

**3745-599-320 Issuance of an individual beneficial use permit.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, test methods, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-599-03 of the Administrative Code titled "Beneficial use - incorporation by reference."]

- (A) If the director determines that an individual beneficial use permit application is deficient or other documentation required to be submitted by this chapter does not provide Ohio EPA with information necessary to ascertain compliance with the applicable provisions of this chapter, Ohio EPA shall notify the applicant of the deficiencies in the application. If the applicant fails to submit a complete revised application not later than one hundred eighty days after the date of the notice that the application is deficient, the director may deny the application. If the applicant fails to provide any response not later than one hundred and eighty days after the date of the notice that the application is deficient, the director may return the deficient application to the applicant. An incomplete application will not be considered.
- (B) An individual beneficial use permit is non-transferable.
- (C) Upon receipt of a complete application for an individual beneficial use permit and a determination that the criteria for an individual beneficial use permit have been met, the director may issue an individual beneficial use permit to the applicant. The individual beneficial use permit may include conditions to prevent nuisance or adverse impacts to public health, safety, and the environment, including but not limited to conditions related to the following:
- (1) Establishment of restrictions and requirements pertaining to management of and persons responsible for management of the beneficial use byproduct proposed for beneficial use including but not limited to the following:
    - (a) Activities such as generation, processing, distribution, or placement of the beneficial use byproduct.
    - (b) Persons such as generators, processors, distributors, or landowners.
  - (2) Establishment of requirements pertaining to the characterization of the beneficial use byproducts proposed for beneficial use.
  - (3) Establishment of restrictions or standards for the beneficial use of beneficial use byproducts. The director may consider restrictions or standards that include but are not limited to the following:
    - (a) United States environmental protection agency "Regional Screening Levels."
    - (b) United States environmental protection agency "Risk Assessment of Spent Foundry Sands In Soil-Related Applications."
    - (c) Chapter 3745-1 of the Administrative Code ("Aquatic Toxicity" standards and "Water Quality" criteria).
    - (d) Chapter 3745-40 of the Administrative Code ("Sewage Sludge Program Limits").
    - (e) Chapter 3745-300 of the Administrative Code ("Voluntary Action Program" standards).
    - (f) Information regarding ambient background concentrations.
  - (4) Establishment of requirements, including BMPs pertaining to the beneficial use, management, and storage of beneficial use byproducts, including setbacks and isolation distances. The director may consider at a

minimum the following in determining appropriate BMPs:

- (a) Ohio environmental protection agency's "Rainwater and Land Development Manual."
  - (b) United States environmental protection agency's internet-based resources relating to BMPs for erosion and sedimentation, including the sector specific "Industrial Storm Water Fact Sheet Series."
  - (c) "National Menu of Best Management Practices (BMPs) for Stormwater."
  - (d) "National Management Measures to Control Nonpoint Source Pollution from Urban Areas, EPA-841-B-05-004."
  - (e) Ohio hydrologic soil groups.
  - (f) Precipitation forecasts.
  - (g) Soil temperatures.
  - (h) Other BMPs listed in Chapter 3745-40 of the Administrative Code.
- (5) Establishment of record keeping and reporting requirements.
- (6) Establishment of requirements specific to the type of beneficial use byproduct, locations of the beneficial use, and the beneficial uses authorized under the individual beneficial use permit.
- (7) Establishment of an individual beneficial use permit expiration date and individual beneficial use permit renewal procedures.
- (8) Notification requirements upon distribution of the beneficial use byproduct.
- (9) Establishment of requirements for land use restrictions including but not limited to deed restrictions and environmental covenants.
- (10) Establishment of requirements for the permittee to sample for constituents in addition to those identified in the initial beneficial use byproduct characterization demonstration and proposed compliance demonstration.
- (11) Additional terms and conditions as authorized under Chapter 3734. or 6111. of the Revised Code.
- (12) A demonstration of legitimacy in accordance with rule 3745-599-35 of the Administrative Code.
- (D) Criteria for issuance of an individual beneficial use permit. The director shall not issue an individual beneficial use permit unless the following are determined:
- (1) The permittee has submitted a complete application for an individual beneficial use permit.
  - (2) Beneficial use of the beneficial use byproduct in accordance with the permit is unlikely to create a nuisance or adversely affect public health, safety, or the environment.
  - (3) Beneficial use of the beneficial use byproduct in accordance with the permit is unlikely to cause pollution of waters of the state.
  - (4) Beneficial use of the beneficial use byproduct as authorized by the individual beneficial use permit is unlikely to cause air pollution.

(5) The issuance of the individual beneficial use permit complies with division (M) of section 3734.02 of the Revised Code.

(E) Expiration of an individual beneficial use permit. An individual beneficial use permit shall be effective for five years from the effective date of the permit unless otherwise stated in the permit, or if the permit is revoked in accordance with rule 3745-599-370 of the Administrative Code.