applicability test used to determine that the NSR project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of "could have accommodated" emissions excluded under paragraph - ~~(ZZZZ)(1)(e)~~(AAAAA)(1)(c) of rule 3745-31-01 of the Administrative Code and an explanation for why such amount was excluded, and any netting calculations, if applicable.
- (2) Before beginning actual construction, regardless of whether the owner or operator determines there is a reasonable possibility that a NSR project that is not part of a major modification may result in a significant emissions increase, the owner or operator shall provide a copy of the information set out in paragraph ~~(C)(1)~~(A)(1) of this rule to the director for:
- (a) New or modified emissions units where the sum of the federally enforceable potential to emit of the new or modified emissions units associated with the NSR project prior to the issuance of the NSR project's permit-to-install is greater than any one of the significant levels found in the significant definition of rule 3745-31-01 of the Administrative Code.
 - (b) Any emissions unit that is an existing electric utility steam generating unit.
 - (c) Unless required elsewhere in this rule, nothing in this paragraph shall be construed to require the owner or operator of such emissions unit to obtain any determination from the director before beginning actual construction.
- (3) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the NSR project and that is emitted by any emissions units identified in paragraph ~~(C)(1)(b)~~(A)(1)(b) of this rule; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the NSR project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.
- (4) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the director within sixty days after the end of each year during which records must be generated under paragraph - ~~(C)(3)~~(A)(3) of this rule setting out the emissions unit's annual emissions during the year that preceded submission of the report.
- (5) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the director if the annual emissions, in tons per year, from the NSR project identified in

paragraph ~~(G)(1)~~(A)(1) of this rule, exceed the baseline actual emissions (as documented and maintained pursuant to paragraph ~~(G)(1)(e)~~(A)(1)(c) of this rule, by a significant amount for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph ~~(G)(1)(e)~~(A)(1)(c) of this rule. Such report shall be submitted to the director within sixty days after the end of such year. The report shall contain the following:

- (a) The name, address and telephone number of the major stationary source;
- (b) The annual emissions as calculated pursuant to paragraph ~~(G)(3)~~(A)(3) of this rule; and
- (c) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

~~(D)~~(B) The owner or operator of the source shall make the information required to be documented and maintained pursuant to ~~paragraph (C) of~~ this rule available for review upon request.

~~(E) If any provision of rules 3745-31-10 to 3745-31-32 of the Administrative Code or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.~~

The above paragraph (E) has been moved to new OAC 3745-31-02(H).

3745-31-22 Nonattainment provisions - conditions for approval

Additional changes being provided under the Proposal

2. (A)(2)(e) and (f) – stricken due to the same revision to the federal rule. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]

Draft changes provided to Interested Parties on March 13, 2007

This rule was previously not part of the interested party package.

3745-31-29 **General permit-to-install and general PTIO.**

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraph (D)(1).
2. (G) – Removed draft language for 10-year renewal and incorporated requirement that the renewal period be consistent with the requirements contained in ORC 3704.03(F).

Amended as such:

“...for a period of time consistent with the requirements of paragraph (F) of section 3704.03 of the Revised Code...”

Draft changes provided to Interested Parties on March 13, 2007

This rule now incorporates old OAC 3745-35-08.

(G) A general PTIO shall be effective for a fixed term not to exceed ten years.

Incorporated new above paragraph (G) from old OAC 3745-35-08(E)

3745-31-30 **Clean unit.**

Additional changes being provided under the Proposal

3. The entire rule has been stricken and reserved due to the same revision to the federal clean unit rules. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]

Draft changes provided to Interested Parties on March 13, 2007

Previously the draft rule changes only included minor changes to cross references.

3745-31-31 Pollution Control Project

Additional changes being provided under the Proposal

4. The entire rule has been stricken and reserved due to the same revision to the federal PCP rules. [72 FR 113, promulgated June 13, 2007, effective June 13, 2007]

Draft changes provided to Interested Parties on March 13, 2007

This rule was previously not part of the interested party package.

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

Additional changes being provided under the Proposal

1. Incorporate gender neutral language in paragraphs (F) and (G).

OAC CHAPTER 3745-35

In order to combine the PTI and PTO rule language, Ohio EPA is suggesting rescission of all rules in OAC Chapter 3745-35. The pertinent sections of the OAC Chapter 3745-35 rules will be incorporated into various rules of OAC Chapter 3745-31. This section of the synopsis identifies which portions of OAC Chapter 3745-35 are being incorporated into OAC Chapter 3745-31, with references.

Additional changes being provided under the Proposal

No additional changes are being suggested under this proposal than those suggested during the Interested Party review period.

Draft changes provided to Interested Parties on March 13, 2007 are identified in the following pages.

DRAFT CHANGES TO OAC CHAPTER 3745-35

3745-35-01 Definitions.

Unless noted below, the majority of the definitions in this rule are already contained in OAC 3745-31-01 and only required minor language changes (e.g., remove reference to “permit-to-operate” and use language such as “permit-to-install and/or PTIO.”

(B) The following definitions shall apply exclusively to this chapter:

- (4) "Air contaminant source" means each separate operation, or activity that results or may result in the emission of any air contaminant. This definition applies to operations or activities that emit air contaminants, whether regulated under Ohio law or regulated under the Clean Air Act.

This definition differed from the definition which is located at OAC 3745-31-01(I). The definition in OAC 3745-31-01(I) was retained because it comports with the definition in the Ohio Revised Code, including recent change enacted by SB265.

3745-35-02 **Permits-to-operate.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3745-35-01 of the Administrative Code titled "Incorporation by reference."

- (A) No person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit-to-operate from the director in accordance with the requirements of this rule except:

The above paragraph is incorporated into, and already addressed within, OAC 3745-31-02(A)(2).

- (1) As otherwise provided in paragraph (H) of this rule and in rules 3745-35-03 and 3745-35-05 of the Administrative Code; or

The above paragraph is not necessary. Paragraph (H) of this rule allows for conditional permits, OAC 3745-31-03 allows for variances and OAC 3745-35-05 allows for exemptions and registration status. Each of those topics, and how they are incorporated into OAC Chapter 31 are discussed under those respective sections of this synopsis document.

- (2) If the air contaminant source is a source listed under permanent exemptions in paragraph (A)(1) of rule 3745-31-03 of the Administrative Code or a source for which the director has granted a discretionary exemption under paragraph (A)(3) of rule 3745-31-03 of the Administrative Code, or the air contaminant source is a source meeting the requirements under the permit-by-rule exemptions in paragraph (A)(4) of rule 3745-31-03 of the Administrative Code; or

The above paragraph is already addressed within the exemptions of OAC 3745-31-03. Sources meeting those exemptions will continue to be exempted from the requirements to obtain a PTI and/or PTIO.

- (3) If the air contaminant source is part of a facility, as defined in Chapter 3745-77 of the Administrative Code, that is required to obtain a Title V permit under Chapter 3745-77 of the Administrative Code; or

The above paragraph is addressed within OAC 3745-31-02 which clearly identifies when a particular source is subject to PTI, PTIO and or Title V requirements.

- (4) As otherwise provided by section 3704.011 and division (F) of section 3704.03 of the Revised Code and rule 3745-15-05 of the Administrative Code.

The items referenced in ORC 3704.03 are procedural and do not contain any exemptions. Procedures applicable to PTI and/or PTIO are addressed in the

changes to OAC Chapter 3745-31. ORC 3704.011 and OAC 3745-15-05 address de minimis exemptions. Although OAC 3745-15-05 stands on its own in relieving a source from permitting requirements if it is de minimis, we are suggesting addition of this type of language under new paragraph (A)(5) of OAC 3745-31-03.

(B) Applications for permits-to-operate

- (1) Applications for permits-to-operate shall be signed, in the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emission described in the application originates.
- (2) Applications for permits-to-operate shall be signed, in the case of a partnership, by a general partner.
- (3) Applications for permits-to-operate shall be signed, in the case of sole proprietorship, by the proprietor.
- (4) Applications for permits-to-operate shall be signed, in the case of municipal, state, federal or other governmental facility, by the principal executive officer, the ranking elected official, or other duly authorized employee.

The above paragraphs (B)(1) to (B)(4) are addressed in OAC 3745-31-04(B).

- (5) Applications for permits-to-operate for new sources shall be filed no later than ninety days after commencement of operation.

The above paragraph is no longer necessary since implementation of the PTIO program combines the application process for both PTIs and PTOs.

- (6) Applications for permits-to-operate shall be on forms prescribed by the Ohio environmental protection agency and shall contain all information the Ohio environmental protection agency deems necessary to determine whether the air contaminant source is operating and will be operated in accordance with all applicable rules of the Ohio environmental protection agency, including, but not limited to: location of source; description of the equipment and processes involved; the nature, source, and quantity of uncontrolled and controlled emissions; the type, size, and efficiency of control facilities; the impact of the emissions from such source upon existing air quality.

The above paragraph is addressed in OAC 3745-31-04(A).

- (7) Except as otherwise expressly provided by rule, a separate application for a permit-to-operate shall be made for each air contaminant source to which this rule applies or an application for a facility shall be made that contains

information described in paragraph (B)(6) of this rule for each air contaminant source located at the facility to which this rule applies.

The above paragraph is no longer necessary since implementation of the PTIO program combines the application process for both PTIs and PTOs.

- (8) Each application shall be signed by the applicant, whose signature shall constitute an agreement that the applicant shall assume responsibility for operating and maintaining such source and control equipment in a manner designed to assure compliance with applicable law.

The above paragraph is addressed in OAC 3745-31-04(C).

- (9) Any application for a permit-to-operate which, on its face, fails to provide the agency with requested information needed to provide a factual basis for ascertaining compliance with each of the requirements of paragraph (C) of this rule may be considered defective and be treated as if it has not been filed. No hearing need be granted with respect to such improper applications, which shall be returned to the applicant as expeditiously as practicable without further processing with an indication of the deficiency.

The above paragraph is no longer necessary since implementation of the PTIO program combines the application process for both PTIs and PTOs. The more detailed requirements for processing of PTI applications, including the requirement for a 14-day preliminary completeness review.

- (C) No permit-to-operate shall be granted until the applicant demonstrates, for each source to which the permit applies, to the satisfaction of the director, that:

- (1) The source is in compliance with applicable air pollution control law and, if required by rule, the source has submitted an approvable compliance program, including a compliance schedule if necessary. A compliance program shall be approvable where it shows to the satisfaction of the director that operation pursuant to such program will result in compliance by the source with all requirements of applicable law as expeditiously as practicable but in no event later than the date provided by rule by which compliance with such requirements must be achieved, and where it identifies all reasonable interim control measures; or, upon submission of a schedule of compliance satisfactory to the director for an air contaminant source that is not in compliance with all applicable law at the time of permit issuance, provided that the compliance schedule shall be consistent with and at least as stringent as that contained in any judicial consent decree or administrative order to which the air contaminant source is subject; and

The above paragraph has been incorporated into new OAC 3745-31-05(A)(4).

- (2) If required by the director, the source is equipped with instrumentation and sensing devices to monitor and record emission data and other information about the operation of the source; and,

The above paragraph has been incorporated into new OAC 3745-31-02(A)(1)(c)(i).

- (3) If required by the director, performance tests, conducted after the application was made, at the applicant's expense, in accordance with methods prescribed by the Ohio environmental protection agency, demonstrate that the source is in compliance with applicable emission limitations and other applicable law. The Ohio environmental protection agency or its representatives may observe, participate in, or conduct any performance test required; and,

The above paragraph has been incorporated into new OAC 3745-31-02(A)(1)(c)(ii).

- (4) In the case of a new source, except those exempted from obtaining a permit-to-install by rule 3745-31-03 of the Administrative Code:

- (a) Such source was constructed, modified, located, or installed in compliance with the terms and conditions of a permit-to-install, as well as applicable law; and

The above paragraph is no longer necessary since implementation of the PTIO program combines the application process for both PTIs and PTOs.

- (b) Performance tests conducted at the expense of the applicant demonstrate such source operates or within ninety days of start-up of operation, will operate in accordance with applicable Ohio environmental protection agency law and rules and in accordance with federal new source performance standards promulgated under Section 111 of the Clean Air Act. The director may exempt classes of sources by resolution or individual sources from the requirement of performance testing where economic and technical considerations justify such exemption; and

The above paragraph is no longer necessary since implementation of the PTIO program combines the PTI and PTO processes. Performance testing requirements under the PTI program fulfill the above requirements.

- (5) The source does not violate national emission standards for hazardous air pollutants adopted by the administrator of the United States environmental protection agency.

The above paragraph is addressed in OAC 3745-31-05(A)(2)(d).

- (D) Terms and conditions:

- (1) Permits-to-operate shall be effective for one year from date of issuance, or for whatever other period the director deems appropriate, not to exceed five years.

The renewal cycle for a PTIO is being suggested as a 10 year cycle and is addressed in OAC 3745-31-07(C)(1).

- (2) Any permit-to-operate issued by the director shall be subject to revision in response to changes in applicable law or other factors affecting the compliance of the source or control facility with the standards or conditions of the original permit.

The above paragraph has been incorporated into new OAC 3745-31-07(D)(1). The language "original permit" is being suggested for change to "any currently effective permit". Permits can change over time and the meaning of "original" permit is not clear. It is always the intention of Ohio EPA to revise a currently effective permit (whether "original" or not) under these circumstances.

- (3) The transferee of any permit-to-operate shall, personally, assume the responsibilities of the original permit holder-transferor. The Ohio environmental protection agency must be notified in writing of any transfer of a permit-to-operate.

The above paragraph has been incorporated into new OAC 3745-31-07(E). Additional language was added to the above requirement to clarify that the notification must be provided after the transfer is complete, and in a manner prescribed by the director. In some cases it may be necessary for the director to request the notification include proof the transfer to ensure liability for compliance with the permit is acknowledged and agreed upon by both parties.

- (4) Such air pollution emergency episode plans as are submitted and approved shall become terms and conditions of the permits-to-operate and shall have full force and effect as a part thereof.

The above paragraph is no longer necessary. OAC 3745-25-03 identifies the requirements for emergency episode plans and the requirement for inclusion in the operating permit terms. This requirement will remain unchanged upon implementation of the PTIO program.

- (5) Any approved compliance schedule shall be incorporated into the permit-to-operate and shall be a term and condition thereof.

The above paragraph has been incorporated into new OAC 3745-31-05(A)(4).

- (6) The director may include such other terms and conditions as are necessary to ensure compliance with applicable law or to gather information about ambient air quality, emission levels, or other aspects of the source operation.

The above paragraph is addressed within the requirements of new paragraph OAC 3745-31-05(C).

- (E) Permits under this rule shall be issued, denied, modified, or revoked and may be challenged in accordance with the provisions of Chapter 3745-47 of the Administrative Code.

The above paragraph is addressed within new OAC 3745-31-06(E) and new OAC 3745-31-07(B)(4).

- (F) Suspension or revocation of permit-to-operate

Paragraphs (F)(1) to (F)(5) are addressed within new OAC 3745-31-07(B). We are suggesting removal of language that refers to “suspension” (from (F)(3)) because the ORC does not allow for “suspension” of a PTO but rather suspension of rules regarding PTOs (ORC 3704.03(G)). Ohio EPA has not historically “suspended” a PTO. We are also suggesting removal of the requirement in paragraph (F)(5) for “surrender” of a PTO upon revocation. Once notice is served that a PTO is revoked, surrendering the permit offers no additional assurances and is not necessary.

- (1) The director may suspend or revoke a permit-to-operate if it has been determined that any of the conditions, terms, or standards of paragraph (C) or (D) of this rule or any other applicable law or rule of the Ohio environmental protection agency have been or will be violated.
 - (2) The director may also revoke a permit-to-operate if the permittee requests revocation for cause and the director determines that granting the requested revocation will not result in the violation of any applicable law. When a permittee requests a revocation, the director, without prior hearing, shall make a final determination on the application.
 - (3) Suspension or revocation of a permit-to-operate shall be final thirty days after service of notice to the permit holder.
 - (4) The Ohio environmental protection agency shall afford a prompt hearing to any permit holder whose permit-to-operate is suspended or revoked, except as described in paragraph (F)(2) of this rule, in the manner prescribed in Chapter 3745-47 of the Administrative Code.
 - (5) A permit-to-operate which has been revoked shall be surrendered forthwith to the Ohio environmental protection agency.
- (G) Possession of a permit-to-operate shall not relieve any person of the responsibility to continuously comply with applicable emission limitations and other provisions of applicable law.

The above paragraph is addressed in OAC 3745-31-02(G).

- (H) If a new source that has been constructed, installed, located, or modified in accordance with the provisions of a permit-to-install, and otherwise in accordance with applicable law, is unable to comply with the requirements of paragraph (C)(4)(b) of this rule as of the date of start-up of operations, the director may grant a conditional permit-to-operate such source for a period not to exceed six months from start-up of operation, provided the period is used to remedy any defect which prevents such compliance, and the applicant demonstrates that compliance with emission standards prescribed by applicable law will be achieved as expeditiously as practicable, any reasonably available alternative operating procedures and interim control measures have been used or will be used to reduce excess emissions, and the continued operation of the source pursuant to the conditional permit-to-operate will not endanger or threaten to endanger human health. Conditional permits-to-operate may not be renewed, and shall contain such terms and conditions as the Ohio environmental protection agency determines necessary and appropriate.

The above paragraph containing conditional PTO requirements has been incorporated into new OAC 3745-31-05(B). The language has been reorganized with subparagraphs in order to provide more clarity. The conditional permit renewal language has been incorporated into new OAC 3745-31-07(C) .

The requirements for variances from operation that exist in this rule are being suggested for inclusion in new rule OAC 3745-31-09, Variances on operation. The language has been reorganized in order to provide more clarity. We are also suggesting clarifying the language to show that a source may operate out of compliance with an applicable law only when granted a variance and if a compliance plan is in place (ORC 3704.03(G)).

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" paragraph at the end of rule 3745-35-01 of the Administrative Code.]

- (A) No person shall cause, permit, or allow the operation or other use of any air contaminant source that emits any air pollutant in violation of any applicable law, unless a variance has been applied for and obtained from the director for such source, pursuant to the provisions of this rule. No variance from any rule of the director adopted under Chapter 3704. of the Revised Code may be issued except pursuant to this rule.
- (B) No variance shall be granted from Chapter 3745-19 of the Administrative Code governing open burning.
- (C) No variance shall be granted to a new source, as defined in rule 3745-15-01 of the Administrative Code, from any emissions limitation which was applicable to the source as a new source.
- (D) Applications for variances

The language in paragraphs (D)(1) to (D)(5) is being suggested for incorporation as a reference at new OAC 3745-31-09(B) to the same requirements contained in OAC 3745-31-04(B).

- (1) Applications for variances shall be signed, in the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emission described in the application originates.
- (2) Applications for variances shall be signed, in the case of a partnership, by a general partner.
- (3) Applications for variances shall be signed, in the case of a sole proprietorship, by the proprietor.
- (4) Applications for variances shall be signed in the case of a municipal, state, federal or other government facility, by the principal executive officer, the ranking elected official, or other duly authorized employee.

(5) Applications for variances shall be made in a form and manner prescribed by the Ohio environmental protection agency.

(6) Except as otherwise expressly provided by rule, a separate application for a variance shall be made for each air contaminant source to which this rule applies.

The above paragraph is no longer necessary since implementation of the PTIO program combines the application process for both PTIs and PTOs.

(7) Any variance application that fails to provide information needed to provide a factual basis for ascertaining compliance with each of the relevant requirements of this rule may be considered defective and be treated as if it had not been filed. Such application shall be returned to the applicant as expeditiously as practicable with an indication of the deficiencies thereof. Further processing of the application, including issuance of a proposed or final action or the initiation of any other official response by the Ohio environmental protection agency with respect to the application, will not occur until deficiencies have been remedied.

The above paragraph is being suggested for incorporation into new OAC 3745-31-09(B)(1). Variances are not PTIs or PTIOs so there will be no 14-day preliminary completeness review requirements.

(8) An application which seeks a variance pursuant to this rule which allows applicant to emit an air pollutant at a specified level in excess of emissions standards prescribed by applicable law without requiring eventual compliance with such standards shall specify the level of emission sought. Any such application which fails to so specify may be treated as a deficient application as set forth in paragraph (D)(7) of this rule.

The above paragraph has been incorporated into new OAC 3745-31-09(B)(2).

(E) Standards for granting variances

The language in paragraph (E) and its subparagraphs is being suggested for incorporation into new OAC 3745-31-09(C). Minor changes in language for clarity purposes has been suggested.

(1) A variance for an air contaminant source may allow an applicant:

- (a) To emit from such source a specified level of emissions of the particular air contaminant which exceeds the level permitted by applicable law, without achieving eventual compliance with the level permitted by applicable law; or

- (b) To achieve compliance with applicable law pertaining to the particular air contaminant, pursuant to a compliance schedule included as a term and condition of the variance, on a date later than the date provided by applicable law upon which compliance by such source must be achieved; or
 - (c) Both to emit the particular air contaminant at a specified level of emissions which exceeds the level permitted by applicable law, without achieving eventual compliance with the level permitted by applicable law, and to achieve compliance with such higher level of emissions, pursuant to a compliance schedule included as a term and condition of the variance, on a date later than the date provided by applicable law upon which compliance by such source with applicable law pertaining to such air contaminant must be achieved.
- (2) A variance may be issued only if the applicant either demonstrates the requirements of paragraphs (E)(2)(a) to (E)(2)(c) of this rule, paragraph (E)(2)(e) of this rule, and paragraph (E)(2)(f) of this rule or demonstrates the requirements of paragraphs (E)(2)(d) to (E)(2)(f) of this rule:

(a) Either:

- (i) The ambient air quality standards for the particular air contaminant to which the requested variance pertains are currently being met throughout the region affected by the emissions from the air contaminant source; or
 - (ii) The emission of air contaminants in accordance with the variance will not prevent or interfere with the attainment of ambient air quality standards by contributing, either singly or in conjunction with other sources, to a failure to attain ambient air quality standards by the date or dates prescribed by applicable law throughout the region affected by the emissions from the air contaminant source;
- (b) The emission of air contaminants in accordance with the variance will not prevent or interfere with the maintenance of ambient air quality standards by contributing, either singly or in conjunction with other sources, to a failure to maintain ambient air quality standards throughout the region affected by the emissions from the air contaminant source for the particular air contaminant to which the requested variance pertains after such ambient air quality standards are attained;
- (c) The variance is necessary because compliance with the emission standard from which the variance is sought is, and, to the extent applicant has not complied with such emission standards, has been since the adoption of such emission standard, technically infeasible, economically unreasonable, or impossible because of conditions beyond the control of the applicant;

(d) Bubble concept:

- (i) An alternative emission control strategy (bubble concept) is provided which will allow emissions of air contaminant from the source for which the variance is requested to exceed the level permitted by applicable law and will also require emissions of the same air contaminant from another source or sources to be less than the level(s) permitted by applicable law. The alternative emission control strategy shall:
 - (a) Result in a reduction in actual emissions of the air contaminant from such other source or sources which is equivalent to or greater than the reduction which would occur if the source for which the variance is requested were to comply with applicable law;
 - (b) Result in an actual net ambient air quality improvement which is as good as, or better than, that which would occur if the source for which the variance is requested were to comply with applicable law and if all such other sources were to either comply with applicable law or maintain their actual level of emissions if such level is less than permitted by applicable law;
 - (c) Include applications for variances or permits-to-operate (or modifications of existing variances or permits-to-operate) for such other sources at the same facility that specify a level of allowable emissions of an air contaminant which is below the level established by applicable law and which satisfies the requirements of paragraphs (E)(2)(d)(i)(a) and (E)(2)(d)(i)(b) of this rule;
- (ii) Air contaminants from different sources shall be considered to be the same for purposes of paragraph (E)(2)(d)(i) of this rule only if they are comparable in terms of type of contaminant.
- (iii) Emissions of particulates of the following types shall not be considered, for purposes of paragraph (E)(2)(d)(i) of this rule to be the same as emissions of particulates of any other types:
 - (a) Asbestos;
 - (b) Beryllium;
 - (c) Coke oven emissions;
 - (d) Lead; and
 - (e) Mercury.

(iv) Emissions of organic compounds of the following types shall not be considered, for purpose of paragraph (E)(2)(d)(i) of this rule, to be the same as emissions of organic compounds of any other types:

(a) Benzene; and

(b) Vinyl chloride.

(e) Such compliance with applicable law or other terms and conditions as is required by the variance will be achieved as expeditiously as practicable;

(f) If any rule from which a variance is sought has been approved by the administrator of the United States environmental protection agency as part of the implementation plan, the applicant must demonstrate those matters required by federal law or regulations, including, but not limited to 42 USC 7410 and 40 CFR Parts 51 and 52 for approval of a revision to the plan, except approval by the administrator or his representative as a revision to the implementation plan.

(F) The director retains the discretion to deny the application upon consideration of evidence regarding matters specified in division (H) of section 3704.03 of the Revised Code which is submitted by the applicant, developed by the agency, or obtained from another source, even though the demonstrations required by paragraph (E) of this rule have been made.

The language in paragraph (F) is being suggested for incorporation into new OAC 3745-31-09(D).

(G) Action on applications for variance

The language in paragraph (G) and its subparagraphs is being suggested for incorporation into new OAC 3745-31-09(E). Minor changes in language for clarity purposes has been suggested.

(1) Prior to taking any action on any application for a variance, the Ohio environmental protection agency may hold a public meeting on the proposed variance in the manner specified in Chapter 3745-47 of the Administrative Code.

(2) In granting, revoking, denying, or modifying any variance, the director shall state his reasons therefor in writing. The decision and reasons therefor shall be made publicly available at the cost of reproduction and handling.

(3) The director shall act on an application for a variance within six months of the filing of a complete application by issuing a proposed or final action.

(4) A single variance issued pursuant to this rule for an air contaminant source may provide the applicant relief from more than one emissions limitation.

- (5) Variances under this rule shall be issued, denied, modified, or revoked and may be challenged in accordance with the provisions of Chapter 3745-47 of the Administrative Code.
- (6) A variance from a rule which has been approved by the administrator of the United States environmental protection agency as part of the implementation plan shall not be issued unless:
 - (a) Such variance has been submitted to the administrator as a revision to the implementation plan pursuant to applicable law, including, but not limited to, 42 USC 7410 and 40 CFR Parts 51 and 52; and
 - (b) All requirements of applicable law, including, but not limited to, 40 CFR Parts 51 and 52 have been met, except approval by the administrator or his representative as a revision to the implementation plan; and
 - (c) The variance contains a condition that the variance will not be effective until approved by the administrator or his representative as a revision of the implementation plan.
- (7) If a variance has been approved by the administrator pursuant to paragraph (G)(6) of this rule, a renewal of such variance shall not be subject to the requirements of paragraph (G)(6) of this rule unless a significant difference exists between the material aspects of such variance and the renewed form of such variance. For the purposes of paragraph (G)(6) of this rule, a significant difference shall include any change in the final compliance date of any compliance schedule.
- (8) Upon issuance of a variance authorizing emissions as described in paragraph (E)(1)(a) or (E)(1)(c) of this rule, and upon approval thereof by the administrator as provided by paragraph (G)(6)(c) of this rule, if applicable, the director shall propose to amend the rule from which the variance is issued to provide for emissions authorized by the variance. The amended rule shall be proposed only if, in the director's judgment, such amended rule will conform to all requirements of applicable law, including, if applicable, requirements regarding implementation plans. Following rulemaking procedures mandated by law on the proposal, the director shall take such action on the proposal as is lawful and reasonable.

(H) Terms and conditions

The language in paragraph (H) and its subparagraphs is being suggested for incorporation into new OAC 3745-31-09(G) unless noted below. Minor changes in language for clarity purposes has been suggested.

- (1) Except as otherwise appropriate under paragraph (E) of this rule, an approved compliance schedule shall be incorporated into any variance granted, and shall be a term and condition thereof.

The language “and shall be a term and condition thereof” is redundant and is suggested for removal (see OAC 3745-31-09(G)(2)).

- (2) Each variance issued pursuant to this rule and each variance or permit-to-operate issued to another source pursuant to paragraph (E)(2)(d) of this rule shall include as terms and conditions a specified emission limit for each air contaminant for which a variance is granted and test methods for demonstrating compliance with such emissions limits.
- (3) Variances shall be effective for whatever period the director deems appropriate, not to exceed five years. A variance may be renewed only when the Ohio environmental protection agency is satisfied that the source for which the variance was granted is making satisfactory progress toward achievement of the program specified in any compliance schedule incorporated into the variance and/or is complying with any other terms and conditions of the variance.

The above paragraph is suggested for incorporation into new OAC 3745-31-07(C)(3).

- (4) The possession of a variance shall not relieve the holder of responsibility to comply with all other applicable law and rules of the Ohio environmental protection agency.
- (5) Any variance issued by the director shall be subject to revision in response to changes in applicable rules or other factors affecting the compliance of the source or control facility with the standards or conditions of the original variance.

The above paragraph is suggested for incorporation into new OAC 3745-31-07(D)(1).

- (6) In the event of a transfer of ownership or operation of an air contaminant source to which a variance has been issued, the variance shall be transferred to the new owner or operator. The transferee shall assume the responsibilities of the transferor. The Ohio environmental protection agency must be notified in writing of any transfer of a variance.

The above paragraph is suggested for incorporation into new OAC 3745-31-07(E).

- (7) Such air pollution emergency episode plans as are submitted and approved pursuant to Chapter 3745-25 of the Administrative Code shall become terms and conditions of the variance and shall have full force and effect as a part thereof.

The above paragraph is no longer necessary. OAC 3745-25-03 identifies the requirements for emergency episode plans and the requirement for inclusion in variance terms. This requirement will remain unchanged upon implementation of the PTIO program.

- (8) The director may include such other terms and conditions as are necessary to ensure compliance with applicable law or to gather information about ambient air quality, emission levels, or other aspects of the source operation.

The above paragraph is addressed within the requirements of new paragraph OAC 3745-31-05(C).

- (9) In addition to the other registration and reporting requirements of all air contaminant sources, the holder of a variance which contains a compliance schedule shall file reports every two months or as otherwise required by the Ohio environmental protection agency. Such reports shall be signed by the applicant for the variance. These reports shall demonstrate to the satisfaction of the director that the source for which the variance was issued is making consistent progress and has met all interim deadlines specified in the compliance schedule or specified by the Ohio environmental protection agency. If the responsible official fails to file an interim report, or if such report fails to satisfy the director that the source is making satisfactory progress, then the director may revoke the variance. False or misleading statements in an interim report shall be grounds for revocation of the variance.

The above paragraph is addressed within the requirements of new paragraph OAC 3745-31-07(B)(5) and new OAC 3745-31-09(G)(4) and (I).

- (I) Possession of a variance relieving an air contaminant source from having to comply with any requirement of applicable law shall not relieve an air contaminant source of the responsibility to comply with all other requirements of applicable law.

The above paragraph is suggested for incorporation into new OAC 3745-31-09(H).

(J) Revocation

- (1) The director may revoke a variance if the director determines that any of the terms, conditions, standards, or requirements of this rule have been or will be violated or that circumstances have changed so that the applicant is no longer eligible for a variance under paragraph (E) of this rule.

The above paragraph is suggested for incorporation into new OAC 3745-31-07(B)(5).

- (2) A variance that has been revoked shall forthwith be surrendered to the Ohio environmental protection agency.

We are suggesting removal of the above requirement in paragraph for “surrender” of a variance upon revocation. Once notice is served that a variance is revoked, surrendering the variance offers no additional assurances and is not necessary .

- (A) Where any person demonstrates by a preponderance of the evidence that more than one alternative would, with equal efficiency and, if appropriate, speed, satisfy any requirement of applicable law, then the Ohio environmental protection agency shall encourage the implementation of the least costly alternative.

We are suggesting removal of the above requirement. There is no language similar to it in the ORC, except for the requirements with the Best Available Technology (BAT) language. Under the PTIO program, BAT would be addressed in the same manner it is addressed under the PTI program.

- (B) Wherever required by any provision of Chapter 3704 of the Revised Code, the director shall give consideration to, and attempt to minimize, the economic expense of any action he may require any source, person, or other entity to take; provided, however, that economic hardship to any person shall be no excuse for any performance, operation, action, inaction, or other conduct which violates any requirement of applicable law.

The above paragraph is addressed within the requirements of new paragraph OAC 3745-31-05(H).

- (C) Wherever practicable, the director shall act upon applications for permits and variances in sequence based on the filing date of a completed application.

The above paragraph is no longer necessary since implementation of the PTIO program combines the application process for both PTIs and PTOs.

(A) Permit exemptions:

- (1) Except as otherwise provided in paragraph (A)(3) of this rule, the following air contaminant sources shall not be required to apply for, or obtain, permits-to-operate or variances:

- (a) Comfort ventilating systems;

The above exemption is addressed within the boiler exemptions of OAC 3745-31-03(A)(1).

- (b) Incinerators located in dwellings containing six or fewer dwelling units;

The above exemption is addressed under OAC 3745-31-03(A)(1)(t).

- (c) Sources, located in dwelling units, from which products of combustion are the sole emissions, and which burn oil, natural gas, or other fuel for the production of steam, hot water, or hot air at rates of less than one million British thermal units per hour when operated at the maximum capacity;

The above exemption is addressed under OAC 3745-31-03(A)(1)(a) to (A)(1)(c).

- (d) Gasoline storage tanks, grain dryers and storage silos which are located on farms and used solely for farming activities.

The above exemption is addressed under OAC 3745-31-03(A)(1)(o).

- (2) The exemptions specified within paragraph (A)(1) of this rule shall not relieve any air contaminant source from the responsibility to comply with applicable law, ordinances, rules or regulations of any political subdivision of the state of Ohio.

The above paragraph is addressed under OAC 3745-31-03(A)(comment) and OAC 3745-31-02(G).

- (3) If, in the director's judgment, based on a review of mass emission test data, visible emission readings, emission factors, mass balance data, source inspection information, or other pertinent information, a source described in paragraphs (A)(1)(a) to (A)(1)(e) of this rule has violated, may presently be violating, or may in the future violate applicable law, the director shall notify the owner or operator of the source in writing that the source is no longer exempt pursuant to paragraph (A)(1) of this rule. The owner or operator may contest the withdrawal of exemption by filing with the hearing clerk, within thirty days of receipt of the written notification, a request for adjudication hearing. At the close of hearing

procedures, the director shall restore the exemption if the owner or operator has demonstrated that the source has not violated, is not presently violating, and will not in the future violate applicable law. Nothing in this paragraph shall be construed as abrogating the compliance responsibility set forth in paragraph (A)(2) of this rule.

The above paragraph is addressed under OAC 3745-31-02(D)

(B) Registration status:

The registration status system will no longer be applicable under the PTIO program. We are suggesting incorporation of the registration status requirements below into new OAC 3745-31-08 for historical purpose and for those sources that existed prior to implementation of the PTIO program (grandfathered).

- (1) The director may place an application for a permit-to-operate for an air contaminant source on registration status, rather than issuing a permit-to-operate, if the owner or operator of such source demonstrates to the satisfaction of the director that the source is in compliance with applicable law and if either of the following conditions are met:
 - (a) The source is not subject to any mass emissions limitation or control requirement specified within or pursuant to any applicable law; or
 - (b) The source is subject to a mass emissions limitation or control requirement specified solely within Chapter(s) 3745-17, 3745-18 and/or 3745-21 of the Administrative Code; the maximum potential yearly emissions of lead and organic compounds from the source are each less than five tons; and the maximum potential yearly emissions of particulates and sulfur dioxide from the source are each less than twenty-five tons.
- (2) If an application for a permit-to-operate for an air contaminant source is placed on registration status, the director shall so notify the owner or operator of the source in writing.
- (3) An application for a permit-to-operate for an air contaminant source may remain on registration status until removed in accordance with paragraph (B)(4) of this rule.
- (4) The director may at any time require the owner or operator of an air contaminant source, for which an application for a permit-to-operate has been placed on registration status, to submit an updated application for a permit-to-operate or variance and/or to demonstrate its continued compliance with the requirements of paragraph (B)(1) of this rule. If the owner or operator complies with this request of the director within a reasonable period of time as specified by the director, the updated application shall be processed in accordance with applicable rules, including retention on registration status if appropriate. If the owner or operator fails to comply with this request of the director within a

reasonable period of time as specified by the director, the permit-to-operate application previously submitted by such owner or operator for such source shall be removed from registration status and processed in accordance with applicable rules. Any subsequent permit denial or notice of application deficiency shall serve as notice to the owner or operator of the source that their permit-to-operate application for such source has in fact been removed from registration status.

(5) For purposes of paragraph (B)(1) of this rule:

- (a) "Maximum potential yearly emissions" means the total weight of lead, organic compounds, particulates or sulfur dioxide which is, or in the absence of control equipment would be, emitted from an air contaminant source in any one calendar year.
- (b) "Registration status" means that the source may be operated without having obtained a permit-to-operate or variance, and exists upon notification as provided in paragraph (B)(2) of this rule.

3745-35-06 **Permits-to-operate for grain and feed processing operations and fertilizer mixing operations.**

The requirements under this rule are suggested for incorporation under new OAC 3745-31-04(D). The language has been rearranged for clarity purposes.

- (A) In accordance with paragraph (B)(7) of rule 3745-35-02 of the Administrative Code one application for a permit-to-operate may be submitted for the shellers, hammer mills and aspirated bagging operations and other sources subject to rule 3745-17-11 of the Administrative Code and which are located at a facility which constitutes a grain and feed processing operation.
- (B) In accordance with paragraph (B)(7) of rule 3745-35-02 of the Administrative Code, one application for a permit-to-operate may be submitted for the air contaminant sources which are subject to rule 3745-17-11 of the Administrative Code and which are located at a facility which constitutes a fertilizer mixing operation.
- (C) Permits-to-operate for sources of fugitive dust at grain and feed processing operations or a fertilizer mixing operation and which are subject to rule 3745-17-08 of the Administrative Code shall be submitted in accordance with applicable rules of the director.

3745-35-07 **Enforceable limitations on potential to emit.**

The requirements under this rule are suggested for incorporation under new OAC 3745-31-05(C) which addresses all types of special terms and conditions, whether they are synthetic minor terms or for a FEPTIO (federally enforceable permit to install and operate (formerly FESOP)). The language has been rearranged for clarity purposes and to integrate within the existing requirements for special terms and conditions for PTIs.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" section at the end of rule 3745-35-01 of the Administrative Code.]

- (A) For purposes of this rule, "potential to emit" means the maximum capacity of a stationary source to emit any federally regulated air pollutant, as defined in paragraph (DD) of rule 3745-77-01 of the Administrative Code, under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit a federally regulated air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator as defined in paragraph (B) of rule 3745-77-01 of the Administrative Code or legally and practicably enforceable by the state. The term does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

This definition is suggested for incorporation into the existing definition for PTE under OAC 3745-31-01.

- (B) Enforcement limitations on the potential to emit of a source may be established through any of the following mechanisms:
- (1) Terms and conditions of a final permit-to-install issued by the director under Chapter 3745-31 of the Administrative Code;
 - (2) Terms and conditions of a final permit-to-operate issued under this chapter, provided that only those terms and conditions necessary to limit the potential to emit of the source and expressly designated as federally enforceable shall be federally enforceable, and provided further that the permit was first issued as a draft or proposed action with an opportunity for public comment under rule 3745-47-05 of the Administrative Code with concurrent notice and opportunity for comment given to administrator of the United States environmental protection agency region five. During the public comment period, if the administrator objects that the terms and conditions of the permit-to-operate are not federally enforceable, the director shall not issue the permit-to-operate until such objection has been resolved; or

- (3) Rules or orders of the director that are submitted to and approved by the administrator as revisions to the state implementation plan under sections 110 and 112(l) of the Clean Air Act.

Upon the request of the owner or operator of a stationary source, any of the mechanisms provided in paragraph (B)(1), (B)(2), or (B)(3) of this rule shall allow for trading of emissions increases and decreases among emissions units located at the same source that is consistent with the Clean Air Act for the purpose of complying with a federally enforceable cap on the potential to emit of the source. Such limitations shall ensure that the trades are quantifiable and enforceable and require seven-day advance notification to the appropriate Ohio environmental protection agency district office or delegated local air agency.

(C) In order to be federally enforceable, a limitation must:

- (1) Specify an annual limit on emissions from the source;
- (2) Specify a short-term limit on emissions for each pollutant to be restricted, and specify a short-term limit on production or operation, provided that for purposes of this rule, acceptable short-term limitations on production or operation shall include, but not be limited to, a thirty-day average or three hundred and sixty-five-day rolling average limitation computed each calendar day, a monthly limitation, or a rolling twelve-month summation limitation; and
- (3) Specify adequate and enforceable methods for establishing compliance with the annual and short-term limits, using methods from 40 CFR Part 60, Appendix A or 40 CFR Part 51, Appendix M where appropriate; and
- (4) Be no less stringent than any federally applicable requirement to which the source is subject.

(D) Approval of this rule by the administrator is a prerequisite of federal enforceability of limitations under paragraph (B)(2) of this rule.

The requirements for this rule are suggested for incorporation into the existing requirements for general PTIs under OAC 3745-31-29.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" section at the end of rule 3745-35-01 of the Administrative Code.]

(A) Development of model general permits

The director may develop a model general permit for any category of air contamination sources, or specific portions of any category of air contamination sources, subject to the following conditions:

- (1) A model general permit shall apply to:
 - (a) Processes producing the same or similar products;
 - (b) Processes emitting the same or similar air contaminants;
 - (c) Methods for capturing and controlling the air contaminants that are the same or limited to a small number of specific alternatives; and
 - (d) Processes that are subject to the same emissions limitations, monitoring requirements, federal standards, or state rules.
- (2) A model general permit shall identify criteria by which an air contaminant source(s) may qualify for the associated general permit and shall include terms and conditions under which the owner or operator agrees operate the permitted air contaminant source(s). At a minimum, these terms and conditions shall include:
 - (a) Applicable emissions limitations and/or control requirements;
 - (b) Any necessary operational restrictions;
 - (c) Any necessary monitoring, reporting and recordkeeping requirements; and
 - (d) Testing requirements.
- (3) The director shall provide an opportunity for public comment on the form and content of a model general permit as follows:
 - (a) The director shall announce availability for comment on draft model general permits under development containing the requirements in paragraph (A)(2) of this rule, providing a minimum of thirty days comment period. The

director shall publish notice in Ohio's major newspapers, the Ohio environmental protection agency publication, "Weekly Review," on the Ohio environmental protection agency website, and provide electronic notification to interested parties.

- (b) The director shall announce the final form of model general permits that were under development by publishing notice in Ohio's major newspapers, the "Weekly Review," on the Ohio environmental protection agency website, and provide electronic notification to interested parties.
 - (c) Final model general permits are not actions of the director and are, therefore, not subject to appeal.
- (4) Model general permits shall be reviewed at least once every five years from the date of announcement of the final form.
- (a) The review of the model general permit shall follow the same procedures for public comment as the draft and final form of the model general permits under development pursuant to paragraph (A)(3) of this rule.
 - (b) Any person may make a written request for Ohio environmental protection agency review of the model general permit document prior to the Ohio environmental protection agency initiated review. Upon receipt of the request, the Ohio environmental protection agency will initiate the review procedure described in this rule.
- (5) Only the director may modify model general permits. Modifications to model general permits shall follow the same procedures pursuant to paragraph (A)(3) of this rule, except administrative modifications may occur without following the rules of procedure contained within this chapter. Existing final general permits are not affected by changes to the model general permit.

(B) General permit-to-operate applicability

A general permit-to-operate may be applied for and obtained if:

- (1) All of the qualifications and requirements described in this chapter are met, except as noted in paragraph (C)(2) of this rule;
- (2) The air contaminant source meets all of the qualifications listed in the requested model general permit;
- (3) The requested air contaminant source(s) are not affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Clean Air Act; and

- (4) The requested air contaminant source is not part of a new major stationary source or major modification subject to the attainment or nonattainment provisions contained in rules 3745-31-10 to 3745-31-27 of the Administrative Code.

(C) General permit application

- (1) Owners or operators of air contaminant sources requesting a general permit-to-operate shall do so using the forms prepared by the Ohio environmental protection agency. The application must include all information necessary to determine qualification for, and to assure compliance with, the general permit-to-operate.
- (2) The applications submitted shall comply with the requirements listed under paragraph (B) of rule 3745-35-02 and paragraph (D) of rule 3745-35-03 of the Administrative Code except that the director may provide, in the model general permit-to-operate, for applications that deviate from the requirements of paragraph (B) of rule 3745-35-02 and paragraph (D) of rule 3745-35-03 of the Administrative Code, provided that such applications include all information necessary to determine qualification for, and assure compliance with, the general permit-to-operate.

(D) General permit processing

The director may issue a general permit-to-operate for any model general permit developed in accordance with paragraph (A) of this rule for a new air contaminant source(s) or modification(s) of an existing air contaminant source(s) as follows:

- (1) The director, at his discretion, shall issue either a draft action or a final action.
- (2) The director shall comply with the procedures for notification under Chapter 3745-47 of the Administrative Code prior to issuing a general permit-to-operate as follows:
 - (a) The director shall provide notification of requests by owners or operators of an air contaminant source(s) to be covered under the terms of the general permit-to-operate. The director shall publish notice in a newspaper of general circulation in each county in which the air contaminant source(s) was constructed, and provide electronic notification to interested parties.
 - (b) The director shall maintain, and make available to the public upon request, a list of all air contaminant source(s) that have obtained a general permit-to-operate.
- (3) The director may require any applicant applying for a general permit-to-operate to apply for and obtain an individual permit if it is determined that unique site specific circumstances warrant additional limitations or permit conditions to control or mitigate environmental impacts that were not considered and addressed in the development and issuance of the general permit-to-operate.

(4) Authorization to operate under the general permit-to-operate shall be granted by the director in the form of a final permit action.

(5) If the model general permit that was the basis of any final general permit-to-operate has been changed per the procedures in paragraph (A)(3) of this rule, then the director can issue revised general permits-to-operate with prior notice to the affected owner or operator following the issuance procedures defined in paragraph (D)(2) of this rule.

(E) A general permit-to-operate shall be effective for a fixed term not to exceed five years.

(F) General permit termination

(1) Any owner or operator who was issued a general permit-to-operate may request to be excluded from the coverage of the general permit-to-operate by applying for an individual permit or alternative general permit-to-operate. The owner or operator shall submit an application with reasons supporting the request. If the director issues an individual permit or alternative general permit-to-operate, the applicability of the general permit-to-operate to the individual permittee is automatically terminated on the effective date of the individual permit or alternative general permit-to-operate.

(2) The director may revoke a general permit-to-operate per paragraph (F) of rule 3745-35-02 of the Administrative Code.

(G) Enforcement action for failure to qualify or comply

An air contaminant source(s)'s owner or operator who requests and is granted authority to operate under a general permit-to-operate shall be subject to enforcement action for operating without a permit if the air contaminant source(s) is later determined not to qualify for the conditions and terms of the general permit-to-operate.

OAC CHAPTER 3745-15

Ohio EPA is suggesting amendment of OAC Chapter 3745-15-03 to incorporate reporting requirements. This rule is also being reviewed as part of the 5-year rule review requirements. The draft changes are identified in this section of the synopsis.

DRAFT CHANGES TO OAC RULE 3745-15-03

Additional changes being provided under the Proposal

1. (D) - Corrected a cross references to (A)(2) to read (B)(2).

Draft changes provided to Interested Parties on March 13, 2007

3745-15-03 Submission of emission information.

This rule provides the director with authority to require periodic reporting. Currently, DAPC includes the requirements for quarterly reporting (see paragraph (C) below) in all PTIs and PTOs issued. Under the PTIO program, the quarterly reporting program is being changed to a Permit Evaluation Report (PER) program. Compared to quarterly reporting, the PER will provide greater amounts of compliance information and be simpler to complete. Under the PTIO program, each facility that receives a PTIO will be obligated to submit a PER rather than a quarterly report. The PER will need to be submitted on an annual basis for all emissions units regulated by a PTIO.

The information provided in the PER will include information currently required through specific quarterly reporting along with additional more comprehensive information not previously reported. Facilities who currently are not required to submit reports will be obligated to submit a PER for all emission units regulated by an issued PTIO.

Under the PTIO program, Ohio EPA will provide facilities with a PER form and annual reporting reminders. Ohio EPA district staff and local air agencies will also assist facilities with completion of the report as needed. The new structured reporting regimen is expected to increase compliance, improve consistency in reporting and lead to a better understanding of permittee record-keeping and reporting obligations.

Facilities will use the PER to report compliance issues, deviations, exceedances, visible emission incidents, and affirm that they have read, understand and will maintain compliance with permit requirements. Ohio EPA staff will also conduct regulatory oversight through review of PER data and compliance inspections.

An additional benefit of the PER is increased communication between facilities and Ohio EPA. Facilities can use the PER to report changes in ownership, business shutdowns, shutdown of emissions units and violations. Gathering this information in a consistent and predictable manner will also help improve the accuracy of data available to the public.

~~The~~ director may require the keeping and periodic submission of records and reports, including but not limited to, information on air contaminants, emissions or fuel from any or all potential sources for purposes of maintaining an air pollution emission inventory or any other reasonable purpose as determined by the director. Such information shall be recorded, compiled, and submitted in a manner and form prescribed by the director.

(A) The **director may require the keeping and periodic submission of records and reports, including but not limited to, information on air contaminants, emissions or fuel from any or all potential sources for purposes of maintaining an air pollution emission inventory or any other reasonable purpose as determined by the director. Such information shall be recorded, compiled, and submitted in a manner and form prescribed by the director.**

(B) Periodic reporting.

(1) Requirements under paragraph (C) of this rule shall be applicable to an owner or operator:

(a) Issued a permit-to-install, pursuant to Chapter 3745-31 of the Administrative Code; or

(b) Issued a federally enforceable permit-to-install and operate (FEPTIO), pursuant to Chapter 3745-31 of the Administrative Code; or

(c) Issued a permit-to-install and operate (PTIO), pursuant to Chapter 3745-31 of the Administrative Code, for a source for which a Title V permit is subsequently issued, pursuant to Chapter 3745-77 of the Administrative Code.

(2) Requirements under paragraph (D) of this rule shall be applicable to an owner or operator:

(a) Issued a permit-to-install and operate (PTIO), pursuant to Chapter 3745-31 of the Administrative Code, for a source not subject to the requirements of Chapter 3745-77 of the Administrative Code.

(C) Quarterly report.

(1) Pursuant to paragraph (A) of this rule, each permit described under paragraph (B)(1) of this rule shall require the owner or operator submit a quarterly report of:

(a) Any deviations (excursions) from emission limitations, operational restrictions, and control device operating parameter limitations that have been detected by the testing, monitoring, and recordkeeping requirements specified in such permit;

(b) The probable cause of such deviations; and

(c) Any corrective actions or preventive measures which have been or will be taken to remedy the deviations; or

- (d) If no deviations occurred during a calendar quarter, the owner or operator shall submit a quarterly report, which states that no deviations occurred during that quarter.
- (2) For the purposes of this rule, quarterly shall mean January to March, April to June, July to September, and October to December. Each report shall be postmarked by the thirty-first of January, thirtieth of April, thirty-first of July, and thirty-first of October of each year, or any other variation of a continuous quarterly period the director approves, and shall cover the previous calendar quarter.
- (3) Unless required by Chapter 3745-77 of the Administrative Code, quarterly reports may exclude the requirements of paragraphs (C)(1)(a) to (C)(1)(c) of this rule for reported deviations resulting from malfunctions reported in accordance with rule 3745-15-06 of the Administrative Code. In lieu of the requirements of paragraphs (C)(1)(a) to (C)(1)(c), the owner or operator shall identify in the quarterly report the date the malfunction occurred and the form in which it was reported (e.g., telephone, e-mail, written).
- (4) Reports submitted in accordance with Chapter 3745-77 of the Administrative Code, for sources subject to Chapter 3745-77 of the Administrative Code, may meet the requirements for quarterly reporting under this rule if the requirements contained in paragraph (C) of this rule are satisfied in the reporting required under Chapter 3745-77 of the Administrative Code. The owner or operator shall identify in any report submitted under the requirements of Chapter 3745-77 of the Administrative Code when such report is being submitted in accordance with this paragraph.

(D) Permit evaluation report.

- (1) Pursuant to paragraph (A) of this rule, each permit described under paragraph (A)(2) of this rule shall require the owner or operator submit a permit evaluation report, in a form and manner prescribed by the director, which identifies, at a minimum:
- (a) A list of all air contaminant sources that have been issued a permit described under paragraph (A)(2) of this rule;
- (b) Additional information or corrections to air contaminant sources identified in the permit evaluation permit, such as: permanently shutdown air contaminant sources, air contaminant sources that will not be installed or modified, new air contaminant sources that did not receive a permit described under paragraph (A)(2) of this rule, or modifications of air contaminant sources issued a permit described under paragraph (A)(2) of this rule;
- (c) Any deviations (excursions) from emission limitations, operational restrictions, and control device operating parameter limitations that have

been detected by the testing, monitoring, and recordkeeping requirements specified in such permit;

(d) The probable cause of such deviations; and

(e) Any corrective actions or preventive measures which have been or will be taken to remedy the deviations; or

(f) If no deviations occurred during the reporting period, the owner or operator shall identify in the permit evaluation report that no deviations occurred during that reporting period.

(2) Reporting period.

(a) The permit evaluation report shall be submitted on an annual basis, at a minimum, and cover a reporting period of no more than twelve-months for each air contaminant source. The first permit, described under paragraph (B)(2) of this rule, issued to an owner or operator shall identify the reporting period for the covered air contaminant source. This reporting period shall be applied to all subsequent air contaminant sources issued permits described under paragraph (B)(2) of this rule. The four possible reporting periods, and subsequent permit evaluation report due dates are:

(i) January first to December thirty-first, submitted by February fifteenth.

(ii) April first to March thirty-first, submitted by May fifteenth.

(iii) July first to June thirtieth, submitted by August fifteenth.

(iv) October first to September thirtieth, submitted by November fifteenth.

(b) The permit evaluation report shall be submitted to the appropriate Ohio environmental protection agency district office or local air agency by the date specified.

(c) The Ohio environmental protection agency shall provide opportunity for an owner or operator to request a change in the permit evaluation reporting period and due date through procedures established by the director.

(3) Unless required by Chapter 3745-77 of the Administrative Code, permit evaluation reports may exclude the requirements of paragraphs (D)(1)(c) to (D)(1)(e) of this rule for reported deviations resulting from malfunctions reported in accordance with rule 3745-15-06 of the Administrative Code. In lieu of the requirements of paragraphs (D)(1)(c) to (D)(1)(e), the owner or operator shall identify in the permit evaluation report the date the malfunction occurred and the form in which it was reported (e.g., telephone, e-mail, written).

(E) Each report submitted in accordance with this rule shall be signed by the authorized representative, as defined in paragraph (B) of rule 3745-31-04 of the Administrative Code. The signature shall constitute personal affirmation that all statements or assertions of fact made in the report are true and complete, comply fully with applicable state requirements, and shall subject the signatory to liability under applicable state laws forbidding false or misleading statements.