

## TO BE RESCINDED

3745-35-02                   **Permits-to-operate.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3745-35-01 of the Administrative Code titled "Incorporation by reference."

(A) No person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit-to-operate from the director in accordance with the requirements of this rule except:

- (1) As otherwise provided in paragraph (H) of this rule and in rules 3745-35-03 and 3745-35-05 of the Administrative Code; or
- (2) If the air contaminant source is a source listed under permanent exemptions in paragraph (A)(1) of rule 3745-31-03 of the Administrative Code or a source for which the director has granted a discretionary exemption under paragraph (A)(3) of rule 3745-31-03 of the Administrative Code, or the air contaminant source is a source meeting the requirements under the permit-by-rule exemptions in paragraph (A)(4) of rule 3745-31-03 of the Administrative Code; or
- (3) If the air contaminant source is part of a facility, as defined in Chapter 3745-77 of the Administrative Code, that is required to obtain a Title V permit under Chapter 3745-77 of the Administrative Code; or
- (4) As otherwise provided by section 3704.011 and division (F) of section 3704.03 of the Revised Code and rule 3745-15-05 of the Administrative Code.

(B) Applications for permits-to-operate

- (1) Applications for permits-to-operate shall be signed, in the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emission described in the application originates.
- (2) Applications for permits-to-operate shall be signed, in the case of a partnership, by a general partner.
- (3) Applications for permits-to-operate shall be signed, in the case of sole proprietorship, by the proprietor.

- (4) Applications for permits-to-operate shall be signed, in the case of municipal, state, federal or other governmental facility, by the principal executive officer, the ranking elected official, or other duly authorized employee.
  - (5) Applications for permits-to-operate for new sources shall be filed no later than ninety days after commencement of operation.
  - (6) Applications for permits-to-operate shall be on forms prescribed by the Ohio environmental protection agency and shall contain all information the Ohio environmental protection agency deems necessary to determine whether the air contaminant source is operating and will be operated in accordance with all applicable rules of the Ohio environmental protection agency, including, but not limited to: location of source; description of the equipment and processes involved; the nature, source, and quantity of uncontrolled and controlled emissions; the type, size, and efficiency of control facilities; the impact of the emissions from such source upon existing air quality.
  - (7) Except as otherwise expressly provided by rule, a separate application for a permit-to-operate shall be made for each air contaminant source to which this rule applies or an application for a facility shall be made that contains information described in paragraph (B)(6) of this rule for each air contaminant source located at the facility to which this rule applies.
  - (8) Each application shall be signed by the applicant, whose signature shall constitute an agreement that the applicant shall assume responsibility for operating and maintaining such source and control equipment in a manner designed to assure compliance with applicable law.
  - (9) Any application for a permit-to-operate which, on its face, fails to provide the agency with requested information needed to provide a factual basis for ascertaining compliance with each of the requirements of paragraph (C) of this rule may be considered defective and be treated as if it has not been filed. No hearing need be granted with respect to such improper applications, which shall be returned to the applicant as expeditiously as practicable without further processing with an indication of the deficiency.
- (C) No permit-to-operate shall be granted until the applicant demonstrates, for each source to which the permit applies, to the satisfaction of the director, that:
- (1) The source is in compliance with applicable air pollution control law and, if required by rule, the source has submitted an approvable compliance program, including a compliance schedule if necessary. A compliance

program shall be approvable where it shows to the satisfaction of the director that operation pursuant to such program will result in compliance by the source with all requirements of applicable law as expeditiously as practicable but in no event later than the date provided by rule by which compliance with such requirements must be achieved, and where it identifies all reasonable interim control measures; or, upon submission of a schedule of compliance satisfactory to the director for an air contaminant source that is not in compliance with all applicable law at the time of permit issuance, provided that the compliance schedule shall be consistent with and at least as stringent as that contained in any judicial consent decree or administrative order to which the air contaminant source is subject; and

- (2) If required by the director, the source is equipped with instrumentation and sensing devices to monitor and record emission data and other information about the operation of the source; and,
- (3) If required by the director, performance tests, conducted after the application was made, at the applicant's expense, in accordance with methods prescribed by the Ohio environmental protection agency, demonstrate that the source is in compliance with applicable emission limitations and other applicable law. The Ohio environmental protection agency or its representatives may observe, participate in, or conduct any performance test required; and,
- (4) In the case of a new source, except those exempted from obtaining a permit-to-install by rule 3745-31-03 of the Administrative Code:
  - (a) Such source was constructed, modified, located, or installed in compliance with the terms and conditions of a permit-to-install, as well as applicable law; and
  - (b) Performance tests conducted at the expense of the applicant demonstrate such source operates or within ninety days of start-up of operation, will operate in accordance with applicable Ohio environmental protection agency law and rules and in accordance with federal new source performance standards promulgated under Section 111 of the Clean Air Act. The director may exempt classes of sources by resolution or individual sources from the requirement of performance testing where economic and technical considerations justify such exemption; and
- (5) The source does not violate national emission standards for hazardous air pollutants adopted by the administrator of the United States environmental protection agency.

(D) Terms and conditions:

- (1) Permits-to-operate shall be effective for one year from date of issuance, or for whatever other period the director deems appropriate, not to exceed five years.
- (2) Any permit-to-operate issued by the director shall be subject to revision in response to changes in applicable law or other factors affecting the compliance of the source or control facility with the standards or conditions of the original permit.
- (3) The transferee of any permit-to-operate shall, personally, assume the responsibilities of the original permit holder-transferor. The Ohio environmental protection agency must be notified in writing of any transfer of a permit-to-operate.
- (4) Such air pollution emergency episode plans as are submitted and approved shall become terms and conditions of the permits-to-operate and shall have full force and effect as a part thereof.
- (5) Any approved compliance schedule shall be incorporated into the permit-to-operate and shall be a term and condition thereof.
- (6) The director may include such other terms and conditions as are necessary to ensure compliance with applicable law or to gather information about ambient air quality, emission levels, or other aspects of the source operation.

(E) Permits under this rule shall be issued, denied, modified, or revoked and may be challenged in accordance with the provisions of Chapter 3745-47 of the Administrative Code.

(F) Suspension or revocation of permit-to-operate

- (1) The director may suspend or revoke a permit-to-operate if it has been determined that any of the conditions, terms, or standards of paragraph (C) or (D) of this rule or any other applicable law or rule of the Ohio environmental protection agency have been or will be violated.
- (2) The director may also revoke a permit-to-operate if the permittee requests revocation for cause and the director determines that granting the requested revocation will not result in the violation of any applicable law. When a

permittee requests a revocation, the director, without prior hearing, shall make a final determination on the application.

- (3) Suspension or revocation of a permit-to-operate shall be final thirty days after service of notice to the permit holder.
  - (4) The Ohio environmental protection agency shall afford a prompt hearing to any permit holder whose permit-to-operate is suspended or revoked, except as described in paragraph (F)(2) of this rule, in the manner prescribed in Chapter 3745-47 of the Administrative Code.
  - (5) A permit-to-operate which has been revoked shall be surrendered forthwith to the Ohio environmental protection agency.
- (G) Possession of a permit-to-operate shall not relieve any person of the responsibility to continuously comply with applicable emission limitations and other provisions of applicable law.
- (H) If a new source that has been constructed, installed, located, or modified in accordance with the provisions of a permit-to-install, and otherwise in accordance with applicable law, is unable to comply with the requirements of paragraph (C)(4)(b) of this rule as of the date of start-up of operations, the director may grant a conditional permit-to-operate such source for a period not to exceed six months from start-up of operation, provided the period is used to remedy any defect which prevents such compliance, and the applicant demonstrates that compliance with emission standards prescribed by applicable law will be achieved as expeditiously as practicable, any reasonably available alternative operating procedures and interim control measures have been used or will be used to reduce excess emissions, and the continued operation of the source pursuant to the conditional permit-to-operate will not endanger or threaten to endanger human health. Conditional permits-to-operate may not be renewed, and shall contain such terms and conditions as the Ohio environmental protection agency determines necessary and appropriate.

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CERTIFIED ELECTRONICALLY

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Certification

06/02/2008

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Date

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