

**BEFORE THE ENVIRONMENTAL REVIEW APPEALS COMMISSION
STATE OF OHIO**

The City of Hilliard, Ohio
3800 Municipal Way
Hilliard, Ohio 43026

Appellant.

v.

John Logue
Director
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

Appellee.

ERAC Case No. 25-7227

NOTICE OF APPEAL

Notice is hereby provided that the City of Hilliard, Ohio, is appealing to the Environmental Review Appeals Commission from the final action of John Logue, Director of Ohio EPA, taken on October 8, 2025. A true and accurate copy of the action being appealed is attached hereto as Exhibit A.

FACTUAL BACKGROUND

AEP Ohio proposes to locate several hundred small air contaminant sources that it refers to collectively as the AEP Ohio Hilliard Fuel Cell Facility at the site of an Amazon Web Services (AWS) data center, proposed to be built at 4120 Scioto Darby Creek Road, Hilliard Ohio, within the municipal limits of the City of Hilliard Ohio. In pursuit of that proposal, AEP Ohio submitted an application to the Ohio Environmental Protection Agency (OEPA) seeking a permit-to-install and operate (PTIO) these contaminant sources on or about July 31, 2025. On October 8, 2025, the Director of OEPA issued the requested PTIO to AEP Ohio, thereby approving the construction and operation of the proposed Fuel Cell Facility.

ASSIGNMENTS OF ERROR

FIRST ASSIGNMENT OF ERROR

The Director's action was unreasonable and/or unlawful because he did not notify the City of Hilliard Ohio of the action he proposed to take prior to issuing his final action. The City of Hilliard, Ohio is, however, a political subdivision of the State of Ohio. Ohio Revised Code section 3745.07 requires the Director to provide the City of Hilliard with notice of any proposed final action by OEPA, before taking such action. Such notice, obviously, is intended to allow political subdivisions that will be impacted by such actions an opportunity to evaluate the action, consider other effects the proposal may have on the subdivision, then decide whether to object to that action and compel a public hearing on the application and proposed action.

In this case, however, the Director failed to provide the City of Hilliard with such notice, thereby depriving the city of the protections and opportunities R.C. 3745.07 guarantees it. The City therefore appeals the Director's action as an illegal and unreasonable deprivation of rights and protections granted it by statute.

SECOND ASSIGNMENT OF ERROR

The Director's action is unreasonable and/or unlawful because, upon information and belief, the City and its residents are exposed to increased public safety risks associated with the proposed technology that the City has not had an opportunity to identify, and to an increase in the total emission of pollutants attributable from industries within the City.

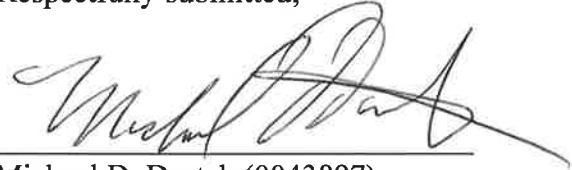
THIRD ASSIGNMENT OF ERROR

The City reserves the right to amend this notice of appeal, or to modify the basis for this appeal, as additional information is made available to it.

RELIEF REQUESTED

Appellant respectfully requests that this Commission determine that the Director has acted unreasonably and / or unlawfully by issuing the PTI. Appellant respectfully asks, in addition, that this Commission ORDER the Director to vacate his action of October 8, 2025; formally provide the City of Hilliard of his intent to take action, and permit the City of Hilliard, the opportunity, for itself and for the benefit of its residents, to choose whether to demand a hearing on the proposed action once the City has determined all the ways in which it might be impacted.

Respectfully submitted,

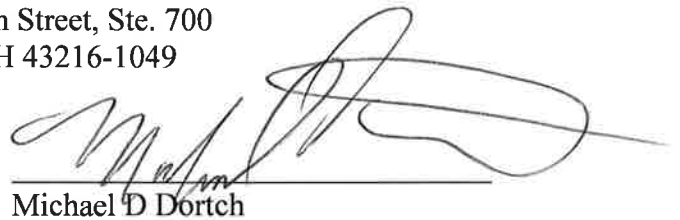


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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Notice of Appeal was served via US Mail, postage prepaid on this 7th day of November 2025 upon the following:

John Logue
Director, Ohio Environmental Protection Agency
50 West Town Street, Ste. 700
Columbus, OH 43216-1049



Michael D Dortch



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FINAL

**Division of Air Pollution Control
Permit-to-Install and Operate**

for

AEP Ohio Hilliard Fuel Cell Facility

Facility ID:	0125124032
Permit Number:	P0138549
Permit Type:	Initial Installation
Issued:	10/08/2025
Effective:	10/08/2025
Expiration:	10/08/2035



Division of Air Pollution Control

Permit-to-Install and Operate

for

AEP Ohio Hilliard Fuel Cell Facility

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Final Permit-to-Install and Operate

AEP Ohio Hilliard Fuel Cell Facility

Permit Number: P0138549

Facility ID: 0125124032

Effective Date: 10/08/2025

Authorization

Facility ID: 0125124032
Application Number(s): A0079791, A0080481
Permit Number: P0138549
Permit Description: Initial PTIO for 72.91 MW fuel cell facility.
Permit Type: Initial Installation
Permit Fee: \$750.00
Issue Date: 10/08/2025
Effective Date: 10/08/2025
Expiration Date: 10/08/2035
Permit Evaluation Report (PER) Annual Date: Jan 1 - Dec 31, Due Feb 15

This document constitutes issuance of a Permit-to-Install and Operate for the emissions unit(s) identified on the following page to:

AEP Ohio Hilliard Fuel Cell Facility
4120 Scioto Darby Creek Rd
Hilliard, OH 43026

Ohio Environmental Protection Agency (EPA) District Office or local air agency responsible for processing and administering your permit:

Ohio EPA DAPC, Central Office
50 West Town St. Suite 700
P.O. Box 1049
Columbus, OH 43216-1049
(614) 644-2270

The above-named entity is hereby granted this Permit-to-Install and Operate for the air contaminant source(s) (emissions unit(s)) listed in this section pursuant to Chapter 3745-31 of the Ohio Administrative Code. Issuance of this permit does not constitute expressed or implied approval or agreement that, if constructed or modified in accordance with the plans included in the application, the described emissions unit(s) will operate in compliance with applicable State and federal laws and regulations.

This permit is granted subject to the conditions attached hereto.

Ohio Environmental Protection Agency

Entered into the Journal of the Director on:

A handwritten signature in black ink, appearing to read "John Logue".

John Logue
Director

Date: 10/08/2025



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Final Permit-to-Install and Operate

AEP Ohio Hilliard Fuel Cell Facility

Permit Number: P0138549

Facility ID: 0125124032

Effective Date: 10/08/2025

Authorization (continued)

Permit Number: P0138549

Permit Description: Initial PTIO for 72.91 MW fuel cell facility.

Permits for the following Emissions Unit(s) or groups of Emissions Units are in this document as indicated below:

Emissions Unit ID:

P001

Company Equipment ID:

Fuel Cells

Superseded Permit Number:

General Permit Category and Type:

Not Applicable

List of Commonly Used Abbreviations

AP-42 = U.S. EPA's Compilation of Air Pollution Emissions Factors	HVLP = high volume, low pressure	PER = Permit Evaluation Report
ASTM = American Society for Testing and Materials	LAER = lowest achievable emission rate	PM = particulate matter
BACT = Best Available Control Technology	lb(s)/hr = pound(s) per hour	PM ₁₀ = particulate matter with an aerodynamic diameter less than or equal to 10 microns
BAT = Best Available Technology	LDAR = leak detection and repair	PM _{2.5} = particulate matter with an aerodynamic diameter less than or equal to 2.5 microns
CAA = Clean Air Act	LPG = liquefied petroleum gas/propane	ppb = parts per billion
CAM = compliance assurance monitoring	MACT = maximum achievable control technology	ppm = parts per million
CEMS = continuous emissions monitoring system	MAGLC = maximum acceptable ground level concentration	PSD = Prevention of Significant Deterioration
CFC = chlorofluorocarbon	mg/m ³ = milligrams per cubic meter	psi = pounds per square inch
CFR = Code of Federal Regulations	MM = million	psia = pounds per square inch absolute
CH ₄ = methane	MMBtu = million British Thermal Units	PTE = potential-to-emit
CI = compression ignition	MSDS = material safety data sheet	PTI = Permit-to-Install
CO = carbon monoxide	MSW = municipal solid waste	PTIO = Permit-to-Install and Operate
CO ₂ = carbon dioxide	NAAQS = National Ambient Air Quality Standard	PTO = Permit-to-Operate
COM = continuous opacity monitor	NESHAP = National Emission Standard for Hazardous Air Pollutants	PWR = process weight rate
DAPC = Division of Air Pollution Control	NG = natural gas	RACM = reasonably available control measures
DO/LAA = District Office/Local Air Agency	ng/m ³ = nanograms per cubic meter	RACT = reasonably available control technology
dscf = dry standard cubic foot	NH ₃ = ammonia	RATA = relative accuracy test audit
EAC = emissions activity category	NMHC = non-methane hydrocarbons	RTO = regenerative thermal oxidizer
eDocs = electronic documents database	NMOC = non-methane organic compound	SB265 = Senate Bill 265
ERAC = Environmental Review Appeals Commission	NO = nitrogen oxide	scfm = standard cubic feet per minute
ESP = electrostatic precipitator	NO ₂ = nitrogen dioxide	SI = spark ignition
EU = emissions unit	NO _x = nitrogen oxides	SIP = State Implementation Plan
FEPTIO = Federally Enforceable Permit-to-Install and Operate	NSPS = New Source Performance Standard	SO ₂ = sulfur dioxide
FER = Fee Emissions Report	NSR = New Source Review	SSMP = startup, shutdown, and malfunction plan
FR = Federal Register	NTV = Non-Title V	TDS = total dissolved solids
GACT = generally achievable control technology	O&M = operation and maintenance	TLV = threshold limit value
GHG = greenhouse gases	OAC = Ohio Administrative Code	TO = thermal oxidizer
gr/dscf = grains per dry standard cubic foot	OC = organic compound	TPH = ton(s) per hour
H ₂ S = hydrogen sulfide	Ohio EPA = Ohio Environmental Protection Agency	TPY = ton(s) per year
H ₂ SO ₄ = sulfuric acid	ORC = Ohio Revised Code	TSP = total suspended particulates
HAP = hazardous air pollutant	Pb = lead	VE = visible emissions
HCl = hydrogen chloride	PBR = Permit-By-Rule	VMT = vehicle miles traveled
HF = hydrogen fluoride	PCB = polychlorinated biphenyl	VOC = volatile organic compound
Hg = mercury	PE = particulate emissions	WPP = work practice plan
hp = horsepower	PEMS = predictive emissions monitoring system	µg/m ³ = micrograms per cubic meter



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Final Permit-to-Install and Operate

AEP Ohio Hilliard Fuel Cell Facility

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A. Standard Terms and Conditions



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Final Permit-to-Install and Operate

AEP Ohio Hilliard Fuel Cell Facility

Permit Number: P0138549

Facility ID: 0125124032

Effective Date: 10/08/2025

1. What does this permit-to-install and operate (PTIO) allow me to do?

This permit allows you to install and operate the emissions unit(s) identified in this PTIO. You must install and operate the unit(s) in accordance with the application you submitted and all the terms and conditions contained in this PTIO, including emission limits and those terms that ensure compliance with the emission limits (for example, operating, recordkeeping and monitoring requirements).

2. Who is responsible for complying with this permit?

The person identified on the "Authorization" page, above, is responsible for complying with this permit until the permit is revoked, terminated, or transferred. "Person" means a person, firm, corporation, association, or partnership. The words "you," "your," or "permittee" refer to the "person" identified on the "Authorization" page above.

The permit applies only to the emissions unit(s) identified in the permit. If you install or modify any other equipment that requires an air permit, you must apply for an additional PTIO(s) for these sources.

3. What records must I keep under this permit?

You must keep all records required by this permit, including monitoring data, test results, strip-chart recordings, calibration data, maintenance records, and any other record required by this permit for five years from the date the record was created. You can keep these records electronically, provided they can be made available to Ohio EPA during an inspection at the facility. Failure to make requested records available to Ohio EPA upon request is a violation of this permit requirement.

4. What are my permit fees and when do I pay them?

There are two fees associated with permitted air contaminant sources in Ohio:

- a) PTIO fee. This one-time fee is based on a fee schedule in accordance with Ohio Revised Code (ORC) section 3745.11 or based on a time and materials charge for permit application review and permit processing if required by the Director.

You will be sent an invoice for this fee after you receive this PTIO and payment is due within 30 days of the invoice date. You are required to pay the fee for this PTIO even if you do not install or modify your operations as authorized by this permit.

- b) Annual emissions fee. Ohio EPA will assess a separate fee based on the total annual emissions from your facility. You self-report your emissions in accordance with Ohio Administrative Code (OAC) Chapter 3745-78. This fee assessed is based on a fee schedule in ORC section 3745.11 and funds Ohio EPA's permit compliance oversight activities. For facilities that are permitted as synthetic minor sources, the fee schedule is adjusted annually for inflation. Ohio EPA will notify you when it is time to report your emissions and to pay your annual emission fees.

5. When does my PTIO expire, and when do I need to submit my renewal application?

This permit expires on the date identified at the beginning of this permit document (see "Authorization" page above) and you must submit a renewal application to renew the permit. Ohio EPA will send a renewal notice to you approximately six months prior to the expiration date of this permit. However, it is very important that you submit a complete renewal permit application (either electronically through Ohio EPA's eBusiness Center: Air Services web service or postmarked prior to expiration of this permit) even if you do not receive the renewal notice.



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If a complete renewal application is submitted before the expiration date, Ohio EPA considers this a timely application for purposes of ORC section 119.06, and you are authorized to continue operating the emissions unit(s) covered by this permit beyond the expiration date of this permit until final action is taken by Ohio EPA on the renewal application.

6. What happens to this permit if my project is delayed or I do not install or modify my source?

This PTIO expires 18 months after the issue date identified on the "Authorization" page above unless otherwise specified if you have not (1) started constructing the new or modified emission sources identified in this permit, or (2) entered into a binding contract to undertake such construction. This deadline can be extended once by 12 months, provided you apply to Ohio EPA for this extension within a reasonable time before the 18-month period has ended and you can show good cause for any such extension.

7. What reports must I submit under this permit?

An annual permit evaluation report (PER) is required in addition to any malfunction reporting required by OAC rule 3745-15-06 or other specific rule-based reporting requirement identified in this permit. Your PER due date is identified in the Authorization section of this permit.

8. If I am required to obtain a Title V operating permit in the future, what happens to the operating provisions and permit evaluation report (PER) obligations under this permit?

If you are required to obtain a Title V permit under OAC Chapter 3745-77 in the future, the permit-to-operate portion of this permit will be superseded by the issued Title V permit. From the effective date of the Title V permit forward, this PTIO will effectively become a PTI (permit-to-install) in accordance with OAC rule 3745-31-02(B). The following terms and conditions of this permit will no longer be applicable after issuance of the Title V permit: Section B, Term 1.b) and Section C, for each emissions unit, Term a)(2).

The PER requirements in this permit remain effective until the date the Title V permit is issued and is effective and cease to apply after the effective date of the Title V permit. The final PER obligation will cover operations up to the effective date of the Title V permit and must be submitted on or before the submission deadline identified in this permit on the last day prior to the effective date of the Title V permit.

9. What are my obligations when I perform scheduled maintenance on air pollution control equipment?

You must perform scheduled maintenance of air pollution control equipment in accordance with OAC rule 3745-15-06(A). If scheduled maintenance requires shutting down or bypassing any air pollution control equipment, you must also shut down the emissions unit(s) served by the air pollution control equipment during maintenance, unless the conditions of OAC rule 3745-15-06(A)(3) are met. Any emissions that exceed permitted amount(s) under this permit (unless specifically exempted by rule) must be reported as deviations in the annual permit evaluation report (PER), including nonexempt excess emissions that occur during approved scheduled maintenance.

10. Do I have to report malfunctions of emissions units or air pollution control equipment? If so, how must I report?

If you have a reportable malfunction of any emissions unit(s) or any associated air pollution control system, you must report this to the Ohio EPA DAPC, Central Office in accordance with OAC rule 3745-15-06(B). Malfunctions that must be reported are those that result in emissions that exceed permitted emission levels. It is your responsibility to evaluate control equipment breakdowns and operational upsets to determine if a reportable malfunction has occurred.



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If you have a malfunction but determine that it is not a reportable malfunction under OAC rule 3745-15-06(B), it is recommended that you maintain records associated with control equipment breakdown or process upsets. Although it is not a requirement of this permit, Ohio EPA recommends that you maintain records for non-reportable malfunctions.

11. Can Ohio EPA or my local air agency inspect the facility where the emission unit(s) is/are located?

Yes. Under Ohio law, the Director or his/her authorized representative may inspect the facility, conduct tests, examine records or reports to determine compliance with air pollution laws and regulations and the terms and conditions of this permit. You must provide, within a reasonable time, any information Ohio EPA requests either verbally or in writing.

12. What happens if one or more emissions units operated under this permit is/are shut down permanently?

Ohio EPA can terminate the permit terms associated with any permanently shut down emissions unit. "Shut down" means the emissions unit has been physically removed from service or has been altered in such a way that it can no longer operate without a subsequent "modification" or "installation" as defined in OAC Chapter 3745-31.

You should notify Ohio EPA of any emissions unit that is permanently shut down by submitting a certification that identifies the date on which the emissions unit was permanently shut down. The certification must be submitted by an authorized official from the facility. You cannot continue to operate an emission unit once the certification has been submitted to Ohio EPA by the authorized official.

You must comply with all recordkeeping and reporting for any permanently shut down emissions unit in accordance with the provisions of the permit, regulations or laws that were enforceable during the period of operation, such as the requirement to submit a PER, air fee emission report, or malfunction report. You must also keep all records relating to any permanently shut down emissions unit, generated while the emissions unit was in operation, for at least five years from the date the record was generated.

Again, you cannot resume operation of any emissions unit certified by the authorized official as being permanently shut down without first applying for and obtaining a permit pursuant to OAC Chapter 3745-31.

13. Can I transfer this permit to a new owner or operator?

You can transfer this permit to a new owner or operator. If you transfer the permit, the new owner or operator must follow the procedures in OAC Chapter 3745-31-07, including notifying Ohio EPA or the local air agency of the change in ownership or operator within thirty days of the transfer date. Any transferee of this permit shall assume the responsibilities of the transferor permit holder.

14. Does compliance with this permit constitute compliance with OAC rule 3745-15-07, "air pollution nuisance"?

This permit and OAC rule 3745-15-07 prohibit operation of the air contaminant source(s) regulated under this permit in a manner that causes a nuisance. Ohio EPA can require additional controls or modification of the requirements of this permit through enforcement orders or judicial enforcement action if, upon investigation, Ohio EPA determines existing operations are causing a nuisance.



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15. What happens if a portion of this permit is determined to be invalid?

If a portion of this permit is determined to be invalid, the remainder of the terms and conditions remain valid and enforceable. The exception is where the enforceability of terms and conditions are dependent on the term or condition that was declared invalid.



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B. Facility-Wide Terms and Conditions



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AEP Ohio Hilliard Fuel Cell Facility

Permit Number: P0138549

Facility ID: 0125124032

Effective Date: 10/08/2025

1. This permit document constitutes a PTI issued in accordance with ORC 3704.03(F) and a PTO issued in accordance with ORC 3704.03(G).
 - a) For the purpose of a PTI document, the facility-wide T&C identified below are federally enforceable with the exception of those listed below which are enforceable under state law only.
 - (1) None.
 - b) For the purpose of a PTO document, the facility-wide T&C identified below are enforceable under state law only with the exception of those listed below which are federally enforceable.
 - (1) None.



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Final Permit-to-Install and Operate

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C. Emissions Unit Terms and Conditions



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AEP Ohio Hilliard Fuel Cell Facility

Permit Number: P0138549

Facility ID: 0125124032

Effective Date: 10/08/2025

1. P001, Fuel Cells

Operations, Property and/or Equipment Description:

72.91 MW of fuel cell modules aggregated.

- a) This permit document constitutes a PTI issued in accordance with ORC 3704.03(F) and a PTO issued in accordance with ORC 3704.03(G).
 - (1) For the purpose of a PTI document, the EU T&C identified below are federally enforceable with the exception of those listed below which are enforceable under state law only.
 - a. See b)(1)d. and d)(1) below.
 - (2) For the purposes of a PTO document, the EU T&C identified below are enforceable under state law only with the exception of those listed below which are federally enforceable.
 - a. None.
- b) Applicable Emissions Limitations and/or Control Requirements
 - (1) The specific operation(s), property, and/or equipment that constitute each emissions unit along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures are identified below. Emissions from each unit shall not exceed the listed limitations, and the listed control measures shall be specified in narrative form following the table.

	Applicable Rules/Requirements	Applicable Emissions Limitations/Control Measures
a.	OAC rule 3745-31-05(A)(3)(a)(ii)	BAT requirements under OAC rule 3745-31-05(A)(3) do not apply to particulate matter (PM ₁₀ and PM _{2.5}), nitrogen oxide (NO _x), carbon monoxide (CO), sulfur dioxide (SO ₂), and volatile organic compound (VOC) emissions from the air contaminant source since the controlled and uncontrolled emissions are less than 10 tons per year.
b.	OAC rule 3745-17-07(A)	See b)(2)a. below.
c.	OAC rule 3745-17-11	See b)(2)b. below.
d.	ORC 3704.03(F)(4)(b) (Toxic Air Contaminant Statute)	See d)(1) below.

(2) Additional Terms and Conditions

- a. This emissions unit is exempt from the visible particulate emissions limitations specified in OAC rule 3745-17-07(A), pursuant to OAC rule 3745-17-07(A)(3)(h), because the emissions unit is not subject to the requirements of OAC rule 3745-17-11.



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- b. The uncontrolled mass rate of PE from the aggregate fuel cell modules is less than 10 pounds per hour. Therefore, pursuant to OAC rule 3745-17-11(A)(2)(a)(ii), Figure II of OAC rule 3745-17-11 does not apply. In addition, Table I of OAC rule 3745-17-11 does not apply because the process weight rate is equal to zero. "Process weight" is defined in OAC rule 3745-17-01(B)(22).
- c) Operational Restrictions
 - (1) The permittee shall employ only natural gas as the hydrogen source in these emissions units.
- d) Monitoring and/or Recordkeeping Requirements
 - (1) Modeling to demonstrate compliance with the Toxic Air Contaminant Statute, ORC 3704.03(F)(4)(b), was not necessary because the EU's maximum annual emissions for each toxic air contaminant, as defined in OAC rule 3745-114-01, will be less than one ton per year. OAC Chapter 3745-31 requires a permittee to apply for and obtain a new or modified PTIO prior to making a modification as defined by OAC rule 3745 31 01. The permittee is hereby advised that changes in the composition of the materials, or use of new materials, that would cause the emissions of any toxic air contaminant to increase to above one ton per year may require the permittee to apply for and obtain a new PTIO.
- e) Reporting Requirements
 - (1) The reports required by this permit may be submitted through Ohio EPA's eBusiness Center: Air Services online web portal or mailed as a hard copy to the appropriate Ohio EPA DO/LAA.
 - (2) The permittee shall submit an annual PER to Ohio EPA by the due date identified in the Authorization section of this permit. The PER shall cover a reporting period of no more than 12 months for each air contaminant source identified in this permit.
- f) Testing Requirements
 - (1) Compliance with the Emissions Limitations and/or Control Requirements specified in section b) of these terms and conditions shall be determined in accordance with the following methods:
 - a. Emissions Limitation

BAT requirements under OAC rule 3745-31-05(A)(3) do not apply to particulate matter (PM₁₀ and PM_{2.5}), nitrogen oxide (NO_x), carbon monoxide (CO), sulfur dioxide (SO₂), and volatile organic compound (VOC) emissions from the air contaminant source since the controlled and uncontrolled emissions are less than 10 tons per year.

Applicable Compliance Method

If required, the permittee shall demonstrate compliance, at the energy servers exhaust locations, with the following emissions tests:

 - i. Methods 1 - 4, performed in accordance with 40 CFR, Part 60, Appendix A.
 - ii. Methods 201A and 202, 40 CFR, Part 60, Appendix M, to measure PM₁₀ and PM_{2.5}.
 - iii. Method 6, 40 CFR, Part 60, Appendix A, to measure SO₂.



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- iv. Method 7, 40 CFR, Part 60, Appendix A, to measure NO_x.
 - v. Method 10, 40 CFR, Part 60, Appendix A, to measure CO.
 - vi. Methods 25 or 25A, 40 CFR, Part 60, Appendix A, to measure VOC.
- g) Miscellaneous Requirements
- (1) None.