

3745-31-06 Completeness determinations, processing requirements, public participation, public notice, and issuance.

[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 (LLLLL) of rule 3745-31-01 of the Administrative Code titled, "referenced materials."]

(A) Completeness review time restriction.

Within sixty days after the director or the director's agent or authorized representative receives an application for the issuance of a permit to install or PTIO pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, or an application to modify such a permit, the director shall determine whether the application is substantially complete or materially deficient and shall notify the applicant, in writing, of the determination. If the director fails to make such a completeness determination and provide written notice of the determination to the applicant within sixty days after the application was submitted, the applicant may submit a written request to the director for the making of such a completeness determination.

(B) Request for completeness determination.

Within thirty days after receiving a written request for the making of a completeness determination on an application under paragraph (A) of this rule, the director shall determine whether the application is substantially complete or materially deficient and, in writing, notify the applicant of the determination. If the director fails to make a completeness determination and provide written notice of the determination to the applicant within thirty days after receiving the applicant's written request for the making of the determination, the application shall be deemed to have been complete in all material respects at the time that it was submitted to the director or the director's agent or authorized representative.

(C) Materially deficient applications.

If, within the time prescribed in paragraph (A) and, if applicable, paragraph (B) of this rule, the director or the director's agent or authorized representative determines that an application is materially deficient, the director shall return the application to the applicant. The running of the time prescribed under paragraph (A) of this rule and, if applicable, paragraph (B) of this rule ceases at the time that the determination is made. If the applicant subsequently resubmits the application to the director, the time prescribed in paragraph (A) of this rule and, if applicable, paragraph (B) of this rule shall resume running at the time that the application is resubmitted. The resubmission of the application constitutes a request for the making of a completeness determination on the application. The director shall do one of the following within the time remaining pursuant to paragraph (A) and, if applicable, paragraph (B) of this rule at the time that the application is resubmitted:

- (1) Make a completeness determination on the application and, in writing, notify the applicant of the determination;

(2) Issue or deny or propose to issue or propose to deny the permit or modification.

(D) Completeness date notification.

The director shall include in each written notice of the completeness of an application provided under paragraph (A), (B), or (C)(1) of this rule the date on which the application was determined to be complete.

(E) Permit decision time limits and issuance or denial.

A permit-to-install or PTIO shall be issued, modified or denied and may be challenged in accordance with the provisions of the rules of procedure of the Ohio environmental protection agency, Chapters 3745-47 and 3745-49 of the Administrative Code.

(1) For the purposes of this paragraph, "initial construction PTIO" means a PTIO for an air contaminant source that is not currently regulated under a permit-to-install or PTIO.

(2) Permit-to-install, initial construction PTIO, or modification.

(a) The director shall issue or deny or propose to issue or deny a permit-to-install or initial construction PTIO pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, or modification, as defined in rule 3745-31-01 of the Administrative Code, of such a permit within one hundred eighty days after the date the application for the permit or modification was determined to be complete as that date is set forth in the written notice of the determination of the completeness of the application provided under paragraph (A), (B), or (C)(1) of this rule or within one hundred eighty days after the application is deemed to be complete under paragraph (B) of this rule, as appropriate. If the director fails to issue or deny or propose to issue or deny the permit or modification within the appropriate one-hundred-eighty-day period, the applicant may bring a mandamus action to obtain a judgment that orders the director to take a final action on the application.

(3) PTIO for air contaminant sources currently regulated under a permit-to-install.

(a) The director may issue or deny or propose to issue or deny a PTIO, where the applicant holds a previously issued permit-to-install for the same air contaminant source, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code as expeditiously as practicable, except when the air contaminant source is considered a modification as defined in rule 3745-31-01 of the Administrative Code, then paragraph (E)(2) of this rule shall be applicable.

(4) Express permit-to-install or express PTIO.

(a) Within sixty days of the receipt of a complete request, the director shall notify the applicant whether the air contaminant source will be accepted for express processing of a permit-to-install or PTIO pursuant to paragraph (G) of rule

3745-31-05 of the Administrative Code. Installation or construction of the air contaminant source may commence after sixty days if the applicant has not been notified or upon the issuance of the express permit-to-install or express PTIO.

- (b) Within one hundred eighty days after a completed application is filed, the director shall issue or deny or propose to issue or deny an express permit-to-install or express PTIO.

(5) Administratively modified permit-to-install or PTIO.

The director may issue or deny or propose to issue or deny a permit-to-install or PTIO that meets the definition of an administrative modification in rule 3745-31-01 of the Administrative Code, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, as expeditiously as practicable.

(6) Renewal PTIO.

- (a) The director shall issue or deny or propose to issue or deny a renewal PTIO pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code within one hundred eighty days after the date the application for the renewal PTIO was determined to be complete as that date is set forth in the written notice of the determination of the completeness of the application provided under paragraph (A), (B), or (C)(1) of this rule or within one hundred eighty days after the application is deemed to be complete under paragraph (B) of this rule, as appropriate. If the director fails to issue or deny or propose to issue or deny the renewal PTIO within the appropriate one hundred eighty day period, the applicant may bring a mandamus action to obtain a judgment that orders the director to take a final action on the application.
- (b) In accordance with division (C) of section 119.06 of the Revised Code, when an applicant submits a timely and complete renewal application pursuant to applicable law and the terms and conditions of the PTIO, the permittee's failure to have a renewed PTIO is not a violation of this chapter. Upon expiration of the PTIO, the permittee shall continue to operate under the terms and conditions of an expired PTIO until issuance of a renewal PTIO by the director.

(F) Extension of the permit review time period for the public.

The director, upon the director's own motion or upon the written request of the applicant and in writing, may extend the time provided under paragraph (E) of this rule for issuing or denying or proposing to issue or deny the permit or modification for an additional sixty days if a public meeting or public hearing was held on the application for the permit or modification.

(G) Extensions of the permit review time period for the applicant.

Upon the written request of the applicant, the director, in writing, may extend the time provided under paragraph (E) of this rule for issuing or denying or proposing to issue or deny the permit or modification for the additional time specified in the applicant's

request for the extension.

(H) Public participation/notification requirements.

The director shall do the following:

- (1) Notify the public, by advertisement in a newspaper of general circulation in each county in which the proposed air contaminant source would be constructed and operated, of the application, the draft action (if issued), the ambient air impact that is expected from the nonattainment NSR permit or the PSD permit, if any, and of the opportunity to request a public hearing, comment at that public hearing or submit written comments on any draft action. This notice shall follow the requirements under Chapter 3745-49 of the Administrative Code.
- (2) Send a copy of the notice of public comment to the applicant, the administrator of the United States environmental protection agency, and to officials and agencies having jurisdiction over the location where the proposed air contaminant source would be built as follows:
 - (a) Any other state or local air pollution control agencies.
 - (b) The chief executives of the city and county where the air contaminant source would be located.
 - (c) Any comprehensive regional land use planning agency.
 - (d) Any federal land manager, tribal governing body, or state whose lands may be affected by emissions from the air contaminant source or modification.
- (3) For all draft action permits-to-install or PTIOs, upon request, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the air contaminant source, alternatives to it, the control technology required, and other appropriate considerations.
- (4) Consider all written comments submitted within the period specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. The director shall make all comments available for public inspection.
- (5) Notify the applicant in writing of the final determination and make such notification available for public inspection.

(I) Federal land manager notification requirements.

For purposes of new source review of any new major stationary source or major modification that may affect any Class I area and would be constructed in an area that is designated attainment, nonattainment, or unclassified under 40 CFR 81.336, in any review under rule 3745-31-17 of the Administrative Code with respect to visibility protection and analysis of a Class I area, the director shall provide the following:

- (1) Written notification to all affected federal land managers of any proposed new major stationary source or major modification that may affect any Class I area. Such notification shall be made in writing and include a copy of all information relevant to the permit application within thirty days of receipt of and at least sixty days prior to the public hearing held by the Ohio environmental protection agency on the application for an installation permit. Notifications under this paragraph shall include an analysis of the anticipated impacts on visibility in any Class I area. This written notification may be waived with documented approval from all affected federal land managers in advance of the sixty day review period prior to the public hearing.
- (2) Where the Ohio environmental protection agency receives advance notification (e.g. early consultation with the source prior to submission of the application or notification of intent to monitor under rule 3745-31-14 of the Administrative Code) of a permit application for a source that may affect any Class I area, the director shall notify all affected federal land managers no later than thirty days after such advance notification.
- (3) The director shall consider any analysis performed by the federal land manager, provided within thirty days of the federal land manager application notification and analysis required under paragraph (I)(1) of this rule, demonstrating whether the proposed new major stationary source or major modification has an impact on visibility in any Class I area. Where the director finds that such an analysis does not demonstrate to the satisfaction of the director that an impact on visibility will result in a Class I area, the Ohio environmental protection agency shall either provide an explanation of the finding or give notice as to where the explanation can be obtained in the notice for the public hearing.

Effective: 05/01/2016

Five Year Review (FYR) Dates: 11/30/2015 and 05/29/2019

CERTIFIED ELECTRONICALLY

Certification

04/21/2016

Date

Promulgated Under: 119.03

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