

Rule Synopsis

Draft rule language for Ohio Administrative Code (OAC) Chapter 3745-110 “Nitrogen Oxides - Reasonably Available Control Requirements”

The Ohio Environmental Protection Agency (Ohio EPA), Division of Air Pollution Control (DAPC) has reviewed Ohio Administrative Code (OAC) Chapter 3745-110 “Nitrogen Oxides - Reasonably Available Control Requirements” pursuant to Ohio law (Ohio Revised Code Section 119.032) which requires all agencies review existing rules every five years to determine if the rules should be eliminated or amended, or to remain “as-is.” Ohio EPA has determined all the rules in this chapter require some amendments.

OAC rules 3745-110-02, -03 and -04 are currently a part of a separate rulemaking activity underway at this time that was proposed to Joint Committee on Agency Rule Review (JCARR) on January 6, 2025. The purpose of that rulemaking was limited to requirements needed to address the serious bump up for the 2015 ozone standard in the Cleveland area and that proposal was not conducted in accordance with Ohio’s 5-year review requirements. The Cleveland ozone bump up rulemaking has extended longer than anticipated. The entirety of OAC Chapter 3745-110 is now due for 5-year review by no later than June 18, 2025. In order to expedite this process, Ohio EPA has prepared OAC rules 3745-110-02, -03 and -04 for interested party comments. These rules contain highlighted portions of language that was proposed to JCARR for the Cleveland ozone bump up. That language should be considered final when preparing comments under this rulemaking. The additional rule changes identified below and contained within these rules (and not highlighted in yellow) are those being proposed under this 5-year review. In the event any highlighted language below under the Cleveland ozone bump up changes substantially as a result of comments, Ohio EPA will prepare a newer version for comment under this rulemaking. Prior to Ohio EPA proposing this 5-year rulemaking to JCARR, Ohio EPA will finalize the Cleveland ozone bump up rule package and provided non-highlighted versions of these rules for comment at the proposal stage. The Cleveland ozone bump up proposal can be found here in its entirety: <https://epa.ohio.gov/divisions-and-offices/air-pollution-control/regulations/proposed-rules>

A summary of revisions for this rulemaking is as follows:

1. Minor Style and Typo Changes: Ohio EPA is making various minor changes to correct typos and update the rule language in this chapter to meet legislative service commission (LSC) style and formatting guidelines. These changes are being made throughout the chapter, are minor in nature, and do not affect the scope or intent of the rules.
2. Test Method, Publications, Referenced Materials: Ohio EPA is making various minor changes to update test method, publication and referenced material titles, effective dates, addresses and

web sites. These changes are being made throughout the chapter, are minor in nature, and do not affect the scope or intent of the rules.

3. Updates to Facility Names: Ohio EPA is making changes to facility names where those names have been changed in the official Ohio EPA facility profiles in Ohio EPA databases.
4. OAC rule 3745-110-02; Applicability.
 - a. Once the Cleveland ozone bump up rule package is finalized and an effective date is established, the phrase “effective date of this rule” in paragraph (A)(1)(b) will be replaced with the actual effective date of that rule change.
5. OAC rule 3745-110-03; RACT requirements and/or limitations for emissions of NOx from stationary sources.
 - a. Ohio EPA is adding new site-specific exemption for the following facility:
 - i. Kent State University Heating Plant (1667040085), 1501 Ted Boyd Drive, Kent, Ohio 44240. OAC rule 3745-110-03(K)(20).

The proposed exemption would allow Kent State University to operate out of low-NOx mode when performing emergency readiness testing consisting of black start and island mode events.
 - b. Ohio EPA is adding a comment under OAC rule 3745-110-03(K)(16) and OAC rule 3745-110-03(K)(17).

The proposed comment states, “[For any affected facility that has more than one source claiming this exemption, the Ohio environmental protection agency may require an evaluation of the sources collectively as a part of a RACT study to be submitted in accordance with paragraph \(J\) of this rule.](#)” This is to account for facilities that may have multiple 10 tons per year (tpy) sources, which may collectively sum to a larger emission source. Because OAC rule 3745-110-02(A) applicability requirements for submitting a RACT study includes calculating emissions from all sources at the facility, including those exempt under OAC rule 3745-110-03, facilities will be submitting all emissions information to support the determination of RACT study applicability. At that time, Ohio EPA will review the list of sources requesting exemption under paragraph (K)(16) and (K)(17) and determine if collectively those emissions are significant enough to warrant further review under a RACT study.
 - c. Ohio EPA is adding a time restraint to the exemption in OAC rule 3745-110-03(K)(18).

Ohio EPA is limiting the timeframe to five years for sources issued a permit with Best Available Control Technology (BACT) or Lowest Achievable Emissions Rates (LAER) to receive an

exemption from the requirements of this rule. Although in general BACT or LAER should be more stringent than RACT, RACT evolves over time and what was reasonable, the best or the lowest more than five years ago may not be the same under today's standards. Sources with BACT or LAER older than five years old will be able to submit a RACT study which will allow Ohio EPA to evaluate if that BACT/LAER should still be considered RACT.

- d. Ohio EPA is adding a statement in the previously reserved OAC rule 3745-110-03(M) that clarifies paragraphs (N) through (V) are requirements that were established in accordance with RACT study requirements contained in paragraph (J) of this rule.
- e. Ohio EPA is removing references to "affected" under OAC rule 3745-110-03(K) as the definition of "affected source" under OAC rule 3745-110-01 is a source not exempt under OAC rule 3745-110-03(K).
- f. Ohio EPA is changing the language under OAC rule 3745-110-03(A) to allow owners or operators of small boilers to log annual maintenance in "a permanently bound log book, or other equivalent electronic method that ensures data integrity." This gives the owners/operators some flexibility to log electronically without requiring Director approval as many facilities are moving away from physical log books.

6. OAC rule 3745-110-05; Compliance Methods. New paragraph (E) is being added to clarify that sources subject to emissions limitations under OAC rule 3745-110-03 will have the appropriate recordkeeping and reporting requirements included in permits issued in accordance with OAC rule 3745-15-03.