

3745-400-54

Criteria and procedures for processing facility permits to install.

(A) An application notwithstanding any deficiency may be considered and acted upon if sufficient information is provided for the permitting authority to determine whether the permit to install requirements set forth in rule 3745-400-50 of the Administrative Code are satisfied.

(B) If the permitting authority determines that information in addition to that required by rule 3745-400-50 of the Administrative Code is necessary to determine whether the criteria set forth in paragraph (C) of this rule are satisfied, the permitting authority may require that the applicant supply such information as a precondition to further consideration of the permit to install application.

(C) Criteria for issuance. The permitting authority shall not issue a processing facility permit to install unless the following criteria are met:

(1) The applicant for the permit to install is the owner or operator of the processing facility and, if the applicant does not own all of the real property upon which the processing facility is or will be located, has written permission from each owner to apply for the permit to install.

(2) The owner or operator of a processing facility has demonstrated that appropriate authorizations have been applied for or obtained including but not limited to authorizations required pursuant to Chapters 3704. and 6111. of the Revised Code.

(3) The permit to install application complies with rule 3745-400-50 of the Administrative Code.

(4) For a processing facility that was not in operation prior to October 6, 2017 and for a processing facility that was in operation prior to October 6, 2017 but is proposing to expand the horizontal limits of construction and demolition debris processing beyond those identified in the processing facility's registration, the proposed horizontal limits of construction and demolition debris processing are not located within any of the following:

(a) One hundred feet of the property line.

(b) One hundred feet of a perennial stream.

(c) One hundred feet of a category 3 wetland.

(d) Five hundred feet of an occupied dwelling.

(5) Any oil wells and gas wells within the horizontal limits of construction and demolition debris processing are properly plugged and abandoned in accordance with Chapter 1509. of the Revised Code.

- (6) The owner or operator of a processing facility is not required to conduct final closure in accordance with any applicable closure requirement.
- (7) The owner and operator of the processing facility is in substantial compliance with, or on a legally enforceable schedule through issuance of an administrative order or judicial order to attain compliance with, environmental laws in this state and other jurisdictions at facilities, processing facilities, solid waste facilities, and infectious waste treatment facilities they own or operate. An owner or operator of a processing facility is not in substantial compliance with the environmental laws of this state or other jurisdictions if the owner or operator of a processing facility has committed a significant or material violation of an environmental law or has committed numerous, other violations of environmental laws such that the violations reveal a practice of noncompliance with environmental laws.
- (8) The owner and operator of the processing facility has maintained a history of compliance with environmental laws in this state and other jurisdictions by resolving all administrative and judicial enforcement actions that were brought against them that were based on a significant or material violation of an environmental law, or were based on numerous other violations of environmental laws that revealed a practice of noncompliance with environmental laws, at facilities, processing facilities, solid waste facilities, and infectious waste treatment facilities they own or operate or facilities, processing facilities, solid waste facilities, or infectious waste treatment facilities they previously owned or operated. For purposes of this rule, an enforcement action has been resolved if the owner or operator of a processing facility has entered into an administrative order or judicial order with regard to the violation of environmental laws, or the owner or operator of a processing facility has adjudicated the issue of whether they are in violation of environmental laws to finality.
- (9) The owner and operator of the processing facility exhibit sufficient reliability, expertise, and competency to operate the processing facility in substantial compliance with environmental laws in this state as a result of, and including but not limited to, the assets, employees, equipment, and other resources available at, and dedicated to, the processing facility.
- (D) Terms and conditions. The permitting authority may issue a processing facility permit to install with terms and conditions that the permitting authority finds necessary to ensure the owner or operator of the processing facility will comply with Chapter 3714, of the Revised Code and rules adopted thereunder and to protect public health and safety and the environment.
- (E) Procedures. When acting on a processing facility permit to install, the permitting authority shall comply with the following:

- (1) When issuing, denying, modifying, transferring, denying transfer of, or revoking a permit to install, the procedures set forth in rule 3745-500-120 of the Administrative Code.
- (2) When altering a permit to install, the procedures set forth in rule 3745-500-150 of the Administrative Code.
- (3) When administratively changing a permit to install, the procedures set forth in rule 3745-500-360 of the Administrative Code.
- (4) When suspending a permit to install, the following:

 - (a) If the director is the permitting authority, the applicable provisions of Chapters 119., 3714., and 3745. of the Revised Code. If the approved board of health is the permitting authority, section 3709.20 of the Revised Code and the applicable provisions of Chapter 3714. of the Revised Code.
 - (b) Unless an emergency exists requiring immediate action to protect public health or safety or the environment, make the suspension effective only after the permittee has been given notice in writing of the conditions or violations that need to be corrected and has been given a reasonable period of time to respond to the notice to make corrections.
 - (c) Execute the suspension through issuance of a written order that contains at a minimum the following information:

 - (i) The name and contact information of the permittee and the secondary identification number of the processing facility.
 - (ii) The findings upon which the suspension is based.
 - (iii) The effective date of the order.
 - (iv) A notice of appeal rights.
- (5) Reinstate a suspended permit to install through issuance of a written order that at a minimum contains the following information:

 - (a) The name and contact information of the permittee and the secondary identification number of the processing facility.
 - (b) The findings upon which the reinstatement is based.
 - (c) The effective date of the order.

(d) A notice of appeal rights.

(6) Retain and distribute copies of all authorizing documents in accordance with rule 3745-500-130 of the Administrative Code.