

**Division of Air Pollution Control
Engineering Guide #34
Procedures to Shut Down or Reinstate Emissions Units and Facilities**

The purpose of this Engineering Guide is to establish a standardized approach to handling facilities and emissions units classified as "permanently shut down." This includes circumstances leading to emissions unit(s) (EU) becoming classified as permanently shut down, and thus terminating any active permits, as well as reclassification as operating due to administrative error or a facility restoring operations.

1 Definitions

For purposes of clarity and uniformity, the following terms used throughout this Engineering Guide have the following meanings:

Air Services/Stars2 – Air Services is Ohio EPA's online portal to do business electronically with the Division of Air Pollution Control (DAPC) and is accessed through the eBusiness Center. Applications, reports and facility updates in Air Services are electronically transferred into DAPC's software, Stars2, when an Air Services user submits the item.

Emissions Unit Operating Status – This status field is used in Air Services/Stars2 to track the operational status on an EU basis.

Permanently Shut Down - The EU has been physically removed from service or has been altered in such a way that it can no longer operate. After the EU has been determined by Ohio EPA to be permanently shut down according to this definition, in order to operate the EU again would constitute a new EU and an installation permit would be required per OAC Chapter 3745-31.

Facility Operating Status – This status field is used in Air Services/Stars2 to track the operational status of an entire facility as represented by the EUs tracked under a common facility ID number.

Permanently Shut Down - All EUs at the facility are permanently shutdown, according to the definition given above, AND the owner/operator is no longer conducting business activities at that location.

Operating - The owner/operator is conducting business activities at the location. A facility is considered operating even if there is no permitted EU(s) at the facility.

Inactive - The "inactive" facility operating status option is available under two scenarios:

- When a facility has NOT submitted a certification that all EUs are permanently shut down, however all evidence available indicates a cessation of business activities at the location; or

- When an owner/operator has indicated that they have "left" (i.e., stopped doing business) the permitted location, but they would like to keep the permits active so as not to hinder the sale of the business to a future owner who would start the business back up.

Facility Permitting Classification – This field is used in Air Services/Stars2 to track how Ohio EPA classifies the operations from a permitting standpoint at a location. Options include: Title V; FEPTIO (Synthetic Minor); Non-Title V; Permit-By-Rule; Exempt; or None.

Comment: If the facility has any remaining EUs that are currently *permit* exempt or de minimis operating at the facility once the previously *permitted* operations are marked as shut down, then the facility should remain marked as "operating" and the Facility Permitting Classification should be updated accordingly to be "Exempt", "None", or "Permit by Rule".

2 Shut Down Emissions Units and Facilities

2.1 What needs to be done in order for an EU to be considered permanently shut down?

The owner/operator should notify the Ohio EPA District Office or local air agency (DO/LAA) of any EU that is permanently shut down by submitting a certification that identifies the date on which the EU was permanently shut down. If the owner/operator is an Air Services user, they can update the facility profile and submit it as an alternative to a hard copy certification. Title V and FEPTIO (Synthetic Minor) facilities are required to submit these updates using Air Services. The certification (or Air Services profile update) must be submitted by an authorized¹ official from the facility.

The owner/operator cannot continue to operate an emissions unit once the certification has been submitted to the DO/LAA by the authorized official. All permits terminate upon the date the EU/facility is permanently shut down. In order to resume operation of an EU(s) that requires a permit-to-install (PTI) or permit-to-install and operate (PTIO), the owner/operator must first apply for and obtain a PTI/PTIO pursuant to OAC Chapter 3745-31.

When an EU is shut down, the resulting emission reductions may be banked in DAPC's Emission Reduction Credit Banking Program depending on qualification. Owner/operators are encouraged to learn about the program (<http://www.epa.ohio.gov/dapc/ERC/erc.aspx>) and how it can be economically beneficial.

The DO/LAA should review the certification (or facility profile update) and visually verify through a site visit, if possible, that the EU is in fact shut down according to the definition provided above. If the EU is NOT shut down according to that definition, the EU must remain in

¹ Clarification on "Documents Requiring Signature by a Responsible Official for a Facility Subject to Air Pollution Regulations" (http://www.epa.ohio.gov/portals/27/title_v/IOCSignature.pdf)

"operating" status until the DO/LAA contacts the facility to discuss the actual status of the EU. In the case where a facility has already updated the EU operating status in the Facility Profile to be "permanently shutdown" and that status cannot be verified by the DO/LAA, that status must be changed back to "operating" and the permits restored to being "active."

DO/LAA Staff: Contact Central Office Stars2 support staff in order to change the Emissions Unit Operating Status.

2.2 What needs to be done to consider a facility permanently shut down?

The Responsible Official of a facility must notify the DO/LAA if all operations at the location have permanently shut down and the owner/operator is no longer conducting business there. The certification must be in writing and signed by an authorized official. The certification must include the last day any remaining emission unit(s) were permanently shut down according to the definition above including the last day of operation and buyer information if sold. The act of shutting down a facility cannot be accomplished through updates made in Air Services. If the above required information is present, the submission of a Non-Title V Fee Emission Report (FER) or Permit Evaluation Report (PER) can serve as the certification.

The DO/LAA must review the certification and visually verify (if possible) through a site visit that all EUs at the facility are permanently shut down.

The owner/operator cannot continue to operate any emissions units at the facility once the certification has been submitted to the DO/LAA by the authorized official. All permits terminate upon the date the EU is permanently shut down. In order to resume operation of any EU(s) that requires a PTI/PTIO, the owner/operator must first apply for and obtain a PTI/PTIO pursuant to OAC Chapter 3745-31.

When an EU is shut down, the resulting emission reductions may be banked in DAPC's Emission Reduction Credit Banking Program depending on qualification. Owner/operators are encouraged to learn about the program (<http://www.epa.ohio.gov/dapc/ERC/erc.aspx>) and how it can be economically beneficial.

2.3 If a facility is abandoned, can Ohio EPA consider it to be permanently shut down?

The Director has the ability to legally terminate a permit(s) if the facility is shut down and the owner/operator has "walked" away from it (i.e., abandoned it with no ability to get in contact with anyone associated with the physical facility).

In the case of PTIs or PTIOs, OAC Rule 3745-31-07(B)(1) provides the Director reasons to legally revoke a permit, including "...any applicable provisions of Chapters 3704. and 3745. of the Revised Code; rules, regulations, and orders of the Ohio environmental protection agency, the Clean Air Act; that have been or are likely to be violated." Likewise for Title V permits, OAC Rule 3745-77-08(F)(1) provides similar broad authority for revoking a Title V permit.

The permit revocation must be issued as a proposed action. The owner/operator has 30 days from receiving the revocation to request a hearing in order to comment on the revocation before it becomes final. However, getting notice to the owner/operator is difficult when the company

may not be in existence. Therefore, the first attempt shall be mailed by certified mail, return receipt requested, to the owner/operator at the most recent address provided to the agency. If the mail is returned as undelivered or refused, then the DAPC Permit Issuance and Emissions Reporting (PIER) unit will send the proposed revocation a second time by ordinary mail. In the case of ordinary mail, the revocation becomes final thirty days after the date it was resent.

Once the revocation(s) are final, a PTI/PTIO application would need to be submitted, a new DAPC facility ID established, and a permit obtained in order to subsequently use any equipment remaining at the site that is identified in the revoked permit.

All outstanding Ohio EPA DAPC matters (i.e., unfiled FER(s), PER(s), renewal applications, violations, etc.) will no longer be pursued once the facility is considered abandoned and permanently shut down. It would remain on record that violations occurred and they could still be pursued if a company representative is discovered at a later date. However, Ohio EPA would no longer expend resources to resolve the issues unless conditions changed supporting additional resource expenditures. Any unpaid permit or emissions fees that have already been sent to the Attorney General's Revenue Recovery Section will remain in the collections process. Further collection of fees pending at Ohio EPA would not be pursued.

DO/LAA Staff: Please see Answer Place ID 2329 for specific steps needed to revoke a permit(s) and administratively shut down an abandoned facility.

2.4 What are the obligations of Ohio EPA to pursue permit required reports and fee emission reports from shut down facilities?

When a facility shuts down there are outstanding permit required reports and possibly annual fee emission reports that are still required to be submitted. All remaining quarterly, semi-annual and annual permit required reports are necessary from the beginning of the reporting period through the shutdown date. The annual Title V compliance certification is also due for the portion of the year the facility was operating. All annual fee emission reports are due for the last calendar year the facility was not² permanently shut down as of December 31.

Ohio EPA will pursue outstanding obligations at a shut down facility as long as a company representative can be contacted. If no company representative can be reached, all outstanding Ohio EPA DAPC matters (i.e., unfiled FER(s), PER(s), renewal applications, violations, etc.) would no longer be pursued. It would remain on record that violations occurred and they could still be pursued if a company representative is discovered at a later date. However, Ohio EPA would no longer expend resources to resolve the issues unless conditions changed supporting additional resource expenditures. Any unpaid permit or emissions fees that have already been sent to the Attorney General's Revenue Recovery Section will remain in the collections process. Further collection of fees pending at Ohio EPA would not be pursued.

² Sometimes facilities have multiple years that they owe reports for, but no report is owed the year the facility is permanently shut down as of December 31. So, for example, a non-Title V facility typically submits fee emission reports bi-annually (e.g., 2009-2010 cycle); if, for example, a facility shuts down mid-way through the second year of the two-year reporting cycle (e.g., June, 2010), the owner would need to submit and pay fees on the first year (2009), but not the second year (2010).

Tracking of outstanding reporting requirements can cease at an abandoned facility if the procedure established in 2.3 is followed.

2.5 If all operations that need permits at a location have permanently shut down but the owner/operator is still conducting business there, how should the facility be classified by DAPC?

The facility operating status should be “operating” if business is still being conducted by the owner/operator at that location. The permitting classification of the facility should be “Exempt” if all operating EUs are exempt from DAPC permitting; however, if there are no operating EUs at the location the facility permitting classification would be “None.”

2.6 How long can a facility remain idle before it is considered to be permanently shut down?

It's possible that an owner/operator can keep facility operations idle with the ability to operate so long as all effective permit terms and conditions are met including: maintenance; permit renewal applications; permit required reports; and annual fee emission reports are being submitted. If these terms and conditions are not met, the facility would be in violation of the effective permit. For considerations that need to be made on an individual emissions unit basis, see 3.5 below.

The procedures to revoke existing permits and permanently shut down an abandoned facility can be found in 2.3 above.

3 Reinstate Emissions Units and Facilities

3.1 If the EU operating status is indicated as permanently shut down in DAPC's records, can it be reinstated to operating?

DAPC's records should reflect the real world operating status. The Emissions Unit Operating Status can be reinstated if the circumstances warrant the change. This type of correction must be made by Ohio EPA. Reinstating any permit(s) or a registration for an EU is addressed in 3.2 of this guidance document.

Scenarios where reinstating an EU to “operating” in DAPC records is appropriate are given below:

- a) Ohio EPA made an administrative error (e.g., inadvertently shut down the wrong EU ID in Stars2);
- b) The owner/operator made an administrative error (e.g., inadvertently shut down the wrong EU ID in Air Services) or knowingly marked the EU as permanently shut down but maintained the equipment;

- c) The owner/operator notifies Ohio EPA in writing that an EU is shut down, however upon inspection it is found that the EU is operating, thus the notification was errantly submitted;
- d) Correction of electronic records - It was DAPC's past practice to mark an operating, permit exempt, EU as "Shutdown" due to software constraints. DAPC now has the ability to identify an EU as both operating and permit exempt.

DO/LAA Staff: Please contact Stars2 support staff in Central Office to make necessary corrections to the Emissions Unit Operating Status.

3.2 Can permits that were terminated at the time of an EU shutdown be reinstated to "active" if the EU operating status has been reinstated to "operating"?

It is possible to reinstate a permit; however, several factors must be taken into account. These can be complex situations; therefore it is best to discuss any issues with the appropriate Central Office permitting contact if there are questions. A flow chart describing the decision process is in Attachment A.

A list of considerations is given below:

- a) Has the permit been revoked as a final action of the Director? If so, it cannot be reinstated.
- b) Was the permit termination triggered by a notification from the owner/operator certifying that the EU was permanently shut down or de minimis/permit exempt? If so, the owner/operator must have performed maintenance on the EU such that it can be easily restarted and have documentation indicating that the EU was in compliance with the permit from the time of the notification to the date of the discovery that the EU is still operating under conditions of the terminated permit. The permit should not be reinstated if the documentation cannot be acquired by Ohio EPA.
- c) If none of the above situations apply and the termination of the permit was simply a carry over to an administrative error (likely the same error that caused the EU to be marked as permanently shut down as detailed in 3.1 above), then the permit can be reinstated to active.

If it is determined that the permit cannot be reinstated, the owner/operator must apply for and obtain an installation permit pursuant to OAC Chapter 3745-31. The fee for the resulting permit would be doubled and a Notice of Violation should be issued if the facility was operating the EU without a permit.

DO/LAA Staff: Contact Stars2 support staff at the DO/LAA or Central Office to have the permit status changed.

3.3 If a facility is incorrectly marked as permanently shut down due to an administrative error can it be reinstated to operating?

Yes, the Facility Operating Status can be changed by Ohio EPA if the circumstances warrant the change and the facility does not meet the definition of “Permanently Shut Down” above. Special attention should be given to any documentation indicating why the facility was indicated as being shut down to ensure that it was not a case of an abandoned facility as described in 2.3.

Both the permit and EU operating status for each EU at the facility must be evaluated to determine if it should be reinstated to operating based on 3.1 and 3.2 above. In addition, records need to be reviewed to determine if any annual emissions reports need to be submitted for the period the facility operating status was inaccurate.

DO/LAA Staff: Please contact Stars2 support staff in Central Office to make necessary corrections to the Facility Operating Status and expected annual emissions reports.

3.4 If an owner/operator submits a permit application for a location where the facility is currently classified as permanently shut down, can a permit be processed under the original facility ID?

Using the same facility ID is appropriate if the owner/operator will be conducting the same business operations as they were previously (i.e., same NAICS category). If the exact same EU(s) will be operating as previously permitted it is also appropriate to use the same EU ID(s). The owner/operator must apply for a PTI/PTIO and have that permit issued final prior to resuming operations. When the EU/facility was shut down, any effective permit(s) or registration(s) were terminated and would remain terminated. (See 3.2 for an explanation of when it may be appropriate to reinstate permits.)

If an owner/operator ceases all operation and the facility is marked as permanently shut down, then later a new business begins a different operation (i.e., different NAICS) at the same location, a new facility ID must be established. For example, a gas station shuts down, and a dry cleaner subsequently occupies the space as a dry cleaning operation, the dry cleaning operation would be established under a new facility ID.

3.5 How long can an EU be idle before a PTI/PTIO application is required?³

An EU with an effective permit may be idle for any period of time and restart operations without obtaining a new permit if the conditions listed below are met. The emissions unit operating status should not be changed to indicate permanently shut down unless it meets the definition given in section 1 of this document.

³ This question represents the original outdated topic of Engineering Guide 34 issued 01/14/1982.



Condition:	If the condition is <u>not</u> met:
The EU will be operated without making any physical changes or changes in the method of operation such that a modification would be triggered.	An OAC Chapter 3745-31 modification must be applied for and obtained prior to operating the EU.
The permit has not been revoked or terminated.	An owner/operator cannot legally resume operation without first applying for and obtaining a PTI/PTIO pursuant to OAC Chapter 3745-31.
U.S. EPA guidance does not prevent the operation of the EU.	Facilities and DO/LAAs should refer to U.S. EPA guidance regarding idle EUs.

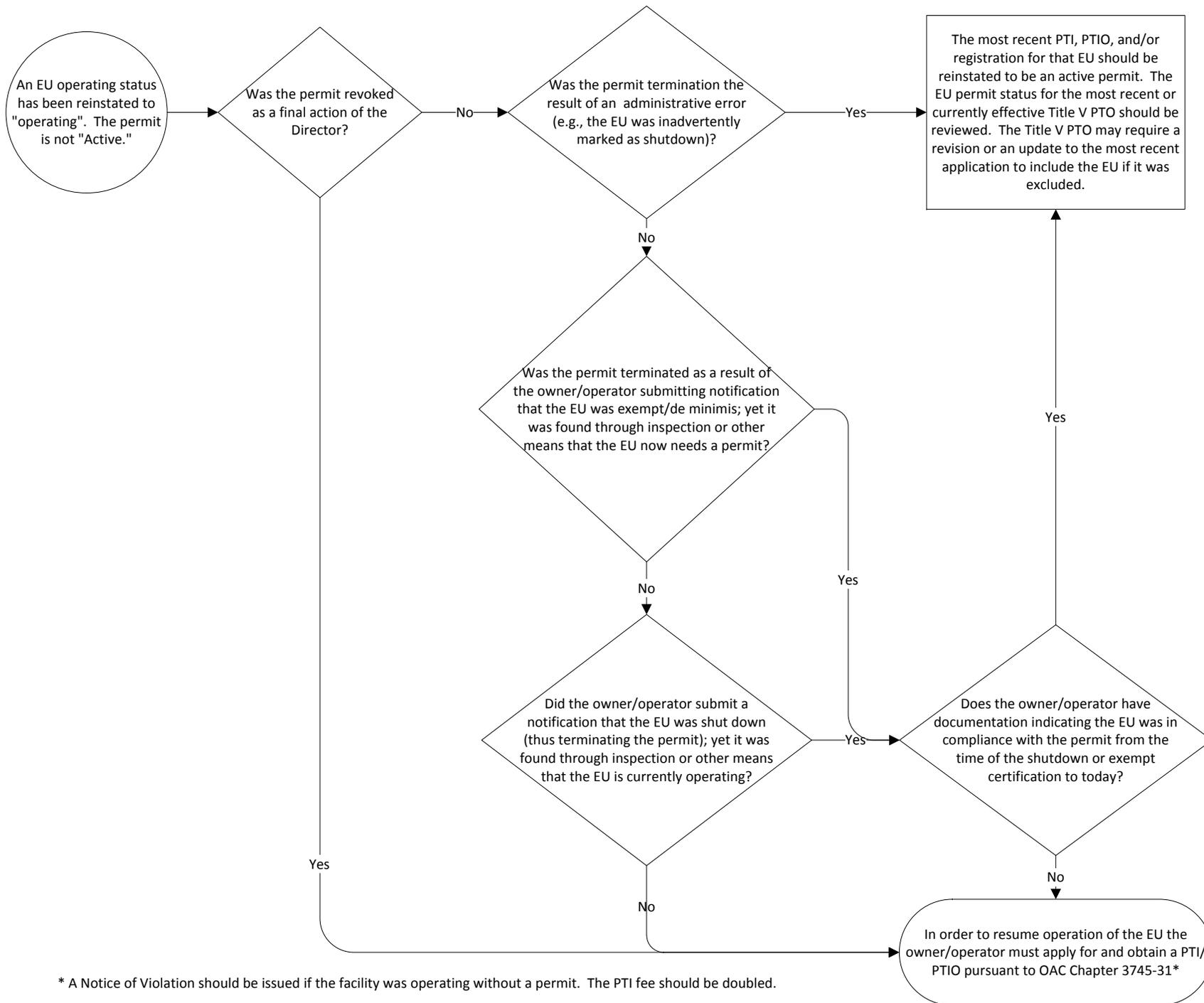
In order to determine if U.S. EPA guidance applies, the following factors are presented below to consider:

- If the EU has been idle more than two years, it might be necessary to address the Prevention of Significant Deterioration (PSD) and/or Non-attainment NSR requirements prior to reactivation of the EU depending on the circumstances. This could include the need to obtain a PTI/PTIO prior to reactivation of the EU.
- Are major expenditures needed to get the EU up and running (i.e. has the equipment deteriorated so much that it must be rebuilt)?
- Emissions from the source were not counted as part of the Ohio plan to bring an area into attainment (the SIP).

These can be complex situations; therefore it is best to discuss any issues with the appropriate Central Office permitting contact if there are questions.

EEI/CC
(Issued 01/14/1982; revised 03/12/2012)

Attachment A



Attachment A
Can a Permit Be Reinstated to "active" status after an emissions unit is reinstated to "operating?"

* A Notice of Violation should be issued if the facility was operating without a permit. The PTI fee should be doubled.