

3745-15-01 **Definitions.**

[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 this rule titled "Incorporation by reference."]

As used in all air pollution rules, except as may be otherwise specifically provided.

- (A) "Act" means Chapters 3704. and 3745. of the Revised Code.
- (B) "Agency", "Ohio EPA", "OEPA" or "board", means the Ohio environmental protection agency or its director as the context or other law or rules may require.
- (C) "Air pollutant" or "air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor or odorous substances, or any combination thereof.
- (D) "Air pollution" means the presence in the ambient air of one or more air pollutants or any combination thereof in sufficient quantity and of such characteristics and duration as is or threatens to be injurious to human health or welfare, plant or animal life, or property, or which interferes with the comfortable enjoyment of life or property.
- (E) "Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks, or ducts which surrounds human, plant, or animal life, or property.
- (F) "Ambient air quality standards" means ambient air quality goals expressed numerically and intended to be attained and maintained in a stated time through the application of appropriate preventive or control measures.
- (G) "ASME" means the "American Society of Mechanical Engineers, ~~345 East 47th Street, New York, New York~~".
- (H) "ASTM" means the "American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, Pennsylvania~~".
- (I) "Area" means the state of Ohio.
- (J) "Clean Air Act" or "CAA" means the federal Clean Air Act as amended November 15, 1990; 42 USC 7401 to 7671q.
- ~~(J)~~(K) "Control equipment" means any device or contrivance which prevents or reduces

emissions.

~~(K)~~(L) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or has entered into a binding contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

~~(L)~~(M) "Director" means the director of the Ohio environmental protection agency.

~~(M)~~(N) "Effective date of these rules" means February 15, 1972, notwithstanding any amendment, rescission or renumbering of any of these rules.

~~(N)~~(O) "Emission" means the act of releasing or discharging an air pollutant into the ambient air from any source.

~~(O)~~(P) "Existing source" means any source the construction of which was commenced prior to February 15, 1972.

~~(P)~~(Q) "Facility" means any building, structure, installation, operation, or combination thereof which contains one or more stationary source(s) of air contaminants.

~~(Q)~~(R) "Modification" means any physical change in, or change in the method of operation of, an existing source or a new source that increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted from the same location.

~~(R)~~(S) "New source" means any source the construction or modification of which is commenced on or after February 15, 1972.

~~(S)~~(T) "Non-methane hydrocarbon" means any chemical compound containing carbon but excluding: carbon monoxide, carbon dioxide, carbides, metallic carbonates, ammonium carbonate, and methane.

~~(T)~~(U) "Owner or operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

~~(U)~~(V) "Person" means the state or any agency thereof, any political subdivision, or any agency thereof, public or private corporation, individual, partnership, or other entity.

~~(V)~~(W) "Region" means an air quality control region as designated by the secretary of

health, education and welfare, or by the administrator, United States environmental protection agency, or by the director.

~~(W)~~(X) "Source" means any building, structure, facility, operation, installation, other physical facility, or real or personal property that emits or may emit any air pollutant.

~~(X)~~(Y) "Source operation" means the last operation preceding emission which operation:

(1) Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion fuel; and

(2) Is not an air pollution abatement operation.

~~(Y)~~(Z) "Stack" means any chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.

~~(Z)~~(AA) "Standard conditions" means a dry gas temperature of seventy degrees Fahrenheit (21.1 degrees centigrade) and a gas pressure of 14.7 pounds per square inch absolute (seven hundred sixty millimeters mercury).

(BB) Incorporation by reference. This chapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule as been amended to specify the new dates.

(1) Availability. The materials incorporated by reference are available as follows:

(a) American Society of Mechanical Engineers (ASME). Information and copies of ASTM documents may be obtained by writing to: "ASME International, P.O. Box 2300, Fairfield, NJ 07007-2300." ASME documents are also available for purchase at www.asme.org. ASME documents are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(b) American Society for Testing Materials (ASTM). Information and copies of ASTM documents may be obtained by writing to: "ASTM International, 100 Bar Harbor Drive, P.O. Box C700, West

Conshohocken, Pennsylvania 19426- 2959." ASTM documents are also available for purchase at www.astm.org. ASTM documents are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(c) Code of Federal Regulations (CFR). Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at <http://www.gpoaccess.gov/cfr/index.html>. The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(d) United States Code (USC). Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the United States Code is also available in electronic format at <http://www4.law.cornell.edu/uscode/>. The U.S.C compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(2) Incorporated materials.

(a) 40 CFR Part 302; "Designation, reportable quantities, and notification;" as published in the July 1, 2006 Code of Federal Regulations.

(b) 40 CFR Part 355; "Emergency Planning and Notification;" as published in the July 1, 2006 Code of Federal Regulations.

(c) 42 USC 7401 to 7671q; "The Public Health and Welfare-Air Pollution Prevention and Control;" published January 19, 2004 in Supplement III of the 2000 Edition of the United States Code; as amended January 23, 2004, Pub. L. 108-199, sec. 425(a) and sec. 428(b), 118 Stat. 417-418.

(d) Section 112(b) of the Clean Air Act; contained in 42 USC 7412; "Hazardous air pollutants- List of pollutants;" published January 19, 2004 in Supplement III of the 2000 Edition of the United States Code.

Effective: 01/22/2009

R.C. 119.032 review dates: 11/30/2006 and 01/22/2014

CERTIFIED ELECTRONICALLY

Certification

01/12/2009

Date

Promulgated Under: 119.03
Statutory Authority: 3704.03(E)
Rule Amplifies: 3704.03(F)
Prior Effective Dates: 7/5/73, 1/25/80

3745-15-05

"De Minimis" air contaminant source exemption.

[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 in rule 3745-15-01 of the Administrative Code titled "Incorporation by reference."]

(A) For purposes of this rule, the following definitions apply:

- (1) "Actual emissions" means the amount of emissions an air contaminant source actually emits on a calendar day or calendar year basis, whichever is applicable.
- (2) "Air contaminant" means particulate matter, dust, fumes, gas, mist, radionuclides, smoke, vapor, or odorous substances, or any combination thereof, but does not include water by itself.
- (3) "Air contaminant source" or "source" means each separate operation or activity that results or may result in the emission of any air contaminant.
- (4) "Air pollution control equipment" shall mean control equipment which is not, aside from air pollution control requirements, vital to production of the normal product of the source or to its normal operation. Equipment is vital if the source could not produce its normal product or operate without it.
- (5) "Hazardous air pollutant" means any pollutant listed pursuant to ~~section~~Section 112(b) of the ~~federal Clean Air Act~~CAA.
- (6) "Potential to emit" or "potential emissions" shall mean the amount of emissions of an air contaminant which would be emitted from a source during a twenty-four hour calendar day or calendar year basis, whichever is applicable, if that source were operated without the use of air pollution control equipment unless such control equipment is, aside from air pollution control requirements, necessary for the facility to produce its normal product or is integral to the normal operation of the source. Potential emissions shall be based on maximum rated capacity.
- (7) "Similar sources" are:
 - (a) Sources for which construction and operation are essentially the same, although, the capacity of each source is not necessarily the same;
 - (b) Sources in which the physical or chemical process occurring in each

source is essentially the same; and

(c) Sources from which essentially the same air pollutants are emitted.

- (B) Except as provided in paragraphs (C), (D) and (H) of this rule and division (B) of section 3704.011 of the Revised Code, any air contaminant source is exempt from Chapter 3704. of the Revised Code and rules adopted thereunder, unless the potential emissions of any one of the following exceeds ten pounds per day: particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, carbon monoxide, lead or any other air contaminant.
- (C) The exemption contained in paragraph (B) of this rule shall not apply to a source if any of the following applies:
- (1) A requirement established under the ~~federal Clean Air Act~~ CAA or regulations adopted under it limits the emissions of an air pollutant from the source to less than ten pounds per day or restricts the operation of the source in a manner equivalent to an emission limit of less than ten pounds per day;
 - (2) The source is subject to an emission limit adopted by the director to achieve and maintain the national ambient air quality standards or a rule adopted by the director to protect public health and welfare limits the emissions from the source to less than ten pounds per day of an air pollutant or restricts the operation of the source in a manner equivalent to an emission limit of less than ten pounds per day;
 - (3) The source emits radionuclides;
 - (4) The source alone or in combination with similar sources at the same facility, would result in potential emissions of any air pollutant in excess of twenty-five tons per year. In determining the total emissions from a group of similar sources, an enforceable permit emission limit shall be used in lieu of the potential to emit for such source or sources; or
 - (5) The source emits more than one ton per year of any hazardous air pollutants or combination of hazardous air pollutants.
- (D) The exemption provided in division (A) of section 3704.011 of the Revised Code does not apply to an air contaminant source having potential emissions greater than ten pounds per day (or one ton per year of one or more hazardous air pollutants) of any air contaminant unless the owner or operator of the source maintains records that are adequate to demonstrate that actual emissions from the source did not

exceed ten pounds per day (or one ton per year of one or more hazardous air pollutants) and unless that source is not subject to the limitations specified in paragraph (C) of this rule.

(E) In order to verify that actual emissions from a source described in paragraph (D) of this rule complied with the requirements of divisions (A) and (C) of section 3704.011 of the Revised Code during its operations, the owner or operator of the source shall maintain records that show that emissions of any air contaminant from the source did not exceed ten pounds per day on each day the source emitted air contaminants, and that the source in any one year did not emit more than one ton of hazardous air pollutants as defined in division (1) of section 3704.03 of the Revised Code, and that the emissions from the source, in combination with similar air contaminant sources at the same facility, did not result in potential emissions of any air contaminant from the facility in excess of twenty-five tons during the preceding calendar year. Records consisting of one or more of the following types of information, if applicable, shall be adequate to make that demonstration, so long as the information clearly demonstrates that the owner or operator is operating in accordance with this rule:~~All the following information, if applicable, shall be adequate to make that demonstration:~~

- (1) A narrative description of how the emissions from the source were determined and maintained at or below the daily exemption level, and, for emissions of hazardous air pollutants, at or below the annual exemption level;
- (2) A description of the air pollution control equipment used on the source and a statement that the source is not capable of operating without that pollution control equipment functioning;
- (3) If air pollution control equipment is used, a copy of any report of the results of any emission test that was conducted following Ohio EPA approved methods, if applicable, or any other emission evaluation;
- (4) A description of all production constraints required for the source to comply with the exemption levels;
- (5) Records of actual operations that demonstrate that the daily and annual emissions from the source were maintained at or below the exemption level by the use of the necessary production constraints or pollution control equipment;
- (6) A list of all similar sources at the same facility and a statement for each such source of the annual potential emissions. Compliance with paragraph (C)(4) of this rule shall be demonstrated; and

- (7) A summation of the total emissions from each exempt or similar source, a summation of stated potential emissions from all sources identified in paragraph (E)(6) of this rule, and a written certification under oath by the owner or operator that the applicable exemption levels were complied with.
- (F) Records developed under paragraph (E) of this rule shall be maintained by the owner of the source at a location at the facility for a period of two years following the recording of the information, and shall be provided to the director upon his request or upon the request of his authorized representative.
- (G) The owner or operator of such an exempt source not subject to paragraph (E) of this rule, upon the request of the director or his authorized representative concerning such source, shall provide information that is adequate to demonstrate that the source qualifies for the exemption.
- (H) Nothing in this rule shall be construed to exempt any source from requirements of the ~~federal Clean Air Act~~ CAA, including its being considered for purposes of determining whether a facility constitutes a major source or is otherwise regulated under Chapter 3745-77 of the Administrative Code or any requirement to ~~list~~ identify insignificant activities and emissions levels in a title V permit application. In addition, this rule does not exempt any source that is a part of a major new source or major modification that would be required to meet any requirements under applicable state or federal regulations.
- (I) If a source exempt under this rule should at any time exceed the exempt emission levels provided in paragraphs (B) and (D) of this rule, the owner or operator of such source shall immediately submit a written report describing the nature and cause of the exceedance. Upon request by the director, the owner or operator of such source shall submit an application for a permit to install if required by Chapter 3745-31 of the Administrative Code and an application for a permit to operate pursuant to Chapter 3745-35 or Chapter 3745-77 of the Administrative Code, as applicable.

Effective: 01/22/2009

R.C. 119.032 review dates: 11/30/2006 and 01/22/2014

CERTIFIED ELECTRONICALLY

Certification

01/12/2009

Date

Promulgated Under: 119.03
Statutory Authority: 3704.03(E)
Rule Amplifies: 3704.03(F)
Prior Effective Dates: 4/20/94, 11/18/94, 2/3/00

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JAN 12 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

**The Adoption of Amended
Rules 3745-15-01,
3745-15-02, 3745-15-04,
3745-15-05, 3745-15-08, and
3745-15-09 of the Ohio
Administrative Code**

**Director's Final Findings and
Orders**

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

FINDINGS AND ORDERS

Date: 1-12-09

The Director of Environmental Protection, having considered in compliance with the Administrative Procedure Act the adoption, in final form, of the proposed amended rules of the Ohio Administrative Code cited above, finds:

1. That due notice of a public hearing in this matter pursuant to the Administrative Procedure Act was given, that a public hearing was held on January 8, 2007 in Columbus, Ohio, and that all interested persons were afforded the opportunity to be heard; and
2. That upon due consideration, the adoption, in final form of the proposed amended rules of the Ohio Administrative Code cited above, is reasonable and lawful and within the purview of authority provided by law.

It is therefore

ORDERED that amended rules 3745-15-01, 3745-15-02, 3745-15-04, 3745-15-05, 3745-15-08, and 3745-15-09 of the Ohio Administrative Code be adopted in final form.

It is further

ORDERED that the effective date of said amended rules shall be JAN 22 2009.

It is further

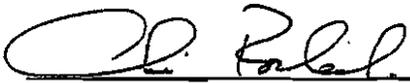
ORDERED that copies of these Findings and Orders and certified copies of said amended rules, in final form, shall be filed with the Secretary of State, the Joint Committee on Agency Rule Review, the Legislative Services Commission, and the Department of

Development's Office of Small and Developing Business, as required by law.

APPEAL RIGHTS

Notice is hereby given that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215



Chris Korleski, Director
Ohio Environmental Protection Agency

Issued at Columbus, Ohio this 12th day of January, 2009.