

3745-31-05 Criteria for decision by the director.

- (A) The director shall issue a permit to install or plan approval, on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio environmental protection agency, or both, if he determines that the installation or modification and operation of the air contaminant source, solid waste disposal facility, infectious waste treatment facility, water pollution source, disposal system, land application of sludge, or public water system will:
- (1) Not prevent or interfere with the attainment or maintenance of applicable ambient water quality standards or ambient air quality standards; and
  - (2) Not result in a violation of any applicable laws, including but not limited to:
    - (a) Effluent standards adopted by the director or the administrator of the United States environmental protection agency;
    - (b) Emission standards adopted by the Ohio EPA;
    - (c) Federal standards of performance for new stationary sources adopted by the administrator of the United States environmental protection agency pursuant to section 111 of the Clean Air Act and the regulations promulgated thereunder;
    - (d) Requirements pertaining to installation of major stationary sources or major modifications in attainment and nonattainment areas as contained in rule 3745-31-10 of the Administrative Code through rule 3745-31-27 of the Administrative Code.
    - (e) "National Emission Standards for Hazardous Air Pollutants" adopted by the administrator of the United States environmental protection agency pursuant to section 112 of the Clean Air Act and the regulations promulgated thereunder (including 40 CFR Part 61 and 40 CFR Part 63);
  - (3) Employ the best available technology, except when the only requirement to obtain a permit to install is due to a modification as described in paragraph (MM) (1) (b) of rule 3745-31-01 and paragraph (A) (2) of rule 3745-31-02 of the Administrative Code.
- (B) In determining whether to grant or deny a change in the authorized maximum daily waste receipt for a solid waste disposal facility, the director shall require the owner or operator to demonstrate that the solid waste disposal

facility can operate in compliance with all applicable solid waste regulations while receiving the requested maximum daily waste receipt. An adequate demonstration includes, but is not limited to, an explanation of the overall site design including construction timeframes and fill sequences for the solid waste disposal facility; operational criteria such as the solid waste disposal facility's equipment availability, cover availability and manpower; and if applicable, the owner's previous compliance history throughout the life of the solid waste disposal facility and the daily logs for the period that the solid waste disposal facility was out of compliance.

- (C) In deciding whether to grant or deny a permit to install or plan approval, the director may take into consideration the social and economic impact of the air contaminants, water pollutants, or other adverse environmental impact that may be a consequence of issuance of the permit to install or plan approval.
- (D) The director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality. Special terms and conditions necessary to ensure compliance with requirements mandated by the federal Clean Air Act or regulations promulgated by the administrator thereunder, including synthetic minor emissions unit conditions that restrict the stationary source's potential to emit below major size cutoffs, shall be federally enforceable and designated as such in the permit to install. The director may impose terms and conditions necessary to ensure compliance with any provisions of the statutes or regulations of the state of Ohio that are not mandated by the federal Clean Air Act or regulations adopted by the administrator thereunder, but such terms and conditions shall be enforceable as state law only, and shall be designated as such in the permit to install.
- (E) An applicant whose air contaminant source(s) meets the following criteria may request in writing that the air contaminant source(s) be placed on permit to install registration status. In order to be considered for registration status, the air contaminant source owner or operator must:
  - (1) Submit a complete permit to install application,
  - (2) Demonstrate compliance with all applicable law including the employment of best available technology,
  - (3) Have maximum uncontrolled emissions as defined in paragraph (LL) of rule 3745-31-01 of the Administrative

Code of less than five tons per each year for particulate matter, sulfur dioxide, nitrogen oxides, and organic compounds,

- (4) Not be subject to the U.S. EPA new source performance standards, and
- (5) Not be subject to the national emission standards for hazardous air pollutants or a U.S. EPA promulgated standard for hazardous air pollutants.

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 permit to install registration status. 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 registration status.

The issuance of a permit to install registration status does not relieve the applicant from compliance with any applicable air pollution control requirement (including the requirement to apply for a permit to operate) and is at the discretion of the director.

(F) In determining whether the director issues a site approval for a portable source, the applicant must demonstrate that the following criteria have been met:

- (1) The portable source owner or operator possesses an Ohio EPA permit to install, permit to operate or registration status.
- (2) The portable source is equipped with best available technology.
- (3) The portable source owner has identified the proposed site to Ohio EPA.
- (4) Ohio EPA has determined that the portable source, at the proposed site, will have an acceptable environmental impact.
- (5) A public notice, consistent with Chapter 3745-47 of the Administrative Code, is published in the county where the proposed site is located.
- (6) The owner of the proposed site has provided the portable source owner with approval or equivalent declaration that it is acceptable to the site owner to move the portable source to this proposed site.
- (7) The portable source owner has provided Ohio EPA with fifteen days written notice of the relocation.

Any site approvals issued by Ohio EPA shall be valid for no longer than three years and are subject to renewal.

- (G) The director may modify the site approval to add or delete certain portable sources or add or delete certain terms and conditions as appropriate.
- (H) Within one hundred eighty days after a completed application is filed, the director shall issue or propose to issue or deny a permit to install, a permit to install registration notice, or plan approval, and such action shall be in accordance with Chapter 3745-47 of the Administrative Code.
- (I)
  - (1) The director may enter into an agreement with a political subdivision that owns or operates a disposal system and that intends to extend its sewerage system, which agreement authorizes a qualified official, position or employee of the political subdivision, as determined by the director, to review permit to install applications and plans for the extension of the sewerage system.
  - (2) Under such agreement, the qualified official, position or employee of the political subdivision may be authorized to review permit to install applications and plans for sewerage system extensions or replacements of gravity sewer lines less than or equal to eighteen inches in diameter and force mains and pump stations with maximum design flows of less than or equal to 2.0 MGD. At a minimum, said qualified person shall be a registered professional engineer licensed to practice engineering in the state of Ohio.
  - (3) In performing the review of the permit to install application and plans as specified by the agreement, the qualified official or employee of the political subdivision shall at a minimum review the permit to install application and plans for conformance with all criteria, policies, procedures, and rules of the agency which pertain to the project.
  - (4) Under such agreement, the director shall outline the various terms of the authorized review. These terms may include geographical boundaries where review may occur, criteria for review, timeframes, qualified official responsible for performing review and any other requirements deemed necessary by the director.
  - (5) Under such agreement, the fees calculated in accordance with division (C) of section 3745.11 of the Revised Code and a copy of the actual permit to install application shall be immediately forwarded to the Ohio EPA upon receipt by the political subdivision covered

under an agreement under this rule.

- (6) Pursuant to an agreement under this rule and upon submission to the director of:
  - (a) A recommendation to the director to grant or deny the permit and approve or disapprove the plans;
  - (b) A certification signed by the qualified official that the permit to install application and plans meet or fail to meet requirements of all criteria, policies, procedures, and rules utilized by the agency for such review;
  - (c) For approvals or denials, a prepared permit to install or denial package in standard agency format, complete except for issuance and effective dates, and the director's signature;
  - (d) The reviewed permit to install application and plans.

The director shall issue the appropriate action based upon the recommendation of the certification signed by the qualified official.

- (7) If, in the event that a project reviewed under such an agreement is appealed to the environmental review appeals commission or an agency hearing examiner, the political subdivision responsible for review shall provide necessary technical support to the director.
- (8) The director may periodically audit the review performed by the political subdivision under any agreement and may terminate the agreement for poor quality review, failure to follow agency criteria, policies, procedures, and rules, or the loss of the qualified official, position or employee.
- (9) The term of any agreement under this rule may be for a period of up to five years. At that time, the director and the political subdivision may renew such agreement.
- (10) These rules in no way supersede any other rules or statute adopted under Chapter 6111. of the Revised Code.

Replaces: \_\_\_\_\_

Effective: April 27, 1998

Certification: original signed by Donald R. Schregardus  
Donald R. Schregardus, director  
Ohio Environmental Protection Agency

April 8, 1998  
Date

Promulgated under: RC Chapter 119  
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3734.02, 6111.03

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