

Publications

Client Alert: Ohio EPA Proposes Revisions to Best Available Technology Program

Related Professionals

Ryan D. Elliott

Anthony J. Giuliani

Related Services

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On May 1, 2013, Ohio EPA published [notice](#) of proposed revisions to its Best Available Technology (BAT) program. Under Ohio's air pollution control law, BAT is defined as:

any combination of work practices, raw material specifications, throughput limitations, source design characteristics, an evaluation of the annualized cost per ton of pollutant removed, and air pollution control devices that have been previously demonstrated to the director of environmental protection to operate satisfactorily in this state or other states with similar air quality on substantially similar air pollution sources. ORC 3704.01.

New sources and modifications to existing sources must be installed with BAT to minimize emissions from the source. Owners or operators applying for air pollution permits for new or modified sources are required to provide their recommendations for BAT to minimize air emissions from the source. The proposed revisions will incorporate into Ohio EPA's BAT program, BAT-specific amendments to Ohio's air pollution control law that were enacted in 2006, and will impact two of the four case-by-case options for BAT determinations – the *Work Practices* option and the *Source Design Characteristics or Design Efficiency of Applicable Air Contaminant Control Devices* option. Specific revisions include, but are not limited to, a requirement to establish BAT for each pollutant emitted for each operating scenario where there is a difference in emissions and provisions specifying which types of BAT will have an ongoing compliance obligation that includes monitoring, record keeping, reporting and testing requirements.

Ohio EPA plans to implement the proposed revisions through modifications to [OAC 3745-31-05](#) and Ohio EPA's [BAT Requirements for Permit Applications Filed On or After August 3, 2009](#) guidance document. It should be noted that, if approved, the proposed revisions will only affect new BAT determinations. Previously issued BAT determinations will remain in effect.

Comments on the proposed revisions to Ohio's BAT program are due by May 31, 2013. If you have questions regarding the implications or scope of this proposal, please contact Anthony Giuliani at 614.464.6279 or ajgiuliani@vorys.com.