

**Northern Ohio Chapter Air & Waste
Management Association
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**Legislation To Modernize
And Streamline Ohio's Air
Pollution Control Program**

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Ohio Air Legislation

Goal of the legislation is to remove unnecessary regulatory burdens in the air pollution program, to increase Ohio's ability to compete for investment in new or expanded facilities without impeding the progress in improving air quality.

Ohio Air Legislation

The legislation is supported by a coalition of business and manufacturing associations:

- Ohio Chemistry Technology Council
- Ohio Chamber of Commerce
- Ohio Manufacturers Association
- NFIB Ohio
- Ohio Petroleum Council
- Ohio Cast Metals Association
- Ohio Contractors Association

Ohio Air Legislation

The legislation aligns Ohio's air pollution regulatory program with the federal Clean Air Act and other states in a way that:

- a) Removes requirements that are more stringent or beyond those that are imposed by the Clean Air Act;
- b) Removes requirements that must be negotiated on a permit-by-permit basis, thereby making the permitting process faster and less expensive
- c) Allows new or modified sources to be installed quicker and with greater flexibility; and
- d) Provides liability protection in common law nuisance actions.

Ohio Air Legislation

The bill has six components

1. Limit Ohio EPA's authority to regulate pollutants when issuing PTIs to:
 - a) Pollutants regulated under the federal Clean Air Act, and
 - b) Any other pollutant identified by name in an administrative rule adopted by Ohio EPA.

A regulation identifying additional pollutants must be accompanied by a statement of the scientific basis for regulating each pollutant, and must satisfy the criteria in the Clean Air Act for listing additional pollutants.

A regulation is subject to legislative oversight by JCARR, and can be appealed to the ERAC.

Permit-by-permit implementation of the "air toxics policy" to unlisted pollutants would be unlawful (as was intended by H.B. 106 in 1996).

Ohio Air Legislation

2. Requires Ohio EPA to adopt administrative rules defining BAT for minor sources above a defined threshold of 10 tons per year for criteria pollutants and one ton per year for hazardous pollutants, either controlled or uncontrolled.

Has the effect of extinguishing minor source BAT that must be negotiated on a permit-by-permit basis by requiring the Agency to create a clear BAT program.

Minor sources must still comply with applicable emissions standards and demonstrate non-interference with NAAQS attainment and maintenance.

10 ton threshold developed by the Permit Processing Efficiency Committee which concluded that eliminating BAT on sources emitting less than 10 tons per year would have little effect on the amount of pollutants emitted to the ambient air.

Ohio Air Legislation

3. Provides that ORC Chapter 3704 is to be applied in a manner that is consistent with and no more stringent than the Clean Air Act.
4. Prohibits permit conditions that have the effect of imposing requirements that are more stringent than applicable regulations.
 - a) Monitoring methods and frequency;
 - b) Operating restrictions.

Ohio Air Legislation

5. Allows an applicant to install a new or modified source while a PTI application is pending.

Source may not operate until the permit is issued.

6. Provides that compliance with applicable regulations and permit terms is an affirmative defense to a nuisance action.

Ohio Air Legislation

The bill does *not* do the following:

- 1) Repeal or relax any existing emission standards.
- 2) Alter any Clean Air Act requirements.
- 3) Allow for an increase in aggregate emissions.
- 4) Prevent Ohio EPA from regulating pollutants beyond those regulated under the Clean Air Act.
- 5) Broaden current exemptions from the requirement to obtain PTI's and PTO's.
- 6) Allow sources that have installed controls under existing permits to remove the controls.