

**Senate Bill (SB) 265 Best Available Technology (BAT) questions and answers**  
**Draft - 8/3/06**

These questions and answers address the application of Best Available Technology (BAT) requirements to new source PTIs in light of the requirements of amended Senate Bill (SB) 265 specified in ORC 3704.03(T)(4). SB265 specifies that BAT does not apply to an air contaminant source that has the potential to emit (taking into account air pollution controls installed on the source) of less than ten tons per year of an air contaminant or precursor of an air contaminant for which a NAAQS has been adopted under the federal Clean Air Act.

- 1. When does this requirement go into effect and what sources does it apply to?**

The law becomes effective August 3, 2006. Therefore this requirement applies to new emissions units installed after that date and to OAC Chapter 31 modifications that occur after that date.

- 2. If I have already submitted my permit recommendation to DAPC, should I call to stop it from being issued?**

No. For a "Review PTI", the central office DO/LAA permit contacts will review them and make any necessary corrections. If the permit recommendation is a "No Review PTI", then the permit will get issued with the old BAT limits listed. If the company has a problem with the subsequent permit, then we can issue a modified permit later.

- 3. Can a company modify their permit for a previously permitted source?**

No, this change only applies to new sources installed after August 3, 2006 and to OAC Chapter 31 modifications that occur after that date.

- 4. Should I make these changes to any permit recommendations I submit?**

Yes, beginning August 3, 2006, please make any necessary changes to the less than 10 ton/yr no BAT sources before you submit your recommendation.

- 5. If the permit already went draft, should I make the changes before I process the final?**

Yes.

- 6. How do you decide what kind of PTI emission limits are needed for an air contaminant source that might qualify for the 10 ton/yr BAT exemption threshold?**

Refer to the "BAT Decision Flowchart". If you are still not sure what PTI emission limits are needed you should discuss what limits are needed with your central office DO/LAA permit contact.

**7. What pollutants does the 10 ton/yr BAT exemption threshold apply to?**

The NAAQS pollutants PE/PM10/PM2.5, SO<sub>2</sub>, NO<sub>x</sub>, VOC, CO and Pb. BAT should still be applied to any air toxic using Ohio's current Air Toxics Policy.

**8. How do you determine if an air contaminant source has the potential to emit (taking into account air pollution controls installed on the source) of less than ten tons per year of a NAAQS pollutant?**

Potential to emit should be determined at 8760 hrs/yr or 365 days/yr for each NAAQS pollutant emitted by the air contaminant source. Next, the controlled potential to emit (for those sources installing control equipment) is determined by multiplying the potential to emit for each NAAQS pollutant controlled by the control device by the control efficiency for that pollutant. When a federally enforceable rule limit applies (e.g., from the SIP, MACT or NSPS) then the rule limit can be applied to calculate an annual emission rate to determine if the emissions are less than 10 tons/yr.

**9. Can an air contaminant source restrict it's potential to emit to avoid BAT or State modeling?**

Yes - the source can accept voluntary synthetic minor type restrictions (either by use of operating restrictions or optional add-on controls) per OAC rule 3745-31-02(A) to restrict the emissions to below the 10 ton/yr BAT threshold or applicable State modeling threshold.

**10. What about emissions units subject to BACT/LAER?**

BACT/LAER determinations should be made using current procedures. BAT would be equivalent to BACT/LAER for those criteria pollutants for which BACT/LAER limitations are established.

**11. Assume a PTI application is submitted for an air contaminant source that has the potential to emit (controlled or uncontrolled) for a NAAQS pollutant of greater than 10 tons/yr; therefore BAT would be established for that NAAQS pollutant. Does BAT still apply to that air contaminant source if the BAT determination in the PTI results in an emission limit under 10 tons/yr?**

Yes, BAT would apply unless the permittee accepts voluntary synthetic minor type restrictions as described above.

**12. Do you include both stack and fugitive emissions when determining**

**whether the 10 ton/yr BAT exemption threshold applies?**

Yes - the stack and fugitive emission rates (per NAAQS pollutant) should be added together to determine whether the 10 ton/yr BAT exemption threshold applies for that pollutant. If BAT applies then separate stack and fugitive emission limitations can be established through BAT in the PTI.

- 13. How will a company avoid OAC rule 3745-21-07(G)(2) requirements through OAC rule 3745-21-07(G)(9)(g) after August 3, 2006 since (G)(9)(g) determinations must be made through a BAT determination and BAT doesn't apply to a source with a potential to emit (taking into account air pollution controls installed on the source) of less than ten tons per year (e.g., 7.3 TPY will be the G2 sources PTE)?**

BAT applies if the post 21-07(G)(9)(g) determination results in emissions of 10 tons or more (i.e., if the BAT determination results in ten tons or more of OC then they can receive a (G)(9)(g) exemption). If the determination is less than ten tons then BAT does not apply and the company cannot receive a (G)(9)(g) exemption and the limits under OAC rule 3745-21-07(G)(2) would apply. This scenario only applies to new or OAC Chapter 31 modifications as described above.

- 14. Our office has a BAT permitting issue not covered by these Q&A's. What is the next step?**

You should first discuss the issue with your central office DO/LAA permit contact. It would be helpful to other DO/LAA staff if you draft the issue as a Q&A and send it to your central office DO/LAA permit contact to be included in future updates of this guidance.

- 15. Is there any sample permit language to address this requirement after August 3, 2006?**

Yes. DAPC has drafted several example permits under different permitting scenarios and has sent these to DO/LAA staff. Below is some suggested permit language:

- A. Voluntary limits per OAC rule 3745-31-02(A) to restrict emissions to below the 10 ton/yr BAT threshold  
*Specify OAC rule 3745-31-02(A) as the applicable requirement and include the following as an Additional Term and Condition in the permit:*

"Permit to Install XX-XXXXX for this air contaminant source takes into account the following voluntary restrictions (including the use of any applicable air pollution control equipment) as proposed by the permittee for the purpose of avoiding Best Available Technology (BAT) requirements under OAC rule 3745-

31-05(A)(3):

- a. [list control equipment for pollutant XYZ];
- b. list other synthetic minor limits..."

- B. Clarifying statement for sources with uncontrolled potential to emit criteria pollutant(s) below the 10 ton/yr BAT threshold  
*Cite ORC 3704.03(T)(4) as the applicable requirement and include the following as an Additional Term and Condition in the permit:*

"The Best Available Technology (BAT) requirements under OAC rule 3745-31-05(A)(3) do not apply to the [list applicable criteria pollutant(s)] from this air contaminant source since the uncontrolled potential to emit for [list applicable criteria pollutant(s)] is less than ten tons per year."

- C. Clarifying statement for sources with a calculated annual emission rate below the 10 ton/yr BAT threshold due to a federally enforceable rule limit (e.g., SIP, MACT NSPS, etc.)  
*Cite ORC 3704.03(T)(4) as the applicable requirement and include the following as an Additional Term and Condition in the permit:*

"The Best Available Technology (BAT) requirements under OAC rule 3745-31-05(A)(3) do not apply to the [list applicable criteria pollutant(s)] from this air contaminant source since the calculated annual emission rate for [list applicable criteria pollutant(s)] is less than ten tons per year taking into account the federally enforceable rule limit of [list rule limit] under [list SIP, MACT, NSPS, etc. rule limit]."