

TO BE RESCINDED

3745-31-09

Air permit-to-install completeness determinations, public participation and public notice.**(A) Completeness review time restriction**

Within sixty days after the director or his agent or authorized representative receives an application for the issuance of a permit-to-install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, or an application to modify such a permit, the director shall determine whether the application is substantially complete or materially deficient and shall notify the applicant, in writing, of the determination. If the director fails to make such a completeness determination and provide written notice of the determination to the applicant within sixty days after the application was submitted, the applicant may submit a written request to the director for the making of such a completeness determination.

(B) Request for completeness determination

Within thirty days after receiving a written request for the making of a completeness determination on an application under paragraph (A) of this rule, the director shall determine whether the application is substantially complete or materially deficient and, in writing, notify the applicant of his determination. If the director fails to make a completeness determination and provide written notice of his determination to the applicant within thirty days after receiving the applicant's written request for the making of the determination, the application shall be deemed to have been complete in all material respects at the time that it was submitted to the director or his agent or authorized representative.

(C) Materially deficient applications

If, within the time prescribed in paragraph (A) and, if applicable, paragraph (B) of this rule, the director or his agent or authorized representative determines that an application is materially deficient, the director shall return the application to the applicant. The running of the time prescribed under paragraph (A) of this rule and, if applicable, paragraph (B) of this rule ceases at the time that the determination is made. If the applicant subsequently resubmits the application to the director, the time prescribed in paragraph (A) of this rule and, if applicable, paragraph (B) of this rule shall resume running at the time that the application is resubmitted. The resubmission of the application constitutes a request for the making of a completeness determination on the application. The director shall do one of the following within the time remaining pursuant to paragraph (A) and, if applicable, paragraph (B) of this rule at the time that the application is resubmitted:

(1) Make a completeness determination on the application and, in writing, notify

the applicant of his determination;

(2) Issue or deny or propose to issue or propose to deny the permit or modification.

(D) Completeness date notification

The director shall include in each written notice of the completeness of an application provided under paragraph (A), (B), or (C)(1) of this rule the date on which the application was determined to be complete.

(E) Permit decision time limits

The director shall issue or deny or propose to issue or deny a permit-to-install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, or modification of such a permit within one hundred eighty days after the date that the application for the permit or modification was determined to be complete as that date is set forth in the written notice of the determination of the completeness of the application provided under paragraph (A), (B), or (C)(1) of this rule or within one hundred eighty days after the application is deemed to be complete under paragraph (B) of this rule, as appropriate. If the director fails to issue or deny or propose to issue or deny the permit or modification within the appropriate one-hundred-eighty-day period, the applicant may bring a mandamus action to obtain a judgment that orders the director to take a final action on the application.

(F) Extension of the permit review time period for the public

The director, upon his own motion or upon the written request of the applicant and in writing, may extend the time provided under paragraph (E) of this rule for issuing or denying or proposing to issue or deny the permit or modification for an additional sixty days if a public meeting or public hearing was held on the application for the permit or modification.

(G) Extensions of the permit review time period for the applicant

Upon the written request of the applicant, the director, in writing, may extend the time provided under paragraph (E) of this rule for issuing or denying or proposing to issue or deny the permit or modification for the additional time specified in the applicant's request for the extension.

(H) Public participation/notification requirements

The director shall:

- (1) Notify the public, by advertisement in a newspaper of general circulation in each county in which the proposed air contaminant source would be constructed, of the application, the draft action (if issued), the ambient air impact that is expected from the nonattainment NSR permit or the PSD permit, if any, and of the opportunity to request a public hearing, comment at that public hearing and/or submit written comments on any draft action. This notice shall follow the requirements under Chapter 3745-47 of the Administrative Code.
- (2) Send a copy of the notice of public comment to the applicant, the administrator of the United States environmental protection agency, and to officials and agencies having jurisdiction over the location where the proposed air contaminant source would be built as follows:
 - (a) Any other state or local air pollution control agencies;
 - (b) The chief executives of the city and county where the air contaminant source would be located;
 - (c) Any comprehensive regional land use planning agency; and
 - (d) Any federal land manager, Indian governing body, or state whose lands may be affected (in the director's judgment) by emissions from the air contaminant source or modification.
- (3) For all draft action permits-to-install, upon request, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the air contaminant source, alternatives to it, the control technology required, and other appropriate considerations.
- (4) Consider all written comments submitted within the period specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The director shall make all comments available for public inspection.
- (5) Notify the applicant in writing of the final determination and make such notification available for public inspection.

Effective:

R.C. 119.032 review dates: 07/03/2007

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3704.03(F)
Rule Amplifies: 3704.03(F), 3704.03(A)
Prior Effective Dates: 4/12/96, 10/28/04, 12/1/06