

TO BE RESCINDED

3745-35-07

Enforceable limitations on potential to emit.

[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" section at the end of rule 3745-35-01 of the Administrative Code.]

- (A) For purposes of this rule, "potential to emit" means the maximum capacity of a stationary source to emit any federally regulated air pollutant, as defined in paragraph (DD) of rule 3745-77-01 of the Administrative Code, under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit a federally regulated air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator as defined in paragraph (B) of rule 3745-77-01 of the Administrative Code or legally and practicably enforceable by the state. The term does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.
- (B) Enforcement limitations on the potential to emit of a source may be established through any of the following mechanisms:
- (1) Terms and conditions of a final permit-to-install issued by the director under Chapter 3745-31 of the Administrative Code;
 - (2) Terms and conditions of a final permit-to-operate issued under this chapter, provided that only those terms and conditions necessary to limit the potential to emit of the source and expressly designated as federally enforceable shall be federally enforceable, and provided further that the permit was first issued as a draft or proposed action with an opportunity for public comment under rule 3745-47-05 of the Administrative Code with concurrent notice and opportunity for comment given to administrator of the United States environmental protection agency region five. During the public comment period, if the administrator objects that the terms and conditions of the permit-to-operate are not federally enforceable, the director shall not issue the permit-to-operate until such objection has been resolved; or
 - (3) Rules or orders of the director that are submitted to and approved by the administrator as revisions to the state implementation plan under sectionsSections 110 and 112(l) of the Clean Air Act.

Upon the request of the owner or operator of a stationary source, any of the

mechanisms provided in paragraph (B)(1), (B)(2), or (B)(3) of this rule shall allow for trading of emissions increases and decreases among emissions units located at the same source that is consistent with the Clean Air Act for the purpose of complying with a federally enforceable cap on the potential to emit of the source. Such limitations shall ensure that the trades are quantifiable and enforceable and require seven-day advance notification to the appropriate Ohio environmental protection agency district office or delegated local air agency.

(C) In order to be federally enforceable, a limitation must:

- (1) Specify an annual limit on emissions from the source;
- (2) Specify a short-term limit on emissions for each pollutant to be restricted, and specify a short-term limit on production or operation, provided that for purposes of this rule, acceptable short-term limitations on production or operation shall include, but not be limited to, a thirty-day average or three hundred and sixty-five-day rolling average limitation computed each calendar day, a monthly limitation, or a rolling twelve-month summation limitation; and
- (3) Specify adequate and enforceable methods for establishing compliance with the annual and short-term limits, using methods from 40 CFR Part 60, Appendix A or 40 CFR Part 51, Appendix M where appropriate; and
- (4) Be no less stringent than any federally applicable requirement to which the source is subject.

(D) Approval of this rule by the administrator is a prerequisite of federal enforceability of limitations under paragraph (B)(2) of this rule.

Effective: 06/30/2008

R.C. 119.032 review dates: 07/03/2007

CERTIFIED ELECTRONICALLY

Certification

06/02/2008

Date

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