

Proposed Changes to Best Available
Technology (BAT) Rule Language
May 2013 Draft



3745-31-05 **Criteria for decision by the director.**

[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"~~ "Referenced Materials" 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 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/she determines that the installation, modification or operation of the air contaminant source will:

- (1) Not prevent or interfere with the attainment or maintenance of applicable ambient air quality standards; and
- (2) Not result in a violation of any applicable laws, including but not limited to:
 - (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) Employ BAT, when applicable, in accordance with the following:
 - (a) Determination of BAT

BAT shall be evaluated, determined and required in either the initial permit-to-install or PTIO issued for an air contaminant source or when a

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modification of the air contaminant source results in the issuance of a permit-to-install or PTIO, except:

- (i) BAT is not required if the air contaminant source was installed on or before January 1, 1974;
 - (ii) BAT is not required if the air contaminant source was 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;
 - (iii) BAT is not required to be reestablished for an ambient impact modification triggered as a result of the requirements of paragraph (QQQ)(1)(b) of rule 3745-31-01 of the Administrative Code;
 - (iv) BAT is not required to be re-determined due to the establishment of voluntary limits per paragraph (F) of this rule;
 - (v) BAT is not required to be re-determined due to an administrative modification;
 - (vi) If the only requirement to obtain a permit to install or PTIO is due to the following, any existing BAT determination, when applicable, remains in effect and BAT shall not be reevaluated and redetermined:
 - (a) A modification as a result of the requirements of paragraph (QQQ)(1)(b) of rule 3745-31-01 of the Administrative Code; or
 - (b) The requirements of paragraph (F) of this rule; or
 - (c) An administrative modification.
 - (iv) BAT is not required for any existing, new, or modified air contaminant source that is subject to a plant-wide applicability limit that has been approved by the director.
- (b) Reevaluation and Redetermination of BAT

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(i) For air contaminant sources subject to an existing BAT determination, BAT shall be reevaluated and re-determined when a modification of the air contaminant source(s) occurs.

~~(e)(ii) Except as provided in paragraph (A)(3)(b) of this rule, Renewing a PTIO shall not cause BAT shall notto be reevaluated and redetermined. when a PTIO is renewed, notwithstanding a modification as defined in rule 3745-31-01 of the Administrative Code. However, any existing BAT determination remains in effect.~~

~~(d)(iii) BAT may be reevaluated and re-determined at any time. However, BAT shall be based on the state-of-the-art control levels found in accordance with the definition of BAT contained in rule 3745-31-01 of the Administrative Code, based on data available at the time the air contaminant source was initially installed or most recently modified, whichever occurs later.~~

~~(iv) BAT shall not be reevaluated and re-determined for any air contaminant source that was issued a General Permit where the associated Model General Permit was issued prior to January 1, 2006.~~

~~(e) Effective Time Period for BAT Limits~~

~~(i) For new sources, BAT becomes effective upon completion of construction.~~

~~(ii) For modified sources, where a physical change or change in the method of operation is needed, the re-determined BAT becomes effective once the physical change or change in the method of operation is completed.~~

~~(iii) For modified sources where no physical change or change in the method of operation is needed, the re-determined BAT becomes effective once the modified permit is effective;~~

~~(d) Restrictions on the Expression of BAT~~

~~BAT shall be expressed only in one of the following ways that the director has determined is most appropriate for the applicable source or source categories:~~

~~(i) Work practices;~~

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- (ii) Source design characteristics or design efficiency of applicable air contaminant control devices;
- (iii) Raw material specifications or throughput limitations averaged over a twelve-month rolling period;
- (iv) Monthly allowable emissions averaged over a twelve-month rolling period (12-month rolling average).

(e) Determination of BAT

- (i) BAT shall be determined for each criteria pollutant to be emitted by the air contaminant source;
- (ii) If the air contaminant source is going to be operated using different operating scenarios that result in significantly different emission rates (I.e., the use of different fuels, different raw materials, etc.), BAT shall be determined for each operating scenario;
- (iii) If section 112, Part C of Title I (Maximum Achievable Control Technologies (MACT) requirements), or Part D of Title I (Best Available Control Technologies (BACT) or Lowest Achievable Control Technologies (LAER) requirements) of the federal Clean Air Act applies for a particular criteria pollutant and operating scenario, then BAT shall be equivalent to the MACT, BACT or LAER determination under these requirements;
- (iv) If the above CAA BAT requirement does not apply, then BAT shall be determined for VOC as follows:
 - a. if any of the following rules apply to the air contaminant source type, then the director shall determine BAT to be, at a minimum, equivalent to the limit contained within the below listed rule. The director may choose to establish a BAT limit that is more stringent than is listed in the following rules, but the director cannot choose a limit that is less stringent than the following rules. This determination shall be made on a pollutant by pollutant basis.
 - i. The January 1, 2006 version(s) of paragraphs (C) to (J), (K) with the exception of (K)(4), (L) to (N), (O) with the exception of (O)(2)(e), (P) to (R), (U) with the exception

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of (U)(2)(k) and (U)(2)(l), (V) to (X), (Y) with the exception of (Y)(2)(d) and (Y)(3), (Z) to (EE), and (DDD) of rule 3745-21-09 of the Administrative Code;

ii. The January 1, 2006 version(s) of rules 3745-21-11 to 3745-21-16 of the Administrative Code;

iii. If the only reason the rules contained in paragraphs (A)(3)(e)(iv)(a)(i) to (A)(3)(e)(iv)(a)(ii) of this rule do not apply is because the air contaminant source is located in a non-applicable county, then the director shall determine BAT to be equivalent to the most stringent limit contained within paragraphs (A)(3)(e)(iv)(a)(i) to (A)(3)(e)(iv)(a)(ii) of this rule regardless of the air contaminant source's location.

(v) If neither of the above two requirements apply (subparagraph (iii) and (iv)), then the director shall make a case-by-case determination for BAT.

(f) Compliance Methods for BAT

(i) If the MACT, BACT or LAER CAA BAT requirements apply (sub paragraph (e)(iii) above), then compliance shall be determined using the resulting MACT, BACT or LAER compliance determination method;

(ii) If the RACT developed BAT requirements apply (sub paragraph (e)(iv) above), then compliance shall be determined using the methods described in the associated RACT rule. If no method is described in the associated RACT rule, then the director shall develop a case-by-case compliance method;

(iii) If a case-by-case BAT was developed then:

a. The director can require emissions testing to verify compliance;

b. If the director chooses not to require follow-up emissions testing, then compliance will be based on the initial one-time calculation of emissions. If the director chooses to use a one-time calculation method for compliance, the director still retains the right to required emissions testing to verify compliance.

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~~Any reevaluated and redetermined BAT shall be in effect upon completion of the physical change or change in the method of operation or, when a physical change for change in the method of operation is not applicable, upon issuance of the permit to install or PTIO. Prior to completion of the physical change or change in the method of operation or issuance of the permit to install or PTIO, any existing BAT determination remains in effect.~~

~~(f) When applicable in accordance with this rule, if any of the following rules apply to the air contaminant source, then the director shall determine BAT to be, at a minimum, equivalent to the limit contained within the applicable rule. This determination shall be made on a pollutant by pollutant basis:~~

~~(i) Paragraphs (C) to (J), (K) with the exception of (K)(4), (L) to (N), (O) with the exception of (O)(2)(e), (P) to (R), (U) with the exception of (U)(2)(k) and (U)(2)(l), (V) to (X), (Y) with the exception of (Y)(2)(d) and (Y)(3), (Z) to (EE), and (DDD) of rule 3745-21-09 of the Administrative Code.~~

~~(ii) Rules 3745-21-11 to 3745-21-16 of the Administrative Code.~~

~~(iii) Paragraph (B) of rule 3745-17-08 of the Administrative Code.~~

~~If the only reason the rules contained in paragraphs (A)(3)(f)(i) to (A)(3)(f)(iii) of this rule do not apply is because the air contaminant source is located in a non-applicable county, then the director shall determine BAT to be equivalent to the most stringent limit contained within paragraphs (A)(3)(f)(i) to (A)(3)(f)(iii) of this rule regardless of the air contaminant source's location. This determination shall be made on a pollutant by pollutant basis.~~

(B) During operation, the air contaminant source