

3745-34-23 **Modification or revocation and reissuance of permits.**

When the director receives any information (for example, inspects the facility, receives information pertinent to the permit submitted by the permittee as required in the permit [see rule 3745-34-26 of the Administrative Code], receives a request for modification or revocation and reissuance or conducts a review of the permit file), the director may determine whether or not one or more of the causes listed in paragraphs (A) and (B) of this rule for modification, revocation and reissuance, or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of paragraph (C) of this rule, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision, and the permit is then reissued for a new term. If cause does not exist under this rule or rule 3745-34-25 of the Administrative Code, the director shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in rule 3745-34-25 of the Administrative Code for minor modifications, the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in Chapter 3745-49 of the Administrative Code must be followed.

- (A) Causes for modification. The following are causes for modification. For class I hazardous waste injection wells the following may be cause for revocation and reissuance or modification; and for all other wells the following may be cause for revocation or modification when the permittee requests or agrees.
- (1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 - (2) Information. The director has received information pertinent to the permit. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For underground injection control area permits (rule 3745-34-18 of the Administrative Code), this cause shall include any information indicating that cumulative effects on the environment are unacceptable.
 - (3) New rules. The standards or regulations on which the permit was based have been changed by promulgation of amended rules. Permits may be modified during their terms for this cause only as follows.
 - (a) For promulgation of amended standards or regulations, when all of the following criteria are met:
 - (i) The permit condition requested to be modified was based on a rule within this chapter.
 - (ii) The director has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based.
 - (iii) A permittee requests modification within ninety days after the effective

date of the rule or director's action on which the request is based.

- (4) For judicial decisions when a state court of competent jurisdiction has remanded and stayed Ohio EPA promulgated regulations if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed to Ohio EPA by the permittee within ninety days of judicial remand.
 - (5) Compliance schedules. The director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. See also paragraph (C) of rule 3745-34-25 of the Administrative Code (minor modifications).
- (B) Causes for modification or revocation and reissuance. The following are causes to modify, or, alternatively, revoke and reissue a permit:
- (1) Cause exists for termination under rule 3745-34-24 of the Administrative Code and the director determines that modification or revocation and reissuance is appropriate.
 - (2) The director has received notification (as required in the permit-see paragraph (D) of rule 3745-34-25 of the Administrative Code) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (paragraph (B) of rule 3745-34-22 of the Administrative Code) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.
 - (3) A determination that the waste being injected is a hazardous waste as defined in rule 3745-34-01 of the Administrative Code either because the definition has been revised, or because a previous determination has been changed.
- (C) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

Effective: 11/11/2016

Five Year Review (FYR) Dates: 08/24/2016 and 07/14/2021

Promulgated Under: 119.03
Statutory Authority: 6111.043
Rule Amplifies: 6111.043
Prior Effective Dates: 12/15/82, 07/25/84, 01/24/00