

**OHIO ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL**

Ohio Administrative Code Rules 3745-14-11,
3745-15-01, 3745-15-06, and 3745-17-07 –
Startup, Shutdown or Malfunction and
Scheduled Maintenance Rules

Interested Party Review
December 14, 2016

**Comments of the Ohio Chemistry Technology Council,
the Ohio Chamber of Commerce, the Ohio Manufacturers' Association,
and API Ohio on Ohio EPA's Draft Rule Language for
the Startup, Shutdown or Malfunction and Scheduled Maintenance Rules**

I. Introduction

The Ohio Chemistry Technology Council, the Ohio Chamber of Commerce, the Ohio Manufacturers' Association, and API Ohio (the "Commenters") respectfully submit the following comments in response to Ohio EPA's Interested Party Review draft amendments to Ohio's startup, shutdown, and malfunction (SSM) rules in response to U.S. EPA's finding of "substantial inadequacy" and SIP Call to amend provisions applying to excess emissions during SSM periods.

The Ohio Chemistry Technology Council represents the interests of over 80 chemistry industry-related companies doing business in Ohio. The Ohio Chamber of Commerce represents the interests of over 8,000 member companies, including manufacturers, utilities, and small businesses, in addition to hosting the Ohio Small Business Council. The Ohio Manufacturers' Association represents the interests of over 1,400 member companies to protect and grow Ohio manufacturing. And API is the only national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API's more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. The Commenters' members are regulated by Ohio's Clean Air Act State Implementation Plan (SIP) and have a direct and substantial interest in the Ohio SIP's SSM provisions.

The Commenters generally support Ohio EPA's response to the SSM SIP Call and endorse the agency's efforts to improve its malfunction reporting rule. The Commenters would recommend modifying the proposed definition of "malfunction" to remove the exclusion for equipment failures caused only in part by poor maintenance or careless operation. They would modify the scheduled maintenance rule to allow owners or operators to continue operating when shutting down would be unsafe. They would further modify the malfunction rule to impose work practice standards during equipment failures. They would expand the availability of alternative emission limits to minor sources. And they would allow the adoption of alternative emission limits that are not equivalent to emission limits applicable during normal operation. The Commenters would also suggest

a variety of non-substantive revisions to the draft rules to make the rules clearer and more consistent. A narrative description of the Commenters' proposed changes follows. A red-line version showing the recommended changes is also attached.

II. Proposed Amendments to Ohio Adm.Code 3745-15-01

A. Substantive Comments

The Commenters generally support Ohio EPA's draft proposed definition of "malfunction." However, Ohio EPA's proposal to exclude "[e]quipment failures * * * caused *in part* * * * by poor maintenance or careless operation" from the definition of malfunction is impractical. Requiring Ohio EPA to determine whether poor maintenance or careless operation played *any* role in causing a malfunction would force Ohio EPA and owners/operators into evidentiary battles over causation. And, if the proposed exclusion leads to a *presumption* of causation – in other words, if future Ohio EPA employees or delegated local air agencies come to presume that any "poor maintenance or careless operation" must have caused, at least "in part," any equipment failure – the exclusion would unfairly prejudice owners/operators.

The "in part" exclusion is also unnecessary. The definition of "malfunction" includes a requirement that the failure not be "reasonably preventable." If "poor maintenance or careless operation" helped cause an equipment failure in part, but the failure still was "not reasonably preventable" for other reasons, then Ohio EPA should still consider the failure a malfunction. Ohio EPA should remove the words "in part" from the proposed definition of "malfunction."

B. Non-Substantive Comments

The Commenters also offer two suggestions for improving the consistency of the definitions in Ohio Adm.Code 3745-15-01.

First, the list of machinery in Ohio EPA's draft definition of "malfunction" is inconsistent with the list in Ohio Adm.Code 3745-15-06(B), the malfunction rule. The proposed definition of "malfunction" pertains to "air pollution control equipment, process equipment, process monitoring equipment [and] a process * * * ." The terms "process equipment," "process monitoring equipment," and "process" are not defined in Ohio Adm.Code Chapter 3745-15. The malfunction rule, in comparison, applies to "any emission source, air pollution control equipment, or related facility * * * ." Ohio EPA should revise the proposed definition for "malfunction" to match the language used in the malfunction rule.

Second, in the existing definition of "owner or operator" (currently at Ohio Adm.Code 3745-15-01(U)), the term "emission source" is redundant. A facility or operation is not a "source" unless it "emits or may emit any air pollutant." Ohio Adm.Code 3745-15-01(X). Thus, all "sources" are "emission sources." Ohio EPA should remove the word "emission" from the definition of "owner or operator."

III. Proposed Amendments to Ohio Adm.Code 3745-15-06

A. Scheduled Maintenance

1. Substantive comments

The Commenters generally support Ohio EPA's draft amendments to Ohio Adm.Code 3745-15-06(A). The draft rule change would eliminate the "Director's discretion" that U.S. EPA has deemed unacceptable and, instead, convert the criteria for the Director's case-by-case authorization to bypass air pollution control equipment for maintenance into mandatory, self-executing "work practice" standards.

However, Ohio EPA's proposed definition of "malfunction" (in Ohio Adm.Code 3745-15-01) contradicts existing subparagraph (A)(1). Currently, if an owner/operator schedules maintenance to prevent a failure of air pollution control equipment that would otherwise occur within two weeks, Ohio Adm.Code 3745-15-06(A)(1) requires the owner/operator to treat that outage as a malfunction. But Ohio EPA has proposed to define "malfunction" as a "sudden, infrequent, and not reasonably preventable failure of air pollution control equipment." Proposed Ohio Adm.Code 3745-15-01(P) (emphasis added). An air pollution control equipment failure that is foreseen and prevented is not a "malfunction" under Ohio EPA's proposed (and appropriate) definition. The Commenters would recommend deleting subparagraph (A)(1).

Under subparagraph (A)(3), Ohio EPA's proposed work practice and notification requirements for scheduled maintenance apply "where a complete source shutdown may result in damage to the source or is otherwise impossible or impractical * * *." The Commenters recommend that Ohio EPA add the words "or unsafe" after "impractical," for obvious and compelling public policy reasons.

Additionally, Ohio EPA should delete proposed subparagraph (A)(6). The work practice standards that Ohio EPA has proposed adding to paragraph (A) would apply in lieu of any otherwise applicable SIP emission limits or control requirements. Compliance with those work practice standards would not be a "deviation" from any emission limit, and it should not be a deviation from any permit term or condition, unless the owner/operator has failed to comply with the notification requirements in paragraph (A).

2. Non-substantive comments

The Commenters would also suggest three additional, non-substantive amendments to Ohio Adm.Code 3745-15-06(A). First, there is an extra period at the end of subparagraph (A)(3)(c). Second, in subparagraphs (A)(4)(a) and (b), Ohio EPA should replace the phrase "shutdown period" with "scheduled maintenance," as it did in the proposed revisions to subparagraph (A)(3)(f). Third, in proposed subparagraph (A)(5), Ohio EPA has unnecessarily converted two simple verbs into lengthier noun phrases. Ohio EPA should revise the beginning phrase "Within five business days of completion of the scheduled maintenance" to read, "Within five business days of completing the scheduled maintenance." And Ohio EPA should revise the phrase "shall provide notification to the director" to read, "shall notify the director."

B. Malfunctions

1. Substantive comments

The Commenters recognize that Ohio Adm.Code 3745-15-06(B) was not part of the SSM SIP Call and that, consequently, Ohio EPA has proposed only minimal amendments to that paragraph. Though EPA has not mandated further amendments to paragraph (B), Ohio EPA has proposed changes to the inextricably interrelated paragraph (C). The Commenters urge Ohio EPA to clarify the ambiguities in both paragraphs and turn the malfunction criteria into work-practice standards, as Ohio EPA has proposed to do with the scheduled maintenance requirements in paragraph (A).

First, Ohio EPA should more clearly articulate the emission threshold for malfunction reporting and work practices so they apply only to malfunctions that cause a meaningful increase in emissions. Ohio EPA should also remove any implication that the owner/operator must determine it has violated the law to satisfy the malfunction reporting obligations. When a malfunction occurs, the operator is unlikely to “immediately” know, or perhaps ever know, the amount of emissions from the source in question, in the units of measure and the compliance averaging time specified in the underlying applicable requirement. The rule-based compliance test method and the form of the compliance obligation can further complicate the assessment. The reporting trigger must therefore necessarily provide for good-faith, informed judgment calls on the part of the operator. Additionally, the emission rate threshold that triggers the duty to report malfunctions should be as clear, simple, and understandable as possible. A trigger that is indeterminable or that leads owners and operators to over-report environmentally insignificant or trivial events serves no useful purpose.

The Commenters suggest the trigger to report a malfunction should be the release (or expected release) of emissions in excess of the source’s potential to emit, expressed in pounds per hour. Put differently, the malfunction notification requirements should kick in when the mass rate of emissions exceeds the lesser of the physically achievable and legally allowable mass rate of emissions, consistent with the familiar definition of potential to emit that Ohio EPA has used for permitting for over four decades. The definition of “potential to emit” in Ohio Adm.Code 3745-31-01(BBBBB) incorporates the limits on allowable emissions in the applicable SIP, and either directly or indirectly caps the lb/hr emission rate for the unit/pollutant combination. This recommended language is generally in line with historical practice, but more clearly expressed.

Tying malfunction reporting to permit limits, as Ohio EPA has proposed to do, is problematic. Emission limitations under which the allowable rate of mass emissions varies with the level of operating capacity or throughput (such as lb/MMBtu, gr/dscf, lbs per ton of process weight rate, or percent reduction emission limits) presuppose normal operation of emission units and control systems. SIP emission limitations that reduce the mass rate of allowable emissions when the source reduces capacity or throughput inherently reduce emissions more than is necessary to attain and maintain the NAAQS. When a rare, unavoidable, non-normal malfunction event occurs, the premise of sliding scale emission limits meant for representative normal operations does not apply. Ohio EPA should not intend to impose SIP malfunction obligations in the overkill zone Ohio EPA has elected to

regulate (pursuant to section 116 of the Clean Air Act) when sources are operating as designed and intended. It makes no sense to require a malfunction report when the resulting emissions are far below the maximum allowable emission rate in the SIP for the unit/pollutant combination. Using applicable emission limitations, converted to a pound-per-hour mass emissions rate, as the trigger for malfunction reporting and work practices is conservative, but not unduly conservative.

In addition, the Commenters encourage Ohio EPA to convert the criteria for malfunctions in subparagraph (B)(1)(d) into mandatory, self-executing work practice standards, like Ohio EPA's proposed scheduled maintenance work practice standards in paragraph (A). The malfunction work practice standards should require owners or operators to take all practicable measures to minimize the duration of the malfunction (reflecting the current requirement in subparagraph (B)(1)(d)(ii)). They should require the owner or operator to implement alternative operating procedures and interim control measures to reduce adverse effects on public health or welfare (reflecting the current requirement in subparagraph (B)(1)(d)(iii)). Moreover, subparagraph (B) should give owners/operators the option, as an alternative, to follow SSM requirements in federal technology-based standards, such as NSPS and MACT standards, that directly or indirectly apply to the same unit/pollutant combination.

2. Non-substantive comments

The Commenters would also suggest eight non-substantive revisions.

First, the introductory paragraph's description of the rule's scope is incorrect. Ohio EPA should remove the words "of air pollution control equipment" from paragraph (B).

Second, in the first sentence of subparagraph (B)(1), the phrase "In the event that" is unnecessarily wordy, and the term "emission source" is redundant. Ohio EPA should replace them with "If" and "source."

Third, if Ohio EPA accepts the Commenters' suggested changes to the proposed definition of "malfunction," that definition will make clear that the malfunction rule applies to sources, air pollution control equipment, and related facilities. Rather than repeating that language in subparagraph (B)(1), Ohio EPA should replace that language with the newly defined term "malfunction."

Fourth, subparagraph (B)(1) inconsistently and incorrectly describes the person to whom its requirements apply. The first sentence requires "the person responsible" to notify Ohio EPA of any malfunction. The second sentence requires the "source operator" to submit a written statement after any malfunction lasting longer than 24 hours. Ohio EPA uses the more broadly defined term "owner or operator" in other sections of Ohio Adm.Code 3745-15-06, and it should use the same term here.

Fifth, the second sentence of subparagraph (B)(1) makes clear that a malfunction can last for more than a day. However, the proposed revision would require the owner or operator to submit a written statement "within one week of the date the malfunction occurred." Because malfunctions can last for more than one "date," Ohio EPA should

clarify whether the written statement is due within one week of the malfunction's beginning or end.

Sixth, Ohio EPA should revise subparagraph (B)(1)(a) to be consistent with the language it used in subparagraph (A)(3)(a) ("The identification, including the facility identification number, and location of the source.").

Seventh, Ohio EPA should revise subparagraphs (B)(2) and (B)(3) to replace each instance of the ambiguous and undefined term "equipment" with the terms used in subparagraph (B)(1) ("source, air pollution control equipment, or related facility"), for consistency and greater clarity.

Eighth, Ohio EPA should take this opportunity to clean up the awkward language in existing subparagraph (B)(2). Ohio EPA wrote the paragraph in passive voice, making it unclear who must provide the required notification. Ohio EPA should revise the subparagraph to clarify that the "owner or operator" must provide the notification. In the second sentence, it is unnecessary to repeat the purpose of the notification. And Ohio EPA should replace the phrases "again in operation" and "if the duration of the malfunction is twenty-four hours or less" with the clearer and more compact phrases "operating again" and "if the malfunction lasts twenty-four hours or less."

C. Director's Evaluation

Under current law, Ohio Adm.Code 3745-15-06(C) provides a means for the Director to review and evaluate any report submitted pursuant to Ohio Adm.Code 3745-15-06(A) or (B) or Ohio Adm.Code 3745-17-07(A)(3)(c) or (B)(1)(f) and "take appropriate action" if an owner or operator has not complied with those paragraphs' requirements. U.S. EPA included paragraph (C) in its SSM SIP Call because "it is the regulatory mechanism by which exemptions are granted in" Ohio Adm.Code 3745-15-06(A)(3) and 3745-17-07 and because U.S. EPA believed paragraph (C) gave Ohio EPA's Director insufficiently bounded discretion to "excuse excess emissions." 78 Fed. Reg. 12,460, 12,519 (Feb. 22, 2013) (proposed rule); *see also* 80 Fed. Reg. 33,840, 33,967 (June 12, 2015) (final rule). In response, Ohio EPA has proposed to modify paragraph (C) so it applies only to malfunctions (and not to scheduled maintenance).

Portions of the first sentence of proposed paragraph (C) are inconsistent with the definition of "malfunction" proposed in Ohio Adm.Code 3745-15-01, for two reasons. First, the proposed paragraph (C) would authorize the director to take action if the equipment "was not properly maintained prior to the malfunction," whether that lack of proper maintenance caused the malfunction or not. Under the proposed definition of "malfunction," however, a failure to perform adequate maintenance is relevant only if the poor maintenance *caused* the malfunction. Second, the proposed paragraph (C) would authorize the director to consider whether "the malfunction was avoidable" when determining what action to take. But by definition, under the proposed definition of "malfunction," a "malfunction" is "not reasonably preventable."

But instead of modifying paragraph (C) to correct these issues, the Commenters urge Ohio EPA to delete all but the first sentence of the second paragraph. The first

paragraph is unnecessary. Ohio EPA does not need to reassert the Director's ability to "take appropriate action" if any owner or operator fails to follow paragraph (B)'s reporting requirements, fails to show that their equipment failure qualifies as a malfunction, or fails to comply with paragraph (B)'s work practice standards. R.C. 3704.03(R) and 3704.06 give Ohio EPA's Director clear authority to respond to violations of the agency's rules. And the second sentence of the second paragraph is misleading. If Ohio EPA converts the criteria in the first paragraph of proposed paragraph (C) into work practice standards, as the Commenters have suggested, then non-compliance with emission limits or permit terms and conditions that apply during normal source operation would be irrelevant. Instead, an owner or operator would have to report a malfunction as a deviation only if the owner/operator failed to comply with the notification requirements or work practice standards for malfunctions.

The Commenters support including the first sentence of the second paragraph, which makes clear that reporting a malfunction is not equivalent to admitting a violation of any applicable emission standard. But the remainder of paragraph (C) is either redundant, unnecessary, or misleading. The first sentence of the second paragraph should be moved to paragraph (B), and paragraph (C) should be omitted from the final rules.

D. Alternative Emission Limits

1. Substantive comments

The Commenters support Ohio EPA's proposal to let owners or operators obtain source-specific emission limitations (including work practice standards) in lieu of the otherwise applicable malfunction or scheduled maintenance requirements of 15-06. But the Commenters would recommend several amendments to the proposed language.

In proposed subparagraph (E)(1)(a), Ohio EPA should clarify what it means by "any state or federal permitting authority [that] has been delegated to the director." The Commenters do not believe Ohio EPA would necessarily be free to approve alternatives to emission limits set by applicable NSPS or NESHAP/MACT standards.

In proposed subparagraph (E)(1)(b), Ohio EPA has limited the availability of source-specific permit terms for SSM to situations where "the use of control equipment is technically infeasible." The Commenters believe this restriction is too narrow. In many cases, the SIP does not specify any control requirement during SSM conditions, so the source-specific SSM terms will fill in a gap. In other cases, the owner or operator may desire SSM work practices or emission limits different from those applicable during normal source operation (based on environmental, safety, or practical considerations) whether or not "control equipment is technically infeasible." Ohio EPA should delete the phrase "where the use of the control equipment for the source is technically infeasible."

In proposed paragraph (E)(2)(a), Ohio EPA has suggested allowing an alternative "numerical emission limit" during SSM periods, but would require such limits to be "equivalent to emission levels during other modes of operation of the source * * *." The Commenters urge Ohio EPA to remove that language. U.S. EPA's SIP Call recognized that "[s]ome equipment during startup and shutdown may be unable to meet the same

emission limitation that applies during steady-state operations and so alternative limitations for startup and shutdown may be appropriate.” 80 Fed. Reg. 33,840, 33,915 (June 12, 2015). Moreover, it is unclear how a permit holder would demonstrate that a requested alternative numerical emission limit is “equivalent to emission levels during other modes of operation * * * under best engineering practices for the unit.” Ohio EPA should omit the requirement that any alternative limit be “equivalent to” emissions during normal source operations.

Under proposed paragraph (E)(2)(b), owners/operators would require a permit to use the SSM provisions applicable to a unit under Part 60 (NSPS) or Part 63 (NESHAP/MACT). The Commenters believe the SSM compliance provisions in federal NSPS or NESHAP rules should be available to source owners and operators, in lieu of any different SIP SSM requirements, through an administrative amendment to an existing PTIO or Title V permit, rather than a full-blown permitting process. The Commenters recommend above that Ohio EPA should include the option of following applicable Part 60 or Part 63 SSM provisions in the work practice standards in paragraph (B).

Proposed subparagraphs (E)(3)(d) and (e) are inappropriate and redundant of subparagraph (E)(3)(g). Many sources, including electric generating units, cannot control the frequency and duration of operation in startup or shutdown mode. And sources lack the ability to model the impact of emissions on ambient air quality during startup and shutdown. Regardless, the requirement to operate facilities “[a]t all times *** in a manner consistent with good engineering practice for minimizing emissions” should accomplish the same goals as proposed subparagraphs (E)(3)(d) and (e). The Commenters recommend Ohio EPA omit those proposed subparagraphs.

Proposed subparagraphs (E)(3) and (E)(4) currently limit the availability of alternative emission limits to major sources that have or require Title V permits (i.e., those subject to Ohio Adm.Code Chapter 3745-77). The Commenters believe Ohio EPA should also allow non-Title V sources to seek alternative limits, subject to the PTIO permitting requirements in Ohio Adm.Code Chapter 3745-31.

Finally, the Commenters urge Ohio EPA to consider streamlining the process for incorporating alternative emissions limits into existing Title V permits and PTIOs, particularly where a source seeks to incorporate an alternative emission limit or work practice standard established under an applicable NSPS or NESHAP/MACT standard.

2. Non-substantive comments

In proposed subparagraph (E)(1)(a), Ohio EPA has omitted the word “that” before “has been delegated to the director.”

IV. Proposed Amendments to Ohio Adm.Code 3745-17-07

Ohio EPA’s proposal to limit the availability of the malfunction/shutdown exception to the opacity limits for stack emissions and fugitive dust, so that the exception would not apply to malfunctions that cause a nuisance under Ohio Adm.Code 3745-15-07, is impractical. The nuisance rule has nothing to do with the SSM SIP Call, and there is no

way for a source owner or operator to know what is or is not a public nuisance until after a case-by-case adjudication. Ohio EPA should delete the portions of the proposed amendments to Ohio Adm.Code 3745-17-07 that reference Ohio Adm.Code 3745-15-07.

V. Conclusion

The Ohio Chemistry Technology Council, the Ohio Chamber of Commerce, the Ohio Manufacturers' Association, and API Ohio appreciate the opportunity to comment on Ohio EPA's Interested Party Review draft rulemaking in response to U.S. EPA's finding of "substantial inadequacy" and SIP Call to amend provisions applying to excess emissions during SSM periods. Ohio EPA's proposed amendments to Ohio Adm.Code 3745-15-01, 3745-15-06, and 3745-17-07 offer several improvements over existing law. And the Commenters believe the changes recommended above, and illustrated in the attached red-lines, will result in a clearer, streamlined, more efficient, and more easily understood regulatory scheme for operation during scheduled air pollution control equipment maintenance and malfunctions. The Commenters look forward to the opportunity to work with Ohio EPA as it progresses with this rulemaking.

Very truly yours,

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Definitions.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (BB) of this rule titled "referenced materials."]

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) "Air pollutant" or "air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor or odorous substances, or any combination thereof.
- (C) "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.
- (D) "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.
- (E) "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.
- (F) "ASME" means the "American Society of Mechanical Engineers."
- (G) "ASTM" means the "American Society for Testing and Materials."
- (H) "Area" means the state of Ohio.
- (I) "Clean Air Act" or "CAA" means the federal Clean Air Act.
- (J) "Control equipment" means any device or contrivance which prevents or reduces emissions.
- (K) "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.

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- (L) "Director" means the director of the Ohio environmental protection agency.
- (M) "Emission" means the act of releasing or discharging an air pollutant into the ambient air from any source.
- (N) "Existing source" means any source the construction of which was commenced prior to February 15, 1972.
- (O) "Facility" means any building, structure, installation, operation, or combination thereof which contains one or more stationary source of air contaminants.
- (P) "Malfunction" means a sudden, infrequent, and not reasonably preventable failure of any emission source, air pollution control equipment, or related facility air pollution control equipment, process equipment, process monitoring equipment or a process to operate in a normal or usual manner. Equipment failures that are caused in part or whole by poor maintenance or careless operation are not malfunctions.
- ~~(P)~~(Q) "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.
- ~~(Q)~~(R) "New source" means any source the construction or modification of which is commenced on or after February 15, 1972.
- ~~(R)~~(S) "Non-methane hydrocarbon" means any chemical compound containing carbon but excluding: carbon monoxide, carbon dioxide, carbides, metallic carbonates, ammonium carbonate, and methane.
- ~~(S)~~(T) "Ohio EPA" or "OEPA," means the Ohio environmental protection agency or the director as the context or other law or rules may require.
- ~~(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

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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).

~~(AA)~~(BB) Referenced materials. This chapter includes references to certain subject matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials, as well as the date of and/or the particular edition or version of the material is included in this rule. For materials subject to change, only the specific version specified in this rule are incorporated. Material is referenced 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 included unless and until this rule as been amended to specify the new dates.

(1) Availability. The referenced materials 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 use 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~~

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~~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 use at most public libraries and "The State Library of Ohio."~~

~~(e)~~(a) 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>~~ <http://www.ecfr.gov>. The CFR compilations are also available for inspection and use at most public libraries and "The State Library of Ohio."

~~(d)~~(b) 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://www.gpo.gov/fdsys/>. The U.S.C compilations are also available for inspection and use 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, 2014 Code of Federal Regulations.
- (b) 40 CFR Part 355; "Emergency Planning and Notification;" as published in the July 1, 2014 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 April 3, 2014 in Volume 27 of the 2012 Edition of the United States Code.

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3745-15-06

Malfunction of equipment; scheduled maintenance; reporting.

(A) Scheduled maintenance of air pollution control equipment shall be conducted according to the following [work practice and notification requirements](#):

~~(1) For the purposes of this rule, maintenance of air pollution control equipment which is scheduled to prevent a malfunction which would occur within two weeks if the maintenance were not performed shall be considered to be a malfunction and shall be subject to the provisions of paragraph (B) of this rule.~~

~~(2)~~ (1) Except as otherwise indicated in ~~paragraph~~ [paragraphs](#) (A)(3) and (A)(5) of this rule, scheduled maintenance of air pollution control equipment, that requires ~~the shutdown~~ [shutting down](#) or bypassing ~~of said the~~ equipment, must be accompanied by the shutdown of the associated ~~air pollution sources~~ [source](#).

~~(3)~~ (2) In cases where a complete source shutdown may result in damage to the ~~air pollution sources~~ [source](#) or is otherwise impossible, ~~or~~ impractical, ~~or unsafe,~~ the owner or operator ~~may request authorization to continue operating the sources during the scheduled maintenance of air pollution control equipment. Any such request shall be made in a written report shall notify the director~~ at least two weeks prior to the planned shutdown of the air pollution control equipment. The ~~director shall authorize the shutdown of the air pollution control equipment if, in his judgment, the situation justifies continued operation of the sources. Any written report submitted pursuant to this paragraph~~ [notification](#) shall contain the following:

(a) ~~Identification~~ [The identification, including the facility identification number,](#) and location of the ~~specific~~ source for which air pollution control equipment will be taken out of service. ~~The identification shall include the Ohio environmental protection agency permit application number.~~

(b) The expected length of time that the air pollution control equipment will be taken out of service.

(c) The nature and estimated quantity of emissions of ~~air contaminants which are regulated~~ [air pollutants](#) likely to occur ~~during the shutdown period from all affected emission units at the facility during the scheduled maintenance, compared to the maximum authorized emissions of the same air pollutants from all affected emission units at the facility during normal operations.~~

(d) Measures such as the use of off-shift labor and equipment that will be

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taken to minimize the length of the shutdown period.

- (e) The reasons ~~that why~~ it will be impossible or impractical to shut down the source operation during the scheduled maintenance period.
- (f) A ~~demonstration that all feasible~~ description of the interim control measures that will be taken to reduce emissions from the source during the ~~shutdown period~~ scheduled maintenance.

~~(4)~~(3) In cases where a complete source shutdown during the scheduled maintenance of air pollution control equipment may result in damage to the source or sources or is otherwise impossible, or impractical, or unsafe, the owner or operator shall comply with the following work practice standards:

- (a) All practicable measures shall be taken to minimize the duration of the ~~shutdown period~~ scheduled maintenance.
- (b) All feasible interim control measures shall be taken to reduce emissions from the source during the ~~shutdown period~~ scheduled maintenance.

~~(5)~~(4) Within five business days of ~~completion of~~ completing the scheduled maintenance of air pollution control equipment identified in paragraph (A)(3) of this rule, the owner or operator of the source shall ~~provide notification to notify~~ the director that the scheduled maintenance activity has been completed including any deviations from the initial notification.

~~(6)~~ The exceedance of any emission limit or term and condition of a permit shall be reported in accordance with chapter 3745-77 of the Administrative Code or paragraph (D) of rule 3745-15-03 of the Administrative Code.

(B) Malfunctions ~~of air pollution control equipment~~ shall be reported as follows:

- (1) In the event ~~if~~ that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause a malfunction causes, or in the judgment of the owner or operator may cause, the emission of air contaminants in violation of any applicable law excess of the applicable emission standard as a result of a malfunction potential to emit of such source, as defined in OAC 3745-31-01, expressed in pounds per hour, the ~~person responsible for such source, equipment or facility~~ owner or operator shall immediately notify the Ohio environmental protection agency district office or delegate agency of such ~~failure or breakdown~~ malfunction. If the malfunction continues for more than ~~seventy-two~~ twenty-four hours, the ~~source~~ owner or operator shall provide a written statement to the director within ~~two weeks~~ one week of the date the malfunction ~~occurred~~ ended. The immediate notification and written statement shall include the following data:

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- (a) The identification, including the facility identification number, and location of ~~such equipment including the Ohio environmental protection agency permit application number for each air contaminant~~ the source.
- (b) The estimated or actual duration of breakdown.
- (c) The nature and estimated quantity of air contaminants which have been or may be emitted into the ambient air during the breakdown period.
- (d) Statements demonstrating the following:
 - (i) Shutdown or reduction of source operation during the breakdown period will be or would have been impossible, unsafe, or impractical.
 - (ii) The estimated breakdown period will be or was reasonable in duration based on installation or repair time, delivery dates of equipment, replacement parts, or materials, or current unavailability of essential equipment, parts, or materials.
 - (iii) Available alternative operating procedures and interim control measures will be or have been implemented during the breakdown period to reduce adverse effects on public health or welfare.
 - (iv) All actions necessary and required by any applicable preventive maintenance and malfunction abatement plan will be or have been implemented.
- (2) The owner or operator shall notify the Ohio environmental protection agency district office or delegate agency ~~shall be notified~~ when the condition causing the failure or breakdown has been corrected and the source, air pollution control equipment, or related facility equipment ~~is again in operation~~ operating again. Notification of the correction of the condition causing the failure or breakdown may be given verbally if the duration of the malfunction is lasts ~~seventy-two~~ twenty-four hours or less. Otherwise, such notification shall be in writing.
- (3) Within two months following a failure or breakdown which exceeded ~~seventy-two~~ twenty-four hours in duration, the owner or operator of the source, air pollution control equipment, or related facility ~~such equipment~~ shall prepare and submit a detailed report which identifies a program to prevent, detect and correct, as expeditiously as practicable, similar future failures or breakdowns of such equipment.

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(3)(4) The initial notification and written report required by this rule does not constitute an admission of a violation of the applicable emission standard limitation.

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(5) During a malfunction, the owner or operator shall comply with the following work practice standards:

(a) All practicable measures shall be taken to minimize the duration of the malfunction.

(b) Alternative operating procedures and interim control measures shall be implemented to reduce adverse effects on public health or welfare during the malfunction.

(6) As an alternative to the work practice standards in paragraph (B)(5) of this rule, the owner or operator may elect to comply during a malfunction, with the alternative emission limits or work practice standards set forth in any standard promulgated by the United States Environmental Protection Agency in 40 C.F.R. Part 60 or Part 63 that applies to the same unit/pollutant type combination.

~~(C) The director retains the responsibility to evaluate any report submitted pursuant to this rule. The director shall take appropriate action upon a determination that the reporting requirements of this rule have not been satisfied, that the equipment was not properly operated and maintained prior to breakdown, that shutdown of the source or operation during the period of maintenance or breakdown was or has become practicable, that the shutdown or breakdown was or has become avoidable, or was induced or prolonged in bad faith, or that the emissions endanger or tend to endanger the health or safety of the public.~~

~~(C) The director shall evaluate each known malfunction and subsequent notification or report that is filed and any other relevant information and take appropriate action based on the magnitude and duration of the emissions as a result of the malfunction, if it is determined that the reporting requirements of the rule have not been satisfied, that the source or associated air pollution control equipment was not properly maintained prior to the malfunction, that shutdown of the source during the malfunction was or has been practicable, that the malfunction was avoidable, that the malfunction was induced or unnecessarily prolonged in bad faith, or that the excess emissions during the malfunction endanger or tend to endanger the health and safety of the public.~~

~~The initial notification and written report required by this rule does not constitute an admission of a violation of the applicable emission standard. Any malfunction that is subsequently determined to be in excess of an allowable emission limitation or contrary to another permit term and condition shall be properly reported under paragraph (D) of rule 3745-15-03 or Chapter 3745-77 of the Administrative Code.~~

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| ~~(D)~~(C) If, in the judgment of the director, excessive or unduly prolonged malfunctions of any emission source, air pollution control equipment or related facility have occurred, the director may require the owner or operator of said source, equipment or related facility to prepare, submit and implement a preventive maintenance and malfunction abatement plan which is acceptable to the director. Such plan shall be designed to prevent, detect and correct malfunctions or equipment failures which could result in emissions exceeding any applicable law.

- (1) Each preventive maintenance and malfunction abatement plan shall be in writing and specify the following:
 - (a) A comprehensive preventive maintenance program, including a description of the items or conditions that will be inspected, the frequency of these inspections or repairs, and an identification of the types and quantities of the replacement parts which will be maintained in inventory for quick replacement.
 - (b) An identification of the source and the operating outlet variables of the air

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pollution control equipment that will be monitored in order to detect a malfunction or failure, the normal operating range of these variables, and a description of the monitoring or surveillance procedures and of the method of informing operating personnel of any malfunction, including alarm systems, lights or other indicators.

- (c) A description of the corrective procedures that will be taken in the event of a malfunction or failure in order to achieve compliance with any applicable law as expeditiously as practicable.
- (2) Any acceptable preventive maintenance and malfunction abatement plan shall be specified in the terms and conditions of any permit or variance issued for a source covered by such plan.
- (3) Operation and maintenance records shall be maintained by the owner or operator of the source to demonstrate that any preventive maintenance and malfunction abatement plan is fully implemented. All such records shall be maintained for a minimum of two years and shall be subject to inspection by the director or his representative upon request.

~~(E)~~(D) Alternative emissions limits applicable to operations during periods of startup, shutdown, malfunction, and scheduled maintenance.

(1) Applicability.

- (a) Paragraph (E) of this rule shall apply to any new or existing source that has a permit containing emissions limits under any state or federal permitting authority that has been delegated to the director.
- (b) An owner or operator of a source may request that the director establish by permit one or more site-specific alternative emissions limits to apply during the periods of start-up, shut down or malfunction, or other operating periods where the use of the control equipment for the source is technically infeasible.

(2) Form of alternative emissions limits.

Alternative emissions limits may be in a different form than the emissions limit applicable to each unit during other modes of operation, provided that the alternative emission limit is one of the following forms, and results in a system of emissions limits that are applicable at all times:

- (a) A numerical emission limit equivalent to emission levels during other modes of operation of the source, under reflecting best engineering practices for

the unit.

- (b) A numerical alternative emission limit or work practice standard established under a federal new source performance standard or national emission standard for hazardous air pollutant that is applicable to a unit during one or more of the modes of operation outlined in paragraph (E)(1)(b) of this rule.
- (c) A work practice standard representative of best engineering practices for the unit.

(3) Content of alternative emissions limit requests.

Requests shall be made through, and compliant with, the permit application, permit modification, or permit renewal requirements in Chapters 3745-31 or 3745-77 of the Administrative Code. In addition, each application shall include the following:

- (a) Each alternative emission limitation shall meet all applicable levels of stringency for the type of emission limitation, for example, the limitation meets BACT for the purposes of PSD permitting program purposes.
- (b) All requested alternative emission limits must be legally and practically enforceable.
- (c) Alternative emission limitations or work practices shall be limited to specific, narrowly defined source categories (or to a single source or related group of sources) using specific control strategies, for example, cogeneration facilities burning natural gas and using selective catalytic reduction.
- ~~(d) The source shall take steps to minimize, to the extent practicable, the frequency and duration of operation in startup or shutdown mode.~~
- ~~(e) The source shall take steps to minimize the impact of emissions on ambient air quality during startup and shutdown.~~
- ~~(f)~~(d) The source shall analyze the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation, and include the results of that analysis in the alternative emissions limitation plan.
- ~~(g)~~(e) At all times, the facility shall be operated in a manner consistent with good engineering practice for minimizing emissions, including efforts regarding planning, design, and operating procedures.

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~~(h)~~(f) The owner or operator's actions during startup and shutdown periods shall be documented by contemporaneous operating logs or other relevant evidence.

- (4) Alternative emissions limit issuance, modifications, revisions, revocations, reopenings, and termination.

The issuance of, and any subsequent modification to (including revision, revocation, reopening, or termination), alternative emissions limits shall be made in accordance with the requirements contained in Chapters 3745-31 or 3745-77 of the Administrative Code.

- (a) Initial issuance.

The initial application for and issuance of alternative emissions limits shall be made in accordance with paragraph (C)(3) of rule 3745-77-08 or paragraph (D)(3) of rule 3745-31-07 of the Administrative Code.

- (b) Subsequent modifications.

Subsequent modifications to alternative emissions limits shall be made in accordance with paragraph (C)(1) of rule 3745-77-08 or paragraph (D)(1) of rule 3745-31-07 of the Administrative Code.

~~(F)~~(E) During routine maintenance of add-on pollution controls, an owner or operator of a coke oven battery is exempt from the provisions of any permit-to-install or permit-to-install and operate issued under Chapter 3745-31 of the Administrative Code or any permit-to-operate issued under Chapter 3745-77 of the Administrative Code if all of the following occur:

- (1) Routine maintenance of the add-on control in any rolling twenty-four-month period does not exceed fourteen days.
- (2) Routine maintenance is conducted in a manner consistent with good air pollution control practices for minimizing emissions.
- (3) A report is submitted to the director ten days prior to the start of the routine maintenance containing an explanation of the schedule of the maintenance.

~~(G)~~(F) During routine maintenance of add-on pollution controls, an owner or operator of a glass melting furnace is exempt from the provisions of any permit-to-install or permit-to-install and operate issued under Chapter 3745-31 of the Administrative Code or any permit-to-operate issued under Chapter 3745-77 of the Administrative Code if the following occur:

- (1) Routine maintenance in each calendar year does not exceed six days.

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- (2) Routine maintenance is conducted in a manner consistent with good air pollution control practices for minimizing emissions.
- (3) A report is submitted to the director ten days before the start of the routine maintenance (if ten days cannot be provided, the report must be submitted as soon as practicable) and the report contains an explanation of the schedule of the maintenance.

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3745-17-07 Control of visible particulate emissions from stationary sources.

[Comment: For dates [and availability](#) 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 (C) of rule 3745-17-01 of the Administrative Code titled "~~Incorporation by-~~ ~~reference~~referenced materials."]

(A) Visible particulate emission limitations for stack emissions:

(1) General limitations:

- (a) Except as otherwise specified in paragraphs (A)(1)(b), (A)(2) and (A)(3) of this rule, visible particulate emissions from any stack shall not exceed twenty per cent opacity, as a six-minute average.
- (b) Except as otherwise specified in paragraphs (A)(2) and (A)(3) of this rule, visible particulate emissions from any stack may exceed twenty per cent opacity, as a six-minute average, for not more than six consecutive minutes in any sixty minutes, but shall not exceed sixty per cent opacity, as a six-minute average, at any time.

(2) It shall be deemed not to be a violation of this rule where the presence of uncombined water is the only reason for failure of a stack emission to meet ~~the requirements of~~ this rule.

(3) The visible particulate emission limitations established in paragraph (A)(1) of this rule shall not apply to the following:

(a) The start-up of the following fuel burning equipment:

- (i) For any fuel burning equipment which are equipped with baghouses or electrostatic precipitators, until the exhaust gases have achieved a temperature of two hundred fifty degrees Fahrenheit at the inlet of the baghouses or electrostatic precipitators, provided that the director may incorporate a higher start-up temperature in the permit or variance for such source for which an applicant demonstrates to the satisfaction of the director that the higher temperature is needed for safety considerations or to prevent damage to the control equipment.
- (ii) For any fuel burning equipment which are uncontrolled or which are equipped solely with mechanical collectors (including mechanical collectors which are equipped with sidestream separators or similar devices) for the control of particulate emissions, for a period of not more than three hours from the moment of start-up, provided that the director may incorporate a longer start-up time period in the permit or variance for such source for which an applicant demonstrates to the satisfaction of the director that the longer time period is required.

(b) The shutdown of the following fuel burning equipment:

- (i) For any fuel burning equipment which are equipped with baghouses or electrostatic precipitators, after the temperature of the exhaust gases has dropped below two hundred fifty degrees Fahrenheit at the inlet of the baghouses or electrostatic precipitators, provided that the director may incorporate a higher shutdown temperature in the permit or variance for such source for which an applicant demonstrates to the satisfaction of the director that the higher temperature is needed for safety considerations or to prevent damage to the control equipment.

Commented [BP1]: Please note, OAC rule 3745-17-07 is currently also undergoing a rulemaking as part of a review required by ORC 106.03 (5-year review). Red and Blue highlighted language was previously released for a 30-day comment period ending July 8, 2016. As part of the 5-year review.

For the purposes of this rulemaking package, DAPC is only requesting comments on the yellow highlighted rule language. DAPC will either finalize the 5-year review language prior to proposing the yellow highlighted (SSM) changes to the Joint Committee on Agency Rule Review (JCARR) or will combine all draft language from both draft rulemaking packages prior to proposing an amended rule to the JCARR.

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- (ii) For any fuel burning equipment which are uncontrolled or which are equipped solely with mechanical collectors (including mechanical collectors which are equipped with sidestream separators or similar devices) for the control of particulate emissions, for a period of not more than three hours, provided that the director may incorporate a longer shutdown time period in the permit or variance for such source for which an applicant demonstrates to the satisfaction of the director that the longer time period is required.
- (c) The malfunction of any air contaminant source or the malfunction/shutdown of air pollution control equipment associated with any air contaminant source that does not cause an exceedance or violation of a national ambient air quality standard ~~or cause a violation of rule 3745-15-07 of the Administrative Code~~, if the owner or operator of said air contaminant source or air pollution control equipment complies with ~~the requirements of~~ rule 3745-15-06 of the Administrative Code and none of the conditions listed in paragraph (C) of rule 3745-15-06 of the Administrative Code exists.
- (d) Intermittent soot-blowing operations (the cleaning of heat transfer surfaces with pressurized air or steam) for fuel burning equipment which are uncontrolled or which are equipped solely with mechanical collectors (including mechanical collectors which are equipped with sidestream separators or similar devices) for the control of particulate emissions, provided that the owner or operator of such fuel burning equipment maintains a daily record which clearly documents the date, beginning time and ending time for all intermittent soot-blowing operations.
- (e) Salt glazing operations conducted in a gas-fired periodic brick or tile kiln, for a period of not more than two hours during any twenty-one consecutive days of operation of said kiln.
- (f) Intermittent ash removal operations (the dumping or pulling of ash) for fuel burning equipment which are uncontrolled or which are equipped solely with mechanical collectors (including mechanical collectors which are equipped with sidestream separators or similar devices) for the control of particulate emissions, provided that the owner or operator of such fuel burning equipment maintains a daily record which clearly documents the date, beginning time and ending time for all intermittent ash removal operations.
- (g) The commencement of increased coal firing from a banked condition for fuel burning equipment, for a period not to exceed thirty minutes.
- (h) Any air contaminant source which is not subject to any mass emission limitation in paragraphs (B)(3) and (B)(4) of rule 3745-17-08 of the Administrative Code, or rule 3745-17-09, 3745-17-10 or 3745-17-11 of the Administrative Code.
- (i) Any air contaminant source for which an equivalent visible particulate emission limitation has been established by the director pursuant to paragraph (C) of this rule.
- (j) The following kiln operations at the facility (OEPA premise number 0372000127) located at 755 Lime Road, Woodville, Ohio, provided that "Martin Marietta Magnesia Specialties, Inc.," or any subsequent owner or operator of such facility, maintains daily records that clearly document the dates, beginning times, and ending times for the operations:
 - (i) The start-up of any kiln equipped with a baghouse, until the time stone feed to the kiln begins.
 - (ii) The start-up of any kiln equipped with an electrostatic precipitator, from the time the stone feed

Commented [BP2]: Highlighted language added for Startup, Shutdown/Malfunction and Scheduled Maintenance rulemaking.

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to the kiln begins until the time a stable firing condition for the solid fuel is achieved, but not longer than six hours from the time firing with the solid fuel begins.

- (iii) The shutdown of any kiln equipped with a baghouse, after the time the temperature of the exhaust gases from the kiln has dropped below two hundred fifty degrees Fahrenheit at the inlet of the baghouse.

For the purposes of this paragraph, "start-up" shall be defined as the point of commencement of firing the kiln until such time as the process is operating in a steady-state condition using its primary fuel. A steady-state condition is present when the throughputs of process material, fuel and combustion air have been stabilized in a manner that demonstrates the combustion process will be consistently complete and safe, with an exhausted combustibles concentration within established safety limits.

(B) Visible particulate emission limitations for fugitive dust:

- (1) Except as provided in paragraphs (B)(2) to (B)(11) of this rule, visible particulate emissions from any fugitive dust source shall not exceed twenty per cent opacity as a three-minute average.
- (2) Except as provided in paragraph (B)(11) of this rule, visible particulate emissions from the fugitive dust sources associated with a coke oven battery shall comply with the following:

- (a) There shall be no visible particulate emissions from any charging operations except for a period of time not to exceed one hundred twenty-five seconds during any five consecutive charges. One charge, which represents the charge with the highest visible particulate emissions value of twenty consecutive charges observed, may be exempted from this visible particulate emission limitation.
- (b) At no time shall there be visible particulate emissions from more than ten per cent of the offtake piping.
- (c) At no time shall there be visible particulate emissions from more than five per cent of the charging hole lids.

(d) For visible particulate emissions from oven doors, the following:

- (i) ~~For the Still coke oven battery (OEPA source number B919) at the "Arneo Steel Company, L.P., - Middletown Works" (OEPA premise number 1409010006), located on Crawford street, Middletown, Ohio, at no time shall there be visible particulate emissions from more than sixteen per cent of the oven doors~~ Reserved.
- (ii) ~~For all other coke oven batteries, at~~ At no time shall there be visible particulate emissions from more than ten per cent of the oven doors. Two oven doors, which represent the last oven charged prior to the commencement of visible particulate emission readings performed in accordance with paragraph (B)(2)(c) of rule 3745-17-03 of the Administrative Code, shall be exempted from this visible emission limitation.
- (iii) For purposes of this paragraph, an oven door and the associated chuck door on the pusher side of the battery shall be considered as one door.

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- (e) Visible particulate emissions during any pushing operations shall not exceed an average of twenty per cent opacity read above the battery top. For purposes of this paragraph, the duration of a pushing operation shall commence with the moving (or pushing) of the coke mass from an oven and shall conclude when the quench car enters the quench tower.
- (3) Except as provided in paragraph (B)(11) of this rule, visible particulate emissions of fugitive dust from electric arc furnace shop roof monitors, argon-oxygen decarburization shop roof monitors, blast furnace csthouses and sintering operations shall not exceed twenty per cent opacity as a six-minute average.
- (4) Except as provided in paragraphs (B)(7), (B)(8), and (B)(11) of this rule, there shall be no visible particulate emissions from any paved roadway or parking area except for a period of time not to exceed six minutes during any sixty-minute observation period, as determined in accordance with paragraph (B)(4) of rule 3745-17-03 of the Administrative Code.
- (5) Except as provided in paragraphs (B)(7), (B)(8), and (B)(11) of this rule, there shall be no visible particulate emissions from any unpaved roadway or parking area except for a period of time not to exceed thirteen minutes during any sixty-minute observation period, as determined in accordance with paragraph (B)(4) of rule 3745-17-03 of the Administrative Code.
- (6) Except as provided in paragraphs (B)(7) to (B)(11) of this rule, there shall be no visible particulate emissions from any material storage pile except for a period of time not to exceed thirteen minutes during any sixty-minute observation period, as determined in accordance with paragraph (B)(4) of rule 3745-17-03 of the Administrative Code.
- (7) Except as provided in paragraph (B)(11) of this rule, visible particulate emissions from any roadway, parking area, material handling operation, or coal storage pile located at facilities owned or operated by "Buckeye Power, Inc., Cincinnati Gas & Electric Company, The Cleveland Electric Illuminating Company, Columbus Southern Power Company, Dayton Power & Light Company, Ohio Edison Company, Ohio Power Company, and The Toledo Edison Company" or any subsequent owners or operators of such facilities shall not exceed any of the following limitations:
- (a) For any paved or unpaved roadway or parking area, the following:
- (i) Ten per cent opacity, as determined in Accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code, for the following facilities:
- [~~reserved~~Reserved.]
- (ii) No visible particulate emissions from any paved roadway or parking area, except for a period of time not to exceed six minutes during any sixty-minute observation period, or from any unpaved roadway or parking area, except for a period of time not to exceed thirteen minutes during any sixty-minute observation period, as determined in accordance with paragraph (B)(4) of rule 3745-17-03 of the Administrative Code, for all other facilities not identified in paragraph (B)(7)(a)(i) of this rule.
- (b) Twenty per cent opacity for any material handling operation (including loading coal into or loading coal out of any coal storage pile), as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code; . -
- (c) Twenty per cent opacity from the operation of vehicles on top of any coal storage pile (emissions

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from the combustion of fuels in such vehicles are not subject to this limitation), as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code; ~~and~~.

- (d) No visible particulate emissions from any coal storage pile due to wind erosion, except for a period of time not to exceed thirteen minutes during any sixty-minute observation period, as determined in accordance with paragraph (B)(4) of rule 3745-17-03 of the Administrative Code.
- (8) Except as provided in paragraph (B)(11) of this rule, visible particulate emissions from any roadway, parking area, or material storage pile located at iron and steel production facilities owned and operated by "Empire Detroit Steel Company, LTV Steel Company, Republic Engineered Steels, Incorporated, The Timken Company, or USS/KOBE Steel Company" or any subsequent owner or operator of such facilities shall not exceed any of the following limitations:
 - (a) Ten per cent opacity for any paved or unpaved roadway or parking area, as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code;.
 - (b) Twenty per cent opacity for any material handling operation (including loading coal into or loading coal out of any coal storage pile), as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code;.
 - (c) Ten per cent opacity from the operation of vehicles on top of any material storage pile, where such vehicles are employed for the purpose of compacting, grading or transporting materials (emissions from the combustion of fuels in such vehicles are not subject to this limitation), as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code; ~~and~~.
 - (d) Ten per cent opacity from wind erosion of any material storage pile, as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code.
- (9) ~~Within thirty days after the effective date of this rule, the "Ford Motor Company, Cleveland Casting Plant" (OEPA premise number 1318120180) or any subsequent owner or operator of the "Ford Motor Company, Cleveland Casting Plant" located at 5600 Henry Ford Boulevard, Brook Park, Ohio shall submit a written notification to the director which indicates whether, for the control of fugitive dust generated from any material storage pile located at such facility, it will comply with either the visible particulate emission limitation in paragraph (B)(6), or the visible particulate emission limitation in paragraph (B)(6) except that fugitive dust emissions from loading material into or out of any material storage pile shall not exceed a visible particulate emission limitation of twenty per cent opacity, as determined in accordance with paragraph (B)(3) of rule 3745-17-03 of the Administrative Code. In such notification, "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility shall choose between the visible particulate emission limitations. Except as otherwise provided in paragraph (B)(10) of this rule, after submitting such written notification indicating which visible particulate emission limitation it will comply with, "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility will be subject to and shall comply with such visible particulate emission limitation(s) [\[Reserved\]](#).~~
- (10) ~~After selecting a visible particulate emission limitation(s) option pursuant to paragraph (B)(9) of this~~

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~~rule, in the event that "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of the "Ford Motor Company, Cleveland Casting Plant" subsequently desires to be subject to and to comply with the other identified visible particulate emission limitation(s) option identified in paragraph (B)(9) of this rule, "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility may so notify the director by submitting a written notification which clearly indicates that "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility desires to be subject to and shall comply with the alternative visible particulate emission limitation(s) option. To be effective, any such written notification shall expressly identify the specific date on which "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility desires to be subject to the alternative option and shall be submitted no later than thirty days prior to such date. In the event that "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility complies with the written notification provisions contained in this paragraph, "Ford Motor Company, Cleveland Casting Plant" or any subsequent owner or operator of such facility shall become subject to and shall comply with the alternative visible particulate emission limitation(s) option as of the date specifically identified in the written notification~~ [\[Reserved.\]](#).

(11) The visible particulate emission limitations specified in paragraphs (B)(1) to (B)(9) of this rule shall not apply to the following:

- (a) Ship loading spouts at grain terminals;
- (b) Blasting at mineral extraction operations;
- (c) Blowing taps, poling and oxygen lancing of the tap hole and casting operations associated with ferroalloy electric arc furnaces;
- (d) Any fugitive dust source which is exempted from ~~the requirements of~~ paragraph (B) of rule 3745-17-08 of the Administrative Code;
- (e) Any fugitive dust source which is not located within the geographical areas specified in appendix A of rule 3745-17-08 of the Administrative Code, unless the director, in accordance with paragraph (A)(2) of rule 3745-17-08 of the Administrative Code, requires the owner or operator to submit and implement a control program which will bring the fugitive dust source into compliance with ~~the requirements of~~ paragraph (B) of rule 3745-17-08 of the Administrative Code; ~~and~~
- (f) The malfunction of any air contaminant source or the malfunction/shutdown of air pollution control equipment associated with any air contaminant source ~~that does not cause an exceedance or violation of a national ambient air quality standard or cause a violation of rule 3745-15-07 of the Administrative Code~~, if the owner or operator of said air contaminant source or air pollution control equipment complies with ~~the requirements of~~ rule 3745-15-06 of the Administrative Code and none of the conditions listed in paragraph (C) of rule 3745-15-06 of the Administrative Code exists.
- (g) Any fugitive dust for which a visible particulate emission limitation has been established in rule 3745-17-12 or 3745-17-13 of the Administrative Code.

Commented [BP3]: Highlighted language added for Startup, Shutdown/Malfunction and Scheduled Maintenance rulemaking.

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(12) It shall be deemed not to be a violation of this rule where the presence of uncombined water is the only reason for failure of a fugitive dust emission to meet ~~the requirements of~~ this rule.

(C) Equivalent visible particulate emission limitations:

(1) For the purpose of establishing an equivalent visible particulate emission limitation for stack emissions subject to a mass-based, particulate emission limitation, any owner or operator of an air contaminant source which is subject to ~~the requirements of~~ paragraph (A)(1) of this rule may request the director to determine the average opacity of the emissions from said source during any performance ~~test(s) test~~ conducted pursuant to paragraph (B) of rule 3745-17-03 of the Administrative Code. Any such request shall be made in writing at the time the test specifications and procedures are submitted to the director pursuant to paragraph (B)(6) of rule 3745-17-03 of the Administrative Code.

(2) If, upon review of such owner's or operator's written report of the results of the performance ~~test(s) test~~, it is the director's judgment that the air contaminant source is in compliance with all applicable emission limitations for which the performance tests were conducted, but fails to comply with ~~the requirements of~~ paragraph (A)(1) of this rule, the director shall notify the owner or operator as expeditiously as practicable that he may request the director to establish an equivalent visible particulate emission limitation for the source. Such request shall be made in writing ~~within~~ not later than thirty days following receipt of the notification from the director.

(3) Any written request for an equivalent visible particulate emission limitation from an owner or operator of an air contaminant source shall include information which demonstrates the following:

(a) That the performance tests were conducted in accordance with the conditions and procedures accepted by the director pursuant to paragraph (B)(6) of rule 3745-17-03 of the Administrative Code; ~~and~~

(b) That the air contaminant source and any associated air pollution control equipment were operated and maintained in a manner so as to minimize the opacity of the emissions during the performance ~~test(s) test~~.

(4) If an owner or operator of an air contaminant source complies with ~~the requirements of~~ paragraphs (C)(1) to (C)(3) of this rule, the director may establish an equivalent visible particulate emission limitation for said source in accordance with the procedures described in the Ohio EPA, Division of Air Pollution Control documents entitled "Engineering Guide #13" and "Engineering Guide #15." Any such equivalent visible particulate emission limitation shall be specified in the terms and conditions of the permit, variance or order issued by the director for said source.

(D) Any revision approved by the director in accordance with paragraphs (A)(3)(a)(i), (A)(3)(a)(ii), (A)(3)(b)(i), and (A)(3)(b)(ii) of this rule shall not revise the federally enforceable requirements of the state implementation plan until approved by the ~~United States environmental protection agency~~ USEPA.