

3745-103-08

Permit application shield and binding effect of permit application.

[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 (C) of rule 3745-103-01 of the Administrative Code titled "Referenced materials."]

- (A) Once a designated representative submits a timely and complete acid rain permit application, the owners and operators of the affected source and the affected units covered by the permit application shall be deemed in compliance with the requirement to have an acid rain permit under paragraph (A)(2) of rule 3745-103-05 and paragraph (A)(1) of rule 3745-103-07 of the Administrative Code; provided that any delay in issuing an acid rain permit is not caused by the failure of the designated representative to submit in a complete and timely fashion supplemental information, as required by the director, necessary to issue a permit.
- (B) Prior to the earlier of the date on which an acid rain permit is issued or denied, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete acid rain permit ~~applications~~application shall be deemed to be operating in compliance with the acid rain program.
- (C) A complete acid rain permit application shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an acid rain permit from the date of submission of the complete permit application until the issuance or denial of such permit.
- (D) If a permit is appealed under 40 CFR Part 78, issuance or denial of the permit shall occur when the USEPA takes final action subject to judicial review.
- (E) 40 CFR Part 78 shall govern appeals of any final decision of the USEPA under 40 CFR Parts 72, 73, 74, 75, 76, and 77; provided that matters listed in paragraph (d) of 40 CFR 78.3 and preliminary, procedural, or intermediate decisions, such as draft acid rain permits, may not be appealed.
- (F) Filing an appeal, and exhausting administrative remedies, under 40 CFR Part 78 shall be a prerequisite to seeking judicial review. Final USEPA action occurs only when a decision appealable under 40 CFR Part 78 is issued and the procedures for appealing the decision are exhausted.

Effective:

Five Year Review (FYR) Dates: 07/31/2017

Certification

Date

Promulgated Under: 119.03
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