JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2012-01K

The Emergency Amendment of Rules 3745-31-34 and 3745-77-11
of the Ohio Administrative Code by the Ohio Environmental Protection Agency

WHEREAS, in March 2011, the Ohio Environmental Protection Agency (Ohio EPA) adopted regulations that require permits for large sources of greenhouse gases.

WHEREAS, in July 2011, the United States Environmental Protection Agency (U.S. EPA) adopted a three-year permitting exemption for sources that emit carbon dioxide as a result of the use of biomass.

WHEREAS, the Ohio EPA seeks to amend its rules to extend the biomass exemption to state permitting as well, thereby matching the federal rule in scope and intent.

WHEREAS, affected facilities are not required to submit an application for permits required under Ohio EPA's rules 3745-31-34 and 3745-77-11 until July 1, 2012. However, due to the complexity and length of the required permit applications, facilities would likely begin preparing their applications 5 to 6 months prior to their due date.

WHEREAS, the Ohio EPA seeks to implement the rule amendments immediately to prevent facilities from having to initiate a permitting process and spend funds that they would not otherwise be required to spend.

WHEREAS, Section 3704.03 of the Ohio Revised Code authorizes the Director of the Ohio EPA to promulgate rules pertaining to Ohio's new source review and Title V permitting programs.

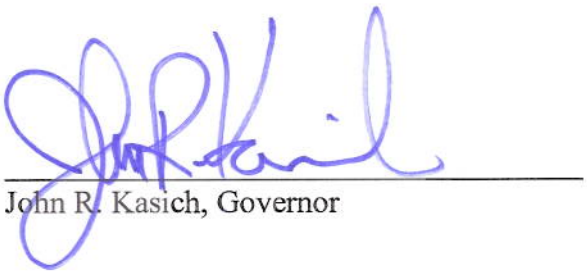
WHEREAS, Section 119.03(F) of the Ohio Revised Code authorizes the Governor, on the request of a state agency, to suspend the normal rule-making procedures with respect to specific rules when an emergency exists necessitating the immediate adoption, amendment, or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend, or rescind such rules, but the rules are only valid for ninety (90) days.

WHEREAS, the Ohio EPA has requested a determination whether an emergency exists that requires the immediate amendment of Rules 3745-31-34 and 3745-77-11 of the Ohio Administrative Code in order for the Ohio EPA to conform its rules with the federal rules.

NOW THEREFORE, I, John R. Kasich, Governor of the State of Ohio, have determined, upon the request of the Ohio EPA, that an emergency exists requiring the immediate amendment of Rules 3745-31-34 and 3745-77-11 of the Ohio Administrative Code. Further, I hereby order that the procedures prescribed by Section 119.03 of the Ohio Revised Code with respect to the amendment of these specified rules be suspended and the Ohio EPA be permitted to amend these rules immediately by electronically filing them with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review.

Further, I hereby order that this Executive Order be filed in electronic form with the Ohio EPA, the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review.

I signed this Executive Order on January 4, 2012, in Columbus, Ohio, and it will expire at the end of the ninetieth day it is in effect.



John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State