AP-9-02. Permits to construct new sources; permits to modify.

(a) General rule. After the effective date of these regulations, no person shall cause, permit, or allow the location, installation, construction, or modification of any air contaminant source without first applying for and obtaining a permit to construct or modify from the Board approving the location and design of such source. The Board shall not approve such location, installation, construction, or modification unless the applicant demonstrates to the satisfaction of the Board that the proposed new or modified air contaminant source will comply with all applicable rules and regulations of the Board.

(b) Application for permit to construct or modify.

(1) Applications for permits required under subsection (a) shall be made on forms prepared by the Board and shall contain such information as the Board shall deem necessary to determine whether the permit should be issued. The information required shall include: descriptions 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 quantities and types of raw material used; the suitability of the location and the impact of the emissions from such source upon existing air quality; and such other information as the Board may require.

(2) An application for a permit to construct or modify shall be made for each air contaminant source.

(3) Applications for permits to construct shall be signed by the contractor or agent performing the construction or modification and by the corporate President, or Vice President reporting directly to the President, or highest ranking corporate officer with offices located in the State; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator; or, in the case of political subdivisions, by the highest elected official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete, complying fully with applicable state requirements, and shall subject the responsible official to liability under applicable state laws forbidding false or misleading statements.

(4) The applicant's signature shall constitute an agreement that the applicant shall assume responsibility for the construction, modification, installation, or location of such source or facility in accordance with applicable rules and regulations, terms and conditions.

(c) Standards for granting permits to construct or modify. No permit to construct or modify an air contaminant source shall be granted until the applicant demonstrates that it is more likely than not that:

(1) Such proposed new source or modification will operate without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard, or cause any avoidable degradation in ambient air quality; and,

(2) The emissions from such source shall not exceed applicable emission standards of the Board, or federal Standards of Performance for New Sources promulgated by the Administrator of the Environmental Protection Agency pursuant to Section 111 of the Clean Air Act, whichever are more stringent; and,

(3) Such source or modification is provided, at the expense of the applicant, with any sampling and testing facilities the Board may require, including but not limited to:

(A) Sampling ports of a size, number, and location as the Board may require;

(B) Safe access to each port;

(C) Instrumentation to monitor and record emission data which satisfies the requirements of AP-2-04; and,

(4) Such proposed source or modification incorporates the best available control technology; and,

(5) The proposed source or modification for which the permit is requested will operate in accordance with applicable law.

(d) Action on applications for permits to construct or modify.

(1) The Board shall, within 90 days of the receipt of an application, notify the applicant in writing of its approval, conditional approval, or denial of the application.

(2) If an application is denied, the Board shall set forth its objections in the notice of denial.

(3) The Board shall afford a prompt hearing to any applicant whose application is denied. Where appropriate, the Board may order such hearing held before two hearing examiners appointed by the Board, who may be an attorney at law and an environmental engineer familiar, by virtue of training and experience, with air pollution control technology. At such hearing a stenographic record of the testimony shall be kept. At such hearing, the applicant shall have the burden of proving his case by a preponderance of the reliable, probative evidence. Following the hearing, the hearing examiner shall write their joint, complete findings and conclusions, and shall include a statement of their reasons for crediting the testimony of one witness over another, provided there is a conflict. The hearing examiner shall also recommend action to the taken by the Board, if any, and their reasons for recommending such action. The record of proceedings and the findings, conclusions, reason and recommendations of the hearing examiners shall be kept available for public inspection. The findings, conclusions, reasons and recommendations of the hearing examiners shall be advisory only and not binding upon the Board. Request for such hearing must be made within 10 days of receipt of the notice of denial.

(4) Permits issued hereunder shall be subject to such terms and conditions set forth and embodied in the permit as the Board shall deem necessary to ensure compliance with applicable law.

(e) Cancellation of permits to construct or modify. The Board shall cancel a permit to construct or modify if:

(1) The construction, installation, location, or modification the permit approves is not begun within one year of the date of issuance; or,

(2) During construction, installation, location, or modification, work is suspended for one year; or,

(3) The Board determines that one of the standards under Section 2(d)(4) have been or will be violated.

(f) Possession of a permit to construct shall not relieve any person of the responsibility to comply with applicable emission limitations or other applicable law.

Former regulation AP-9-02 adopted January 28, 1972, and effective February 15, 1972, is repealed.

(Adopted July 24, 1972; effective August 7, 1972.)

AP-9-01. Definitio

(a) Except as otherwise provided in subsection (b), the definitions in AP-2-01 shall apply.

(b) (1) "Air Contaminant Source" shall mean any operation, machine, device, apparatus, equipment, building, or other physical facility which emits or may emit any air contaminant.

(2) "Modification" shall mean any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

(3) "Applicable law" shall, unless otherwise expressly specified, include any applicable provisions of: Chapter 3704 of the Ohio Revised Code, as amended; rules, regulations, and orders of the Ohio Air Pollution Control Board; the Clean Air Act, as amended; rules and regulations of the Administrator of the Environmental Protection Agency.

(4) "Construct" or "construction" shall include any operation resulting in a new source.

(Adopted January 28, 1972; effective February 15, 1972.)

AP-9-02. Permits to Construct New Sources; Permits to Modify.

(a) **General Rule.** After the date of adoption of these regulations, no person shall cause, permit, or allow the location, installation, construction, or modification of any air contaminant source without first applying for and obtaining a permit to construct or modify from the Board approving the location and design of such source. The Board shall not approve such location, installation, construction, or modification unless the applicant demonstrates to the satisfaction of the Board that the proposed new or modified air contaminant source will comply with all applicable rules and regulations of the Board.

(b) **Application For Permit to Construct or Modify.**

(1) Applications for permits required under subsection (a) shall be made on forms prepared by the Board and shall contain such information as the Board shall deem necessary to determine whether the permit should be issued. The information required shall include: descriptions of the equipment and processes involved; the