

Actions	Compliance	Procedures
(2) Remove the airplane flight manual supplement for any Aero Advantage ADV200 series (P/Ns ADVPL211CC and ADVPL212CW) vacuum pump and monitor system from the FAA-approved airplane flight manual (AFM). (i) The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do the flight manual changes requirement of this AD. (ii) Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).	As of the removal of any vacuum pump per paragraph (e)(1) of this AD.	Not Applicable.
(3) Install an FAA-approved vacuum pump other than the affected part numbers.	Before further flight after removing any Aero Advantage ADV200 series (P/Ns ADVPL211CC or ADVPL212CW) vacuum pump per paragraph (e)(1) of this AD.	Not Applicable.
(4) Do not install any Aero Advantage ADV200 series (P/Ns ADVPL211CC and ADVPL212CW) vacuum pump.	As of the effective date of this AD .....	Not Applicable.

**May I Request an Alternative Method of Compliance?**

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Special Certification Office, Rotorcraft Directorate, FAA. For information on any already approved alternative methods of compliance, contact Peter Hakala, Aerospace Engineer, Special Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0190; telephone: (817) 222-5145; facsimile: (817) 222-5785.

**May I Get Copies of the Documents Referenced in This AD?**

(g) To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, or on the Internet at <http://dms.dot.gov>. The docket number is Docket No. FAA-2005-20440; Directorate Identifier 2005-CE-05-AD.

Issued in Kansas City, Missouri, on May 4, 2005.

**Kim Smith,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-9366 Filed 5-10-05; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R05-OAR-2004-OH-0004; FRL-7910-5]

**Approval and Promulgation of Implementation Plans; Ohio New Source Review Rules**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to conditionally approve revisions to the prevention of significant deterioration (PSD) and nonattainment new source review (NSR) construction permit programs submitted by the Ohio Environmental Protection Agency (OEPA). EPA fully approved Ohio's nonattainment NSR program on January 10, 2003. EPA fully approved Ohio's PSD program on January 22, 2003, which became effective on March 10, 2003.

On December 31, 2002, EPA published revisions to the Federal PSD and NSR regulations. These revisions are commonly referred to as "NSR Reform" regulations and became effective on March 3, 2003. These regulatory revisions include provisions for baseline emissions determinations, actual-to-future actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). The OEPA is seeking approval of rules to implement these NSR Reform provisions in Ohio.

**DATES:** Comments must be received on or before June 10, 2005. EPA will address the public comments in a subsequent final rule based on this proposed rule.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2004-OH-0004, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-

line instructions for submitting comments.

E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).

Fax: (312) 886-5824.

Mail: You may send written comments to:

Pamela Blakley, Chief, Air Permits Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: Pamela Blakley, Chief, Air Permits Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R05-OAR-2004-OH-0004. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA

recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Genevieve Damico, Environmental Engineer, at (312) 353-4761 before visiting the Region 5 office. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Genevieve Damico, Air Permits Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number: (312) 353-4761, E-Mail Address: [damico.genevieve@epa.gov](mailto:damico.genevieve@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. General Information
  - A. Does this action apply to me?
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  - C. How and to whom do I submit comments?
- II. Program Review
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- III. Conditional Approval
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## I. General Information

### A. Does this action apply to me?

This action applies to air pollution sources which are subject to Ohio's permit to install regulations in OAC 3745-31.

### B. How can I get copies of this document and other related information?

1. The EPA Regional Office has established an electronic public rulemaking file available for inspection at RME under ID No. R05-OAR-2004-OH-0004, and a hard copy file which is available for inspection at the Regional Office. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include CBI or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the [regulations.gov](http://www.regulations.gov) Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and that are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

### C. How and to whom do I submit comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket R05-OAR-2004-OH-0004" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

## II. Program Review

### A. What is being addressed in this document?

As stated in the December 31, 2002, EPA "NSR Reform" rulemaking, State and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of that rulemaking no later than January 2, 2006 (67 FR 80240). With this submittal, Ohio requests approval of program revisions to satisfy this requirement.

The OEPA submitted these regulatory revisions to EPA for parallel processing on September 14, 2004, which was prior to final adoption of the State rules. Ohio adopted the final rules on October 28, 2004.

### B. What are the program changes that EPA is approving?

#### Ohio Administrative Code (OAC) 3745-31-01 Definitions

##### 3745-31-01(A)

Ohio has incorporated the definitions codified in OAC 3745-21-01 to apply in OAC 3745-31 of the new rules. EPA proposes to approve these changes.

#### Actual Emissions

Ohio has revised the definition of "actual emissions" in OAC 3745-31-01(C) to add the term "regulated NSR pollutant" (see definition below), to revise the language to specify the time frame as a "consecutive twenty-four (24) month period," and to add language stating that this definition does not apply for calculating a significant emissions increase or for establishing a Plantwide Applicability Limit (PAL). Ohio also revised the rule language to require that electric utility steam generating unit actual emissions are to be based on potential to emit rather than representative actual annual emissions. The revised definition of "actual

emissions” is consistent with the definition in 40 CFR 51.166(b)(21) and 40 CFR 51.165(a)(1)(xii), therefore we propose to approve this definition.

#### Actuals PAL

Ohio has established the definition of “actuals PAL” in OAC 3745–31–01(D). This definition is consistent with the definition of “clean unit” in 40 CFR 51.166(w)(2)(i) and 40 CFR 51.165(f)(2)(i), therefore we propose to approve this definition.

#### Baseline Actual Emissions

Ohio has added a definition in OAC 3745–31–01 (O) to establish the baseline actual emissions for any existing electric utility steam generating unit to be the average rate at which the unit actually emitted the pollutant during any consecutive 24-month period within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. This definition also establishes the baseline actual emissions for any existing emission unit other than an electric utility steam generating unit to be the average rate at which the unit actually emitted the pollutant during any consecutive 24-month period within the 10-year period immediately preceding either the date when the owner or operator begins actual construction of the project or the date a complete permit application is received by the permitting authority for a permit required by this rule. This definition establishes a zero baseline for actual emissions for a new emissions unit for purposes of determining the emissions increase that will result from the initial construction and operation of the unit. Thereafter, for all other purposes, the baseline actual emissions shall equal the unit’s potential to emit. Finally, this definition also establishes the baseline actual emissions for a PAL. This definition is consistent with the definition in 40 CFR 51.166(b)(47) and 40 CFR 51.165(a)(1)(xxxv), therefore we propose to approve this definition.

#### Baseline Concentration

Ohio has modified the definition of “baseline concentration” in OAC 3745–31–01(Q). The definition now follows the language of 40 CFR 51.166(b)(13), therefore we propose to approve this definition.

#### Best Available Control Technology

Ohio has modified the definition of “best available control technology” in OAC 3745–31–01(S). The language “maximum degree of reduction for each air pollutant subject to regulation under the provisions of the CAA” has been

replaced with “maximum degree of reduction for each regulated NSR pollutant”. This definition is consistent with the definition in 40 CFR 51.166(b)(12) and 40 CFR 51.165(a)(1)(xl), therefore we propose to approve this definition.

#### Clean Unit

Ohio has established the definition of “clean unit” in OAC 3745–31–01(Y). This definition is consistent with the definition of “clean unit” in 40 CFR 51.166(b)(41) and 40 CFR 51.165(a)(1)(xxix), therefore we propose to approve this definition.

#### Continuous Emissions Monitoring System

Ohio has established the definition of “continuous emissions monitoring system” in OAC 3745–31–01(EE). This is consistent with the definition of “continuous emissions monitoring system” in 40 CFR 51.166(b)(43) and 40 CFR 51.165(a)(1)(xxxi), therefore we propose to approve this definition.

#### Continuous Emissions Rate Monitoring System (CERMS)

Ohio has established the definition of “continuous emissions rate monitoring system” in OAC 3745–31–01(FF). This is consistent with the definition of “continuous emissions rate monitoring system” in 40 CFR 51.166(b)(46) and 40 CFR 51.165(a)(1)(xxxiv), therefore we propose to approve this definition.

#### Continuous Parameter Monitoring System (CPMS)

Ohio has established the definition of “continuous parameter monitoring system” in OAC 3745–31–01(GG). This is consistent with the definition of “continuous parameter monitoring system” in 40 CFR 51.166(b)(45) and 40 CFR 51.165(a)(1)(xxxiii), therefore we propose to approve this definition.

#### Emissions Unit

Ohio has modified the definition of “emissions unit” in OAC 3745–31–01(MM). This definition is consistent with the definition of “emissions unit” in 40 CFR 51.166(b)(7) and 40 CFR 51.165(a)(1)(vii), therefore we propose to approve this definition.

#### Lowest Achievable Emission Rate (LAER)

Ohio has modified the definition of “lowest achievable emission rate” in OAC 3745–31–01(FFF) by replacing “stationary source” with “emissions unit” in the definition from 40 CFR 51.165(a)(1)(xiii). OEPA believes that the term emissions unit is more appropriate than the term stationary

source because LAER universally applies at the emissions unit level. OEPA believes that LAER must be determined at the emissions unit level so that similar technologies can be reviewed. OEPA also believes that establishing LAER at the stationary source level may cause overlooking of the fact that a subpart of the stationary source (an emissions unit) may be able to emit at a lower level, even though the stationary source may appear to meet LAER.

This change is consistent with the federal program concerning clean units and PALs where LAER requirements apply. In those instances, LAER is applied at the emissions unit level. Ohio’s change eliminates a dual definition of “stationary source” and makes clear that LAER is to be determined at the emissions unit. EPA proposes to approve this definition of LAER.

#### Major Modification

Ohio has modified the definition of “major modification” in OAC 3745–31–01(III) to add provisions regarding PCPs and PALs. This modification is consistent with 40 CFR 51.166(a)(7) and (b)(2) and 40 CFR 51.165(a)(1)(v), therefore we propose to approve this definition.

#### Major Source Baseline Date

Ohio has established the definition of “Major Source Baseline Date” in OAC 3745–31–01(JJJ). This is consistent with the definition in 40 CFR 51.166(b)(14), therefore we propose to approve this definition.

#### Major Stationary Source

Ohio has modified the definition of “major stationary source” in OAC 3745–31–01(KKK) to replace the phrase “air pollutant subject to regulation under the Clean Air Act including lead compounds but excluding other air pollutants regulated due to being listed under section 112 of the Clean Air Act” with “regulated NSR pollutant.” These modifications are consistent with the definition in 40 CFR 51.166(b)(1) and 40 CFR 51.165(a)(1)(iv), therefore we propose to approve this definition.

#### Minor Source Baseline

Ohio has established the definition of “Major Source Baseline Date” in OAC 3745–31–01(NNN). This is consistent with the definition in 40 CFR 51.166(b)(14), therefore we propose to approve this definition.

#### Net Emissions Increase

Ohio has modified the definition of “net emissions increase” in OAC 3745–

31-01(RRR) to add provisions regarding clean units and PCPs and other minor wording changes. These modifications are consistent with the definition in 40 CFR 51.166(b)(3) and 40 CFR 51.165(a)(1)(vi), therefore we propose to approve this definition.

#### New Source Review Project

Ohio has established the definition of "new source review project" in OAC 3745-31-01(UUU). This is consistent with the definition in 40 CFR 51.165(a)(1)(xxxix) and 40 CFR 51.166(a)(51), therefore we propose to approve this definition.

#### Nonattainment or Nonattainment Area

Ohio has established the definition of "nonattainment or nonattainment area" in OAC 3745-31-01(VVV). This is consistent with the requirements in 40 CFR 51.165(a)(2)(i), therefore we propose to approve this definition.

#### Nonattainment New Source Review Permit

Ohio has established the definition of "nonattainment new source review permit" in OAC 3745-31-01(WWW). This is consistent with the definition in 40 CFR 51.165(a)(1)(xxx), therefore we propose to approve this definition.

#### PAL Allowable Emissions

Ohio has established the definition of "PAL allowable emissions" in OAC 3745-31-01(CCCC). This is consistent with the definition in 40 CFR 51.166(w)(2)(ii) and 40 CFR 51.165(f)(2)(ii), therefore we propose to approve this definition.

#### PAL Effective Date

Ohio has established the definition of "PAL effective date" in OAC 3745-31-01(DDDD). This is consistent with the definition in 40 CFR 51.166(w)(2)(vi) and 40 CFR 51.165(f)(2)(vi), therefore we propose to approve this definition.

#### PAL Effective Period

Ohio has established the definition of "PAL effective date" in OAC 3745-31-01(EEEE). This is consistent with the definition in 40 CFR 51.166(w)(2)(vii) and 40 CFR 51.165(f)(2)(vii), therefore we propose to approve this definition.

#### PAL Major Emissions Unit

Ohio has established the definition of "plantwide applicability limit" in OAC 3745-31-01(FFFF). This is consistent with the definition in 40 CFR 51.166(w)(2)(iv) and 40 CFR 51.165(f)(2)(iv), therefore we propose to approve this definition.

#### PAL Major Modification

Ohio has established the definition of "PAL major modification" in OAC 3745-31-01(GGGG). This is consistent with the definition in 40 CFR 51.166(w)(2)(viii) and 40 CFR 51.165(f)(2)(viii), therefore we propose to approve this definition.

#### PAL Permit

Ohio has established the definition of "PAL permit" in OAC 3745-31-01(HHHH). This is consistent with the definition in 40 CFR 51.166(w)(2)(ix) and 40 CFR 51.165(f)(2)(ix), therefore we propose to approve this definition.

#### PAL Pollutant

Ohio has established the definition of "PAL pollutant" in OAC 3745-31-01(IIII). This is consistent with the definition in 40 CFR 51.166(w)(2)(x) and 40 CFR 51.165(f)(2)(x), therefore we propose to approve this definition.

#### PAL Significant Emissions Unit

Ohio has established the definition of "PAL significant emissions unit" in OAC 3745-31-01(JJJJ). This is consistent with the definition in 40 CFR 51.166(w)(2)(xi) and 40 CFR 51.165(f)(2)(xi), therefore we propose to approve this definition.

#### PAL Small Emissions Unit

Ohio has established the definition of "PAL small emissions unit" in OAC 3745-31-01(KKKK). This is consistent with the definition in 40 CFR 51.166(w)(2)(iii) and 40 CFR 51.165(f)(2)(iii), therefore we propose to approve this definition.

#### Particulate Matter and Particulate Matter Emissions

Ohio referred to the definitions for particulate matter and particulate matter emissions from OAC 3745-17-01 which is already approved by EPA.

#### Plantwide Applicability Limit (PAL)

Ohio has established the definition of "plantwide applicability limit" in OAC 3745-31-01(OOOO). This is consistent with the definition in 40 CFR 51.166(w)(2)(v) and 40 CFR 51.165(f)(2)(v), therefore we propose to approve this definition.

#### PM<sub>10</sub>, PM<sub>10</sub> Emissions, Total Suspended Particulate

Ohio has established the definitions of "PM<sub>10</sub>", "PM<sub>10</sub> emissions" and "total suspended particulate" in OAC 3745-31-01(PPPP), (QQQQ), and (UUUUU). These definitions are consistent with 40 CFR 50 and 51, therefore we propose to approve these definitions.

#### Pollution Control Project (PCP)

Ohio has modified the definition of "pollution control project" in OAC 3745-31-01(RRRR). This is consistent with the definition in 40 CFR 51.166(b)(31) and 40 CFR 51.165(a)(1)(xxv), therefore we propose to approve this definition.

#### Pollution Prevention

Ohio has established the definition of "pollution prevention" in OAC 3745-31-01(SSSS). This is consistent with the definition in 40 CFR 51.166(b)(38) and 40 CFR 51.165(a)(1)(xxvi), therefore we propose to approve this definition.

#### Predictive Emissions Monitoring System (PEMS)

Ohio has established the definition of "predictive emissions monitoring system" in OAC 3745-31-01(SSSS). This is consistent with the definition in 40 CFR 51.166(b)(44) and 40 CFR 51.165(a)(1)(xxxii), therefore we propose to approve this definition.

#### Prevention of Significant Deterioration Increment

Ohio has established the definition of "prevention of significant deterioration increment" in OAC 3745-31-01(WWWW). This is consistent with the definition in 40 CFR 51.166(c), therefore we propose to approve this definition.

#### Prevention of Significant Deterioration Permit

Ohio has established the definition of "prevention of significant deterioration permit" in OAC 3745-31-01(XXXX). This is consistent with the definition in 40 CFR 51.166(b)(42) and 40 CFR 51.165(a)(1)(xli), therefore we propose to approve this definition.

#### Projected Actual Emissions

Ohio has established the definition of "projected actual emissions" in OAC 3745-31-01(ZZZZ). This is consistent with the definition in 40 CFR 51.166(b)(40) and 40 CFR 51.165(a)(1)(xxviii), therefore we propose to approve this definition.

#### Regulated NSR Pollutant

Ohio has established the definition of "regulated NSR pollutant" in OAC 3745-31-01(DDDD). This definition is consistent with the definition in 40 CFR 51.166(b)(49) and 40 CFR 51.165(a)(1)(xxxvii), therefore we propose to approve this definition.

#### Replacement Unit

Ohio has established the definition of "replacement unit" in OAC 3745-31-01(EEEEE). This definition is consistent with the definition in 40 CFR

51.166(b)(32) and 40 CFR 51.165(a)(1)(xxi), therefore we propose to approve this definition.

#### Representative Actual Annual Emissions

Ohio has deleted this definition. It is not required by the federal program.

#### Significant

Ohio has modified the definition of "significant" in OAC 3745-31-01(KKKKK) to change the phrase "an air pollutant subject to regulation under the Clean Air Act" to "a regulated NSR pollutant." This definition has also been modified to remove the reference to pollutants listed in section 112(b) of the Clean Air Act because section 112(b) pollutants are exempt from NSR. These changes are consistent with the definition in 40 CFR 51.166(b)(23) and 40 CFR 51.165(a)(1)(x), therefore we propose to approve this definition.

#### Significant Emissions Increase

Ohio has established the definition of "significant emissions increase" in OAC 3745-31-01(LLLLL). This is consistent with the definition in 40 CFR 51.166(b)(39) and 40 CFR 51.165(a)(1)(xxvii), therefore we propose to approve this definition.

#### Stationary Source

Ohio has modified the definition of "stationary source" in 326 IAC 2-2-1(zz) to change the phrase "pollutant subject to regulation under the CAA" to "regulated NSR pollutant." This change is consistent with the definition in 40 CFR 51.166(b)(5) and 40 CFR 51.165(a)(1)(i), therefore we propose to approve this definition.

#### Non-40 CFR 51.166 and 51.165 Definitions

OAC 3745-31-01 (E), (J), (M), (X), (JJ), (QQ), (DDD), (EEE), (XXX), (HHHHH), and (XXXXX)

These definitions are associated with future changes to OAC 3745-31-03 relating to Ohio's minor source permitting program. EPA proposes to approve these definitions.

#### Minor Revisions to Definitions

Ohio has made changes to the definitions of "available information," "baseline area," "baseline concentration," "best available technology," "Clean Air Act," "Clean Coal Technology," "Clean Coal Technology Demonstration Project," "Construction," "facility," "non-methane organic compound," "Non-road engine," and "Temporary clean coal demonstration project," that are grammatical in nature and do not

change the substance of the definition, therefore we propose to approve this definition.

#### Incorporation by Reference

Ohio has added the Aerometric Information Retrieval System, California Air Resources Board, Chemical Abstract Service, Chemical Rubber Company Handbook for Chemistry and Physics, Compilation of Air Pollutant Emission Factors, AP-42, Control Technology Center, Great Lakes Binational Toxics Strategy, Integrated Risk Management System, and Recommended Policy on Control of Volatile Organic Compounds to OAC 3745-31-01(ZZZZZ)(1). Ohio has removed the reference to the Further Continuing Appropriations Act of 1985 from this section.

Ohio has also updated and added to the incorporations by reference in OAC 3745-31-01(ZZZZZ)(2). Ohio has added references to 40 CFR 51.165; 40 CFR 60.15(b)(1); 40 CFR 60.111b; 40 CFR 81.336; 40 CFR part 50, appendix J; 40 CFR part 51, appendix M; 40 CFR part 51, appendix S; 40 CFR part 53; 40 CFR part 60, appendix A; 40 CFR part 60, subpart Dc; 40 CFR part 82, subpart A; 42 U.S.C. 7401 to 7671q; Chemical Rubber Company Handbook for Chemistry and Physics; Federal Power Act; New Source Performance Standards; Part C of Title I of the Clean Air Act; Part D of Title I of the Clean Air Act; Recommended Policy on Control of Volatile Organic Compounds; Section 2(A) and (B) of the Energy Supply and Environmental Coordination Act of 1974; Section 110 of the Clean Air Act; Section 107(d) of the Clean Air Act; Section 108 of the Clean Air Act; Section 109 of the Clean Air Act; Section 111 of the Clean Air Act; Section 112 of the Clean Air Act; Section 112(b) of the Clean Air Act; Section 112(c) of the Clean Air Act; Section 113 of the Clean Air Act; Section 121(e) of the Clean Air Act; Section 125 of the Clean Air Act; Section 173 of the Clean Air Act, Section 182(c) of the Clean Air Act; Section 182(f) of the Clean Air Act; Section 189 of the Clean Air Act; Section 202 of the Clean Air Act; Section 216 of the Clean Air Act; Section 402(12) of Title IV of the Clean Air Act; Section 409 of the Clean Air Act; Standard Industrial Classification Manual; Title II of the Clean Air Act; Title IV of the Clean Air Act, and Title VI of the Clean Air Act. Ohio has removed from OAC 3745-31-01(ZZZZZ)(2) Title II sec. 101(d) of the Further Continuing Appropriations Act of 1985.

*OAC 3745-31-09 Air Permit To Install Completeness Determinations, Public Participation and Public Notice*

Ohio has modified OAC 3745-31-09(H)(1) to replace the phrase "air contaminant source or modification" with "nonattainment NSR permit or the PSD permit". This change is consistent with the changes in definitions required by 40 CFR 51.166(b)(42), 40 CFR 51.165(a)(1)(xxx) and 40 CFR 51.165(a)(1)(xli). Ohio also made a spelling correction in OAC 3745-31-09(H)(2)(d). Therefore we propose to approve this rule.

*OAC 3745-31-10 Air Stationary Source Obligations*

Ohio has added the source obligations in 40 CFR 51.166 (r). Ohio doesn't include the requirements of 70.4(b)(3)(vii). Ohio also adds the language "if any provision of OAC 3745-31-10 through 3745-31-32 or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, 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." EPA proposes to approve these changes.

*OAC 3745-31-13 Attainment Provisions—Review of Major Stationary Sources and Major Modifications, Stationary Source Applicability and Exemptions*

Ohio has modified OAC 3745-31-13 (B) and (G) to replace the phrase "air pollutant subject to regulation under the Clean Air Act that the stationary source would emit, except for air pollutants listed under 112 of the Clean Air Act" and "air pollutant subject to regulation under the Clean Air Act" respectively with "regulated NSR pollutant". This is consistent with 40 CFR 51.166(b)(49) and 40 CFR 51.165(a)(1)(xxxvii). Ohio also modified OAC 3745-31-13(D)(2)(d) by replacing the term "reviewing authority" with "director," and OAC 3745-31-13(H) by clarifying that the units of measure are  $\mu\text{g}/\text{m}^3$ , and removing mercury, beryllium, and vinyl chloride. This is consistent with 40 CFR 51.166(i). Therefore we propose to approve this rule.

*OAC 3745-31-15 Attainment Provisions—Control Technology Review*

Ohio has modified OAC 3745-31-15(B) to include references to 40 CFR part 63 and OAC 3745-31-1 (C), and (D) to replace the phrase "air pollutant subject to regulation under the Clean Air Act excluding pollutants regulated due to being listed under Section 112 of the Clean Air Act" and "air pollutant

subject to regulation under the Clean Air Act" with "regulated NSR pollutant." This is consistent with 40 CFR 51.166(b)(49) and 40 CFR 51.165(a)(1)(xxxvii). Therefore we propose to approve this rule.

#### *OAC 3745-31-21 Nonattainment Provisions*

Ohio has modified OAC 3745-31-21 (B) to replace the phrase "air pollutant subject to regulation under the Clean Air Act" with "regulated NSR pollutant". This is consistent with 40 CFR 51.166(b)(49) and 40 CFR 51.165(a)(1)(xxxvii). Ohio also added language to OAC 3745-31-21 (E) to clarify that projects referenced therein are clean coal technology demonstration projects, and that "Section 111 and Part C" refer to Section 111 and Part C of the Clean Air Act. EPA proposes to approve these changes.

#### *OAC 3745-31-22 Nonattainment Provisions—Conditions for Approval*

In addition to grammatical updates to OAC 3745-31-22, Ohio has established OAC 3745-31-22(A)(3)(e) and (f) not permitting decreases from actual emissions from the installation of add-on control technology or application of pollution prevention measures and clean units or pollution control projects except as provided by the rule. This language is consistent with 40 CFR 51.165(a)(3)(ii)(H) and (I).

Ohio also established OAC 3745-31-22(A)(3)(g) providing the offset requirements for increased emissions from major modifications. This language is consistent with 40 CFR 51.165(a)(3)(ii)(J). Therefore we propose to approve this rule.

#### *OAC 3745-31-24 Non-Attainment Provisions—Baseline for Determining Credit for Emission and Air Quality Offsets*

In addition to grammatical updates to OAC 3745-31-24(A), (E) and (H), Ohio has established rules for establishing a baseline for determining credit for emission reductions in OAC 3745-31-24(B) and (C). This language is consistent with 40 CFR 51.165(a)(3)(i) and (ii)(A). Ohio has removed language describing the baseline time period and calculation of baseline emissions which primarily refer to the most recent two year period as the basis for the baseline. The federal program no longer has such a requirement.

Ohio also established OAC 3745-31-24(K) which requires all emission reductions claimed as offset credit to be federally enforceable. This language is consistent with 40 CFR

51.165(a)(3)(ii)(E). Therefore we propose to approve this rule.

#### *OAC 3745-31-26 Nonattainment Provisions—Offset Ratio Requirements*

Ohio has modified the VOC offset requirement provision in OAC 3745-31-26(A) to include an offset ratio for unclassified areas of greater than 1.0 to 1.0. This language is consistent with section 173(c) of the Clean Air Act. Therefore we propose to approve this rule.

#### *OAC 3745-31-30 Clean Units*

Ohio has added a new rule section for emission units that are subject to BACT or LAER and qualify for a clean unit designation. These rules, for the most part, are consistent with provisions at 40 CFR 51.166(t) and (u) and 40 CFR 51.165(c) and (d) for clean units. However, although Ohio intended only LAER to apply in nonattainment areas, as drafted, OAC 3745-31-30 is not clear that a LAER determination is required for a clean unit designation in an existing nonattainment area. The language in OAC 3745-31-30(A)(5)(a) must also include current-day LAER requirements for non-attainment areas, in addition to BACT for attainment areas.

In a March 2, 2005 letter to EPA, OEPA has committed to clarify its rules in this regard, and, until the rule is clarified, the conditionally approved rules will be implemented as requiring a LAER determination in nonattainment areas in order to obtain a clean unit designation. Therefore we propose to conditionally approve this rule.

#### *OAC 3745-31-31 Pollution Control Project*

OAC 3745-31-31 establishes a pollution control project exclusion provision in Ohio's permit to install regulations. This addition to Ohio's rule is consistent with the requirements in 40 CFR 51.166(v) and 40 CFR 51.165(e). Therefore we propose to approve this rule.

#### *OAC 3745-31-32 Plantwide Applicability Limit (PAL)*

This section of the Ohio permit to install rules regarding PAL applicability is consistent with 40 CFR 51.166(w) and 40 CFR 51.165(f). Therefore we propose to approve this rule.

### **III. Conditional Approval**

#### *A. Why are we proposing to conditionally approve Ohio's rules?*

We are proposing to conditionally approve Ohio's permit to install rules, OAC 3745-31-30. These rules, for the most part, fulfill part C of title I of the

CAA by incorporating the critical provisions at 40 CFR 51.165 and 51.166 for clean units. However, although Ohio intended only LAER to apply in nonattainment areas, the proposed language of OAC 3745-31-30 does not make clear that a LAER determination is required for a clean unit designation in an existing nonattainment area. In addition to BACT for attainment areas, the language in OAC 3745-31-30(A)(5)(a) must also include current-day LAER requirements for non-attainment areas.

OEPA has committed, in a March 2, 2005 letter, to clarify its rules in this regard and, in the interim, to require a LAER determination in nonattainment areas in order to obtain a clean unit designation. Because OAC 3745-31-30 meets all requirements of 40 CFR 51.165 and 51.166 for clean units with the exceptions noted above, and because OEPA has committed to correct the deficiencies, we believe that it is appropriate to propose to conditionally approve these rules. Once OEPA submits the rule changes to address these deficiencies, we can take action to fully approve the State Implementation Plan (SIP) revision.

#### *B. How can this conditional approval become fully approved?*

OEPA will have one year from the time that the conditional approval is final to submit the necessary changes to its rules to correct the deficiencies identified in this action. If OEPA does not submit changes within the one year timeframe, this conditional approval will automatically revert to a disapproval of the Ohio SIP.

#### *C. What are the ramifications for not submitting the necessary changes?*

If OEPA fails to submit the necessary rule changes to us, final conditional approval will automatically convert to a disapproval. EPA would confirm such disapproval to the State by letter. If the SIP becomes disapproved, these commitments will no longer be a part of the approved SIP. We would subsequently publish a notice to this effect in the notice section of the **Federal Register** indicating that the commitment or commitments have been disapproved and removed from the SIP. If OEPA adopts and submits the final rule amendments to EPA within the applicable time frame, the conditionally approved commitments will remain part of the SIP until the EPA takes final action approving or disapproving the new submittal, those newly approved rules will become part of the SIP.

If after considering the comments on the subsequent submittal, we issue a

final disapproval, the sanctions clock under 179(a) will begin. If OEPA does not submit and we do not approve the rule on which any disapproval is based within 18 months of the disapproval, we must impose one of the sanctions under section 179(b) highway funding restrictions or the offset sanction. In addition, any final disapproval would start the 24-month clock for the imposition of section 110(c) Federal Implementation Plan. Finally, under section 110(m) the EPA has discretionary authority to impose sanctions at any time after final disapproval.

#### IV. What Action Is EPA Taking Today?

EPA is proposing conditional approval of Ohio permit to install revisions. On December 31, 2002, EPA published revisions to the federal PSD and NSR regulations in 40 CFR parts 51 and 52 (67 FR 80186). These "NSR Reform" regulatory revisions became effective on March 3, 2003, and include provisions for baseline emissions determinations, actual-to-future actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). EPA is proposing to conditionally approve OEPA's revised rules to implement these NSR Reform provisions.

#### V. Statutory and Executive Order Reviews

##### *Executive Order 12866; Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

##### *Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

##### *Regulatory Flexibility Act*

This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

##### *Unfunded Mandates Reform Act*

Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

##### *Executive Order 13175 Consultation and Coordination With Indian Tribal Governments*

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

##### *Executive Order 13132 Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

##### *Executive Order 13045 Protection of Children From Environmental Health and Safety Risks*

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

##### *National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission,

to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

##### *Paperwork Reduction Act*

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 29, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[WC DOCKET NO. 03-225; FCC 05-71]

#### Request To Update Default Compensation Rate for Dial-Around Calls From Payphones

**AGENCY:** Federal Communications Commission.

**ACTION:** Further notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission seeks current and accurate data on the average number of compensable dial-around calls made from payphones on a monthly basis. This average monthly data will be used to calculate a monthly per-payphone default compensation rate, which will apply to payphones that are not connected to Flex ANI, a call-tracking technology.

**DATES:** Submit comments on or before June 27, 2005. Submit reply comments on or before July 25, 2005.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 03-225, by any of the following methods:

- Federal eRulemaking Portal: <http://regulations.gov>. Follow the instructions for submitting comments.
- Agency Web site: <http://www.fcc.gov>. Follow the instructions for