

3745-77-01

Definitions.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the paragraph (TT) of this rule titled "Referencedreferenced materials"-section at the end of this rule.]

The following definitions shall apply to this chapter:

- (A) "Act" means the federal Clean Air Act, as defined in ~~section~~Section 3704.01 of the Revised Code.
- (B) "Administrator" means the administrator of the United States environmental protection agency or the chief executive officer of any successor federal agency responsible for implementation of the ~~Act~~act.
- (C) "Administrative permit amendment" means a permit revision that does any of the following:
- (1) Corrects typographical errors~~;~~;
 - (2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source~~;~~;
 - (3) Requires more frequent monitoring or reporting by the permittee~~;~~;
 - (4) Allows for a change in ownership or operational control of a source where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the director~~;~~;
 - (5) Incorporates into the Title V permit the federally enforceable requirements in a permit-to-install issued pursuant to Chapter 3745-31 of the Administrative Code provided that such permit-to-install was issued consistent with procedural requirements applicable to the change if it were subject to review as a Title V permit modification, and compliance requirements substantially equivalent to those contained in rule 3745-77-07 of the Administrative Code~~;~~;
 - (6) Incorporates any other type of change that the administrator has determined to be similar to those revisions set forth in paragraphs (C)(1) to (C)(4) of this rule.
- (D) "Affected source" shall have the meaning given to it in the regulations promulgated under Title IV of the act.

(E) "Affected states" are all states that are either of the following:

- (1) Contiguous to Ohio, whose air quality may be affected by emissions from the facility seeking the Title V permit issuance, modification, or permit renewal being proposed; ~~or,~~
- (2) ~~That are within~~ Within fifty miles of the permitted source.

(F) "Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the act;.

(G) "Agency" means the Ohio environmental protection agency or its director as the context or other law or rules may require.

(H) "Applicable requirement" means all of the following federal requirements as they apply to emissions units in a Title V source subject to this chapter, including requirements that have been promulgated or approved by the administrator through rulemaking at the time of issuance but have future-effective compliance dates:

- (1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the administrator through rulemaking under Title I of the act that implements the relevant requirements of the act, including any revisions to that plan promulgated in 40 CFR Part 52;.
- (2) Any federally enforceable term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the act;.
- (3) Any standard or other requirement under Section 111 of the act, including Section 111(d) of the act;.
- (4) Any standard or other requirement under Section 112 of the act, including any requirement concerning accident prevention under Section 112(r)(7) of the act, provided however that the contents of a risk management plan required under Section 112(r) of the act need not be included in the Title V permit application or permit.
- (5) Any standard or other requirement of the acid rain program under Title IV of the act or the regulations promulgated thereunder;.
- (6) Any requirements established pursuant to Section 114(a)(3) or Section 504(b) of the act;.

- (7) Any standard or other requirement governing solid waste incineration under Section 129 of the act;
 - (8) Any standard or other requirement for consumer and commercial products under Section 183(e) of the act;
 - (9) Any standard or other requirement for tank vessels under Section 183(f) of the act;
 - (10) Any standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328 of the act;
 - (11) Any standard or other requirement of the regulations promulgated by the administrator to protect stratospheric ozone under Title VI of the act, unless the administrator has determined that such requirements need not be contained in a Title V permit; ~~and~~;
 - (12) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the act.
- (I) "Applicable implementation plan" means the portion (or portions) of the state implementation plan, or most recent revision thereof, that has been approved under Section 110 of the act, or promulgated under Section 110(c) of the act.
- (J) "Approval of the Title V permit program" means the date that the Ohio Title V permit program has been given approval by the administrator pursuant to Section 502 of the act.
- (K) "Designated representative" shall have the meaning given to it in paragraph (26) of Section 402 of the act and the regulations promulgated thereunder.
- (L) "Director" means the director of environmental protection.
- (M) "Draft permit" means the version of a permit for which the director offers public participation under rule 3745-77-08 of the Administrative Code or affected state review under rule 3745-77-09 of the Administrative Code.
- (N) "Emissions allowable under the Title V permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

- (O) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under Section 112(b) of the act. The term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the act.
- (P) "Equivalent alternative emission limit" means an emission limit, including operating restrictions, that meets the criteria of division (E) of section 3704.03 and division (K) of section 3704.036 of the Revised Code.
- (Q) "Facility" means all of the emitting activities that are located on contiguous or adjacent properties that are under the control of the same person or persons or under common control and that are in the same major group as described in the "Standard Industrial Classification Manual".
- (R) "FEPTIO" means federally enforceable permit-to-install and operate.
- (S) "Final permit" means the version of a Title V permit issued by the director for which all review procedures required by rule 3745-77-08 of the Administrative Code have been completed, or a Title V permit issued by the administrator pursuant to 40 CFR 70.8(C)(4).
- (T) "Fugitive emissions" are those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (U) "General permit" means a Title V permit that meets the requirements of paragraph (D) of rule 3745-77-07 of the Administrative Code.
- (V) "Insignificant activities and emissions levels" means any of the following:
- (1) All source categories excluded from the requirements to obtain installation permits or operating permits under section 3704.011 of the Revised Code or Chapter 3745-15, or 3745-31, ~~or 3745-35~~ of the Administrative Code;
 - (2) All source categories specifically exempted under 40 CFR Part 70; ~~or~~
 - (3) Any emissions unit with uncontrolled potential emissions of five tons or less per year of any regulated air pollutant other than a hazardous air pollutant and not more than twenty per cent of an applicable major source threshold under the Act.
 - (4) Any research and development source that is by itself not a major source.
- (W) "Hazardous air pollutant" means any pollutant listed under Section 112(b) of the act.

(X) "Major source" means any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties and under common control of the same person (or persons under common control) belonging to a single major industry grouping and that are described in paragraph (X)(1), (X)(2), or (X)(3) of this rule. For the purposes of defining major source, a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the "Standard Industrial Classification Manual".

(1) A major source under Section 112 of the act, which is defined as:

(a) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten TPY or more of any hazardous air pollutant, twenty-five TPY or more of any combination of hazardous air pollutants, or such lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control to determine whether such units or stations are major sources; or

(b) For radionuclides, major source shall have the meaning specified by the administrator by rule.

(2) A major stationary source of air pollutants, as defined in Section 302 of the act, that directly emits or has the potential to emit, one hundred TPY or more of any air pollutant (including any major source of fugitive emissions of any such pollutant as determined by rule by the administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the act, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

- (e) Iron and steel mills;₂
- (f) Primary aluminum ore reduction plants;₂
- (g) Primary copper smelters;₂
- (h) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;₂
- (i) Hydrofluoric, sulfuric, or nitric acid plants;₂
- (j) Petroleum refineries;₂
- (k) Lime plants;₂
- (l) Phosphate rock processing plants;₂
- (m) Coke oven batteries;₂
- (n) Sulfur recovery plants;₂
- (o) Carbon black plants (furnace process);₂
- (p) Primary lead smelters;₂
- (q) Fuel conversion plants;₂
- (r) Sintering plants;₂
- (s) Secondary metal production plants;₂
- (t) Chemical process plants except for ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;₂
- (u) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million british thermal units per hour heat input;₂
- (v) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;₂
- (w) Taconite ore processing plants;₂
- (x) Glass fiber processing plants;₂

- (y) Charcoal production plants~~;~~
 - (z) Fossil-fuel-fired steam electric plants of more than two hundred fifty million british thermal units per hour heat input~~;~~~~or~~
 - (aa) Any other stationary source categories that, as of August 7, 1980, are regulated by a standard promulgated under ~~section~~ Section 111 or 112 of the act.
- (3) A major stationary source as defined in Part D of Title I of the act, including any of the following:
- (a) For ozone nonattainment areas, sources with the potential to emit one hundred TPY or more of volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate, fifty TPY or more in areas classified as serious, twenty-five TPY or more in areas classified as severe, and ten TPY or more in areas classified as extreme; except that the references in this paragraph to one hundred, fifty, twenty-five, and ten TPY of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under Section 182(f)(1) or (2) of the act, that requirements under Section 182(f) of the act do not apply~~;~~
 - (b) For ozone transport regions established pursuant to Section 184 of the act, sources with the potential to emit fifty TPY or more of volatile organic compounds~~;~~
 - (c) For carbon monoxide nonattainment areas where both of the following are met:
 - (i) That are classified as serious~~;~~~~and~~
 - (ii) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit fifty TPY or more of carbon monoxide~~;~~~~and~~
 - (d) For PM10 nonattainment areas classified as serious, sources with the potential to emit seventy TPY or more of PM10.
- (Y) "Non-major source" or "minor source" means any stationary source that does not meet the definition of major source as defined in this rule.

(Z) "Part 70" or "part 70 regulations" means regulations promulgated by the administrator and published at 40 CFR Part 70.

(AA) "Permit modification" means a revision to a Title V permit that meets the requirements of rule 3745-77-08 of the Administrative Code.

(BB) "Permit revision" means any permit modification or administrative permit amendment.

(CC) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method based on 40 CFR part 50, appendix J and designated in accordance with 40 CFR part 53 or an equivalent method designated in 40 CFR part 53.

~~(CC)~~(DD) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by the state. Secondary emissions do not count in determining the potential to emit of a stationary source.

~~(DD)~~(EE) "Proposed permit" means the version of a Title V permit that the director intends to issue and forwards to the administrator for review in compliance with rule 3745-77-08 of the Administrative Code. The preparation and forwarding of a proposed permit shall not constitute a proposed action or a final action of the director.

~~(EE)~~(FF) "PTIO" means permit-to-install and operate.

~~(FF)~~(GG) "Regulated air pollutant" means ~~the~~ a pollutant that is any of the following:

- (1) Nitrogen oxides or any volatile organic compounds;
- (2) Any pollutant for which a national ambient air quality standard has been promulgated;
- (3) Any pollutant subject to any standard promulgated under Section 111 of the act;
- (4) Any class I or II substance subject to a standard promulgated under or established by Title VI of the act; ~~or~~
- (5) Any pollutant subject to a standard promulgated under Section 112 of the act or other requirement established under ~~section~~ Section 112 including Sections

112(g), (j), and (r) of the act, including the following: (a) any pollutant subject to requirements under Section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date eighteen months after the applicable date established pursuant to Section 112(e) of the act; and (b) any pollutant for which the requirements of Section 112(g)(2) of the act have been met, but only with respect to the individual source subject to Section 112(g)(2) of the act.

~~(GG)~~(HH) "Renewal" means the process by which a permit may be reissued at the end of its term.

~~(HH)~~(II) "Research and development sources" shall have the same meaning as in section 3704.01 of the Revised Code.

~~(H)~~(JJ) "Responsible official" means ~~one of the following:~~

- (1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either of the following applies:
 - (a) The facilities employ more than two hundred fifty persons or have gross annual sales or expenditures exceeding twenty five million dollars (in second quarter 1980 dollars); ~~or.~~
 - (b) The delegation of authority to such representatives is approved in advance by the director; ~~or.~~
- (2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; ~~or.~~
- (3) For a municipality or state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of ~~these regulations~~ this chapter, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of the United States environmental protection agency); ~~or.~~
- (4) For affected sources, both of the following:

- (a) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the act or the regulations promulgated thereunder are concerned;~~and,~~
- (b) The designated representative for any other purposes under ~~these regulations~~this chapter.

~~(JJ)~~(KK) "Significant emissions unit" means any air contaminant emission activity or emissions unit regulated pursuant to this chapter, but does not include air contaminant emissions units or activities that meet either or both of the following:

- (1) Described in paragraphs (V)(1) to (V)(4) of this rule;~~or,~~
- (2) Identified as trivial air contaminant emission activities for preparing Title V permit applications in Ohio environmental protection agency's "Engineering Guide 62."

~~(KK)~~(LL) "Stationary source" or "source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the act.

~~(LL)~~(MM) "Statement of basis" or "SOB" means a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

~~(MM)~~(NN) "Synthetic minor source" means a stationary source that would be classified as a major source in the absence of restrictions on the potential to emit of the source. These restrictions include those that are federally enforceable and those that are legally and practicably enforceable by the state.

~~(NN)~~(OO) "Title I modification" or "modification under any provision of Title I of the act" means any modification under Sections 111 or 112 of the act and any major modification under Part C or D of Title I of the act.

~~(OO)~~(PP) "Title V permit" or "permit" (unless the context suggests otherwise) means any permit or group of permits covering a Title V source that is issued, renewed, amended, or modified pursuant to this chapter.

~~(PP)~~(QQ) "Title V source" means any source subject to the permitting requirements of this chapter, as provided in rule 3745-77-02 of the Administrative Code.

~~(QQ)~~(RR) "TPY" means tons per year.

~~(RR)~~(SS) "Uncontrolled potential emissions" means the calculated annual emissions rate without any air pollution controls assuming twenty-four hours per day and three hundred sixty-five days per year of operation. If the emissions unit has an inherent physical limitation, then the number of hours per day and days per year can be restricted to the maximum possible under the inherent physical limitation.

~~(SS)~~(TT) Referenced materials. This chapter includes references to certain matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, ~~and/or~~ and the particular edition or version of the material is included in this rule. For materials subject to change, only the specific versions specified in this rule are referenced. Material is referenced as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not applicable unless and until this rule has been amended to specify the new dates.

(1) Availability. The referenced materials are available as follows:

- (a) Clean Air Act. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the act as amended in 1990 is also available in electronic format at www.epa.gov/oar/caa/. A copy of the act is also available for inspection and ~~copying~~ use at "The State Library of Ohio."
- (b) Code of Federal Regulations. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at ~~www.access.gpo.gov/nara/cfr/~~ www.ecfr.gov. The CFR compilations are also available for inspection and ~~copying~~ use at most public libraries and "The State Library of Ohio."
- (c) Engineering guides. Information and copies may be obtained by writing to: "Ohio EPA Division of Air Pollution Control, PO Box 1049, Columbus, Ohio 43216-1049." The full texts of the engineering guides are also available in electronic format at <http://www.epa.ohio.gov/dapc/engineer/eguides.aspx>. Ohio EPA engineering guides are also available for inspection and ~~copying~~ use at the "State Library of Ohio."
- (d) North American industry classification system (NAICS) codes. Information and copies may be obtained by contacting the national technical information service at 1-800-553-6847. The codes are also available in electronic format at www.census.gov/epcd/www/naics.html.

- (e) Ohio EPA weekly review. Information and copies may be obtained by writing to: "Ohio EPA Legal Department, PO Box 1049, Columbus, Ohio, 43216-1049." The full text of the Ohio EPA Weekly Review is also available in electronic format at <http://epa.ohio.gov/legal/pubnots.aspx>. The Ohio EPA Weekly Review compilations are also available for inspection and copying use at most Ohio public libraries and "The State Library of Ohio."
- (f) Standard industrial classification manual (SICM). Information and copies may be ordered by writing to: "U.S. Department of Commerce, Technology Administration, National Technical Information Service, Springfield, Virginia, 22161." or by calling 1-800-553-6847. A copy of the manual is also available for inspection and copying use at most public libraries and "The State Library of Ohio."

(2) Referenced materials.

- (a) 40 CFR 61.145; "Standard for demolition and renovation;" 55 FR 48419, Nov. 20, 1990; 56 FR 1669, Jan. 16, 1991.
- (b) 40 CFR 70.3; "Applicability;" 57 FR 32295, July 21, 1992, as amended at 70 FR 75346, Dec. 19, 2005.
- (c) 40 CFR 70.4; "State program submittals and transition;" 57 FR 32295, July 21, 1992, as amended at 61 FR 31448, June 20, 1996; 61 FR 56370, Oct. 31, 1996; 66 FR 27010, May 15, 2001.
- (d) 40 CFR 70.5; "Permit applications;" as published in the July 1, ~~2009~~ 2017 Code of Federal Regulations.
- (e) 40 CFR 70.8; "Permit review by EPA and affected States;" as published in the July 1, ~~2009~~ 2017 Code of Federal Regulations.
- (f) 40 CFR Part 2; "Public information;" as published in the July 1, ~~2009~~ 2017 Code of Federal Regulations.
- (g) 40 CFR Part 52; "Approval and promulgation of implementation plans;" as published in the July 1, ~~2009~~ 2017 Code of Federal Regulations.
- (h) 40 CFR Part 53; "Ambient air monitoring reference and equivalent methods;" as published in the July 1, 2017 Code of Federal Regulations.
- (~~h~~)(i) 40 CFR Part 60, Subpart AAA; "Standards of Performance for New Residential Wood Heaters;" 53 FR 5873-5874, Feb. 26, 1988, as amended

at 53 FR 12009, Apr. 12, 1988; 53 FR 14889, Apr. 26, 1988; 57 FR 5328, Feb. 13, 1992; 60 FR 33925, June 29, 1995; 53 FR 5873, Feb. 26, 1988; 63 FR 64874, Nov. 24, 1998; 64 FR 7466, Feb. 12, 1999; 65 FR 61763-61764, Oct. 17, 2000.

~~(j)~~(j) 40 CFR Part 61, Subpart M; "National Emission Standard for Asbestos;" 49 FR 13661, Apr. 5, 1984 as amended by 49 FR 25453, June 21, 1984; 51 FR 8199, Mar. 10, 1986; 53 FR 36972, Sept. 23, 1988; 55 FR 48414, 48416, 48419, 48424, 48429-48433, Nov. 20, 1990; 56 FR 1669, Jan. 16, 1991; 55 FR 48424, Nov. 20, 1991; 60 FR 31920, June 19, 1995; 64 FR 7467, Feb. 12, 1999; 68 FR 54793, Sept. 18, 2003; 69 FR 43324, July 20, 2004.

~~(j)~~(k) 40 CFR Part 63, Subpart M; "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;" 58 FR 49376, Sept. 22, 1993, as amended at 58 FR 66289, Dec. 20, 1993; 61 FR 27788, June 3, 1996; 61 FR 49265, Sept. 19, 1996; 64 FR 69643, Dec. 14, 1999; 68 FR 37347, June 23, 2003; 70 FR 75345, Dec. 19, 2005; 71 FR 42743, July 27, 2006; 71 FR 55280, Sept. 21, 2006.

~~(l)~~(l) 40 CFR Part 63, Subpart N; "National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;" 60 FR 4963, Jan. 25, 1995, as amended at ; 60 FR 33122, June 27, 1995; 61 FR 27787, June 3, 1996; 62 FR 4465, Jan. 30, 1997; 62 FR 42920, Aug. 11, 1997; 64 FR 69643, 68 FR 37347, June 23, 2003; Dec. 14, 1999; 69 FR 42894, July 19, 2004; 70 FR 75345, Dec. 19, 2005; 71 FR 20456, Apr. 20, 2006.

~~(m)~~(m) 40 CFR Part 63, Subpart O; "Ethylene Oxide Emissions Standards for Sterilization Facilities;" 59 FR 62589, Dec. 6, 1994, as amended at 61 FR 27788, June 3, 1996; 63 FR 66994, Dec. 4, 1998; 64 FR 67793, Dec. 3, 1999; 64 FR 69643, Dec. 14, 1999; 66 FR 55582, Nov. 2, 2001; 68 FR 37348, June 23, 2003; 70 FR 75345, Dec. 19, 2005.

~~(n)~~(n) 40 CFR Part 63, Subpart T; "National Emission Standards for Halogenated Solvent Cleaning;" 59 FR 61805-61818, Dec. 2, 1994; 59 FR 67750, Dec. 30, 1994, as amended at 60 FR 29485, June 5, 1995; 63 FR 24751, May 5, 1998; 63 FR 68400, Dec. 11, 1998; 64 FR 67798-67802, Dec. 3, 1999; 64 FR 69643, Dec. 14, 1999; 65 FR 54422-54423, Sept. 8, 2000; 68 FR 37349, June 23, 2003; 70 FR 75345, Dec. 19, 2005; 72 FR 25157, May 3, 2007.

- ~~(n)~~(o) 40 CFR 63, Subpart RRR; "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production;" 65 FR 15710, Mar. 23, 2000, as amended at 67 FR 59791, Sept. 24, 2002; 67 FR 79814, Dec. 30, 2002; 69 FR 53984, Sept. 3, 2004; 70 FR 57517, Oct. 3, 2005; 70 FR 75346, Dec. 19, 2005; 71 FR 20461, Apr. 20, 2006.
- (p) 40 CFR Part 64, "Compliance Assurance Monitoring;" 62 FR 54940, Oct. 22, 1997.
- ~~(o)~~(q) 40 CFR Part 70; "State Operating Permit Programs;" Federal Register Vol. 57, No. 140, July 21, 1992 as amended at 61 FR 31448, June 20, 1996; 61 FR 56370, Oct. 31, 1996; 66 FR 27010, May 15, 2001; 66 FR 59166, Nov. 27, 2001; 69 FR 31505, June 3, 2004.
- ~~(p)~~(r) 40 CFR Part 72; "Permits Regulation;" as published in the July 1, ~~2009~~ 2017 Code of Federal Regulations.
- ~~(q)~~(s) Clean Air Act; contained in 42 USC 7401 to 7671q; "The Public Health and Welfare-Air Pollution Prevention and Control;" published January 8, ~~2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.
- ~~(r)~~(t) Engineering Guide 62; "Identification of Trivial Air Contaminant Emission Activities for Preparing Title V Permit Applications;" most current form as reviewed and approved by the Ohio EPA division of air pollution control; as issued November 6, 1995.
- ~~(s)~~(u) Part C of Title I, of the Clean Air Act; contained in 42 USC 7470 to 7492 "Prevention of significant deterioration of air quality;" published January 8, ~~2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of United States Code.
- ~~(t)~~(v) Part D of Title I of the Clean Air Act; contained in 42 USC 7501 to 7515; "Plan Requirements for Non Attainment Areas;" published January 8, ~~2008~~ 3, 2016 in Supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.
- ~~(u)~~(w) Section 110 of the Clean Air Act; contained in 42 USC 7410; "State implementation plans for national primary and secondary ambient air quality standards;" published January 8, ~~2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.
- ~~(v)~~(x) Section 111 of the Clean Air Act; contained in 42 USC 7411; "Standards of performance for new stationary sources;" published January 8, ~~2008~~

3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(w)~~(y) Section 112 of the Clean Air Act; contained in 42 USC 7412; "Hazardous Air Pollutants;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(x)~~(z) Section 114 of the Clean Air Act; contained in 42 USC 7414; "Recordkeeping, inspections, monitoring, and entry;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(y)~~(aa) Section 123 of the Clean Air Act; contained in 42 USC 7423; "Stack heights;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(z)~~(bb) Section 129 of the Clean Air Act; contained in 42 USC 7429; "Solid Waste Combustion;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(aa)~~(cc) Section 182 of the Clean Air Act; contained in 42 USC 7511a; "Plan submissions and requirements;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(bb)~~(dd) Section 183 of the Clean Air Act; contained in 42 USC 7511b; "Federal ozone measures;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(cc)~~(ee) Section 184 of the Clean Air Act; contained in 42 USC 7511c; "Control of interstate ozone air pollution;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(dd)~~(ff) Section 302 of the Clean Air Act; contained in 42 USC 7602; "Definitions;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(ee)~~(gg) Section 303 of the Clean Air Act; contained in 42 USC 7603; "Emergency powers;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

~~(ff)~~(hh) Section 328 of the Clean Air Act; contained in 42 USC 7627; "Air pollution from Outer Continental Shelf activities;" published January ~~8, 2008~~ 3, 2016 in supplement ~~I~~ III of the ~~2006~~ 2012 edition of the United States Code.

- ~~(gg)~~(ii) Section 402 of the Clean Air Act, contained in 42 USC 7651a; "Definitions;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the-~~2006~~ 2012 Edition of the United States Code.
- ~~(hh)~~(jj) Section 408 of the Clean Air Act; contained in 42 USC 7651g; "Permits and compliance plans;" published January-~~8, 2008~~ 3, 2016 in supplement I III of the-~~2006~~ 2012 Edition of the United States Code.
- ~~(ii)~~(kk) Section 502 of the Clean Air Act; contained in 42 USC 7661;" Permit Programs;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the 2006 2012 Edition of the United States Code.
- ~~(jj)~~(ll) Section 503 of the Clean Air Act; contained in 42 USC 7661b; "Permit applications;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the-~~2006~~ 2012 Edition of the United States Code.
- ~~(kk)~~(mm) Section 504 of the Clean Air Act; contained in 42 USC 7661c; "Permit requirements and conditions;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the-~~2006~~ 2012 Edition of the United States Code.
- ~~(H)~~(nn) Standard industrial classification manual; United States. Office of management and budget. Last amended 1988.
- ~~(mm)~~(oo) Title I of the Clean Air Act, contained in 42 USC 7401 to 7515; "Air Pollution Prevention and control;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the-~~2006~~ 2012 edition of the United States Code.
- ~~(nn)~~(pp) Title IV of the Clean Air Act; contained in 42 USC 7651 to 7651o; "Acid Deposition Control;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the-~~2006~~ 2012 edition of the United States Code.
- ~~(oo)~~(qq) Title V of the Clean Air Act, contained in 42 USC 7661 to 7661f; "Permits;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the 2006 2012 edition of the United States Code.
- ~~(pp)~~(rr) Title VI of the Clean Air Act; contained in 42 USC 7671 to 7671q; "Stratospheric Ozone Protection;" published January-~~8, 2008~~ 3, 2016 in supplement-~~I~~ III of the-~~2006~~ 2012 edition of the United States Code.

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3745-77-02

Prohibition and applicability.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "~~Referenced~~referenced materials."]

(A) Prohibitions.

Except as provided in paragraph (H)(1)(a) of rule 3745-77-07 of the Administrative Code, and paragraphs (C)(1)(f) and (C)(2)(e) of rule 3745-77-08 of the Administrative Code and in the following sentence, the owner or operator of a Title V source shall not operate such source after the date that a timely and complete Title V permit application is required to be submitted under this chapter, except in compliance with a permit issued under this chapter. If the owner or operator of a Title V source submits a timely and complete application for permit issuance or renewal, the failure to have a Title V permit is not a violation of this chapter until the director takes final action on the application. This protection shall cease to apply upon the effectiveness of the director's final determination that the application is not complete pursuant to paragraphs (A) and (B) of rule 3745-77-05 of the Administrative Code.

(B) Title V sources. ~~The~~All of the following sources are subject to the permitting requirements under this chapter unless they are exempted under paragraph (C) of this rule:

- (1) Any major source~~;~~
- (2) Any source, including an area source, subject to a standard or other requirement under Section 111 of the act~~;~~
- (3) Any source, including an area source, subject to a standard or other requirement under Section 112 of the act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the act~~;~~
- (4) Any affected source~~;~~and
- (5) Any source in a source category designated by the administrator pursuant to 40 CFR Part 70.3.

(C) Exemptions.

- (1) All sources listed in paragraph (B) of this rule that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant

to Section 129(e) of the act, are exempt from the obligation to obtain a Title V permit unless required to do so under rules promulgated by the administrator.

- (2) In the case of nonmajor sources subject to a standard or other requirement promulgated under either Section 111 or 112 of the act after July 21, 1992, such nonmajor sources shall become subject to the Title V permitting requirements if so required by the standard or other requirement adopted by the administrator.
- (3) Sources in any of the following source categories are exempted from the obligation to obtain a Title V permit under these rules:
 - (a) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA - "Standards of Performance for New Residential Wood Heaters;" ~~and.~~
 - (b) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M - "National Emission Standard for Hazardous Air Pollutants for Asbestos;" 40 CFR 61.145 "Standard for Demolition and Renovation."
 - (c) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 63, Subpart M - "Perchloroethylene Dry Cleaning."
 - (d) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 63, Subpart N - "Hard and Decorative Chromium Electroplating and Chromium Anodizing."
 - (e) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 63, Subpart O - "Commercial Ethylene Oxide Sterilization."
 - (f) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 63, Subpart T - "Halogenated Solvent Cleaning."
 - (g) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 63, Subpart RRR - "Secondary Aluminum Production."
- (4) Synthetic minor sources. Synthetic minor sources are exempted from the requirement for a Title V permit and all other requirements of this chapter.

(D) Opt-in sources.

The owner or operator of a source that is not a Title V source under paragraph (B) of this rule may choose to have the source permitted under the provisions of this chapter by submitting an application for a Title V permit. The permit application shall be processed in the same manner as permit applications for non-exempt Title V sources.

(E) Emissions units and Title V sources.

(1) The federally enforceable portion of the permit shall include all applicable requirements for all relevant emissions units at the major source as specified in paragraph (A) of rule 3745-77-07 of the Administrative Code.

(2) For any non major source subject to this rule, the director shall include in the permit all requirements applicable to emissions units that cause the source to be subject to a Title V permit.

(F) Fugitive emissions. Fugitive emissions information from a Title V source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(G) Insignificant activities and emissions levels. Insignificant activities and emissions levels shall be exempted from the permit application requirements of this rule except for research and development emission units whose emission levels exceed the requirements specified in paragraph (X)(1) or (X)(3) of rule 3745-77-01 of the Administrative Code, provided that insignificant emission activities that are exempted because of size or production rate shall be identified in the permit application. Nothing in this paragraph shall affect the determination of whether a stationary source is a major source.

(H) Applicability determinations. Upon written request of a Title V permit applicant, the director shall make a determination of the applicability or inapplicability of any provision or class of requirements under the act to an emissions unit or stationary source and shall include that determination or a concise summary of it in the applicant's Title V permit.

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3745-77-03

Content of a permit application.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "~~Referenced~~referenced materials."]

- (A) Standard application form. The owner or operator of a source that is subject to the Title V permit program as provided in rule 3745-77-02 of the Administrative Code shall submit Title V permit applications in the manner and form prescribed by the director for that purpose. The applicant shall submit the information required by this rule for each emissions unit at the source to be permitted, except for insignificant activities and emissions levels as specified in paragraph (G) of rule 3745-77-02 of the Administrative Code. The applicant must identify any such insignificant activities and emissions levels that are exempted because of size or production rate. An applicant may not omit information for an emissions unit, including information for insignificant activities or emission levels, that is necessary to determine the applicability of any applicable requirement, to impose any applicable requirement, or to evaluate the fee amount required under section 3745.11 of the Revised Code.
- (B) Option for single or multiple permits. A Title V permit applicant may request a single permit for a stationary source with multiple Title V emissions units, or a separate permit for any one or more emissions units at the same facility required to have a Title V permit. The director shall honor all such requests based on proper definitions of emissions units.
- (C) Required information. The standard application form shall require, and the applicant shall provide, all of the following information:
- (1) Identifying information, including company name and address (or plant name and address if different from the company name or address), owner's name and statutory agent, telephone number and names of plant site manager or other on-site contact, and application or premise number(s) from any previous permits under Chapter 3745-31 of the Administrative Code.
 - (2) A description of the source's processes and products (by standard industrial classification code or North American industry classification system) including any associated with each alternate operating scenario identified by the source.
 - (3) ~~The~~All of the following emission-related information:
 - (a) All emissions of each regulated air pollutant for which the source is major, and an estimate of all emissions of each other regulated air pollutant for which the source is regulated. The application shall describe all

emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted as de minimis in rule 3745-15-05 of the Administrative Code, or exempted in paragraphs ~~(A)(1)~~ to ~~(A)(3)~~ of rule 3745-31-03 of the Administrative Code. The applicant shall provide additional information related to such emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information that may be necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to Chapter 3745-78 of the Administrative Code. All emission estimates shall be performed in accordance with reasonable, appropriate and available engineering techniques.

- (b) Identification and description of all points of emissions described in paragraph (C)(3)(a) of this rule, in sufficient detail to establish both the basis for fees and the applicability of any applicable requirement.
 - (c) Emissions rates in TPY, and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, if any.
 - (d) Information regarding fuels, fuel use, raw materials, production rates, and operating schedules, to the extent such information is needed to determine or regulate emissions.
 - (e) Identification and description of air pollution control equipment and compliance monitoring devices or activities.
 - (f) Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the Title V source.
 - (g) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the act).
 - (h) Calculations on which the information in paragraphs (C)(3)(a) to (C)(3)(g) of this rule is based; ~~and~~.
 - (i) Related information necessary to establish voluntary restrictions in the permit to avoid federally applicable requirements pursuant to paragraph (B) of rule 3745-77-07 of the Administrative Code.
- (4) ~~The~~ Both of the following air pollution control requirements:

- (a) Citation and description of all applicable requirements, ~~and~~.
 - (b) Description of or reference to any applicable test method for determining compliance with each applicable requirement, ~~;~~.
- (5) Other specific information as necessary to implement and enforce other applicable requirements of the act or of this chapter, including the following:
- (a) Information on emissions and controls relevant to establishing a case-by-case emission limitation or standard under Section 112 of the act, or to determine the applicability of such requirements, ~~;~~.
 - (b) A proposed compliance date for any standard under Section 112(d), 112(h), or 112(j) of the ~~Clean Air Act~~act that was promulgated after the applicant has received a final maximum achievable control technology (MACT) determination according to rule 3745-31-28 of the Administrative Code, and that does not specify a compliance date for sources that have received a final case-by-case MACT determination. The proposed compliance date shall be approved by the director, and in no case shall the compliance date be more than eight years from the date of promulgation of the standard.
- (6) Any requests for alternative or multiple operating scenarios or anticipated changes in emissions during the term of the permit, together with the information under paragraphs (C)(3)(a) to (C)(3)(h) of this rule for each such scenario or change, ~~;~~.
- (7) An explanation of any proposed exemptions from otherwise applicable requirements, ~~;~~.
- (8) Any request for alternative emission limits, together with information necessary for the director to define alternative limits requested by the permit applicant under division (E) of section 3704.03 and division (K) of section 3704.036 of the Revised Code, ~~;~~.
- (9) Compliance plan. Description of the compliance status of the Title V source with respect to all applicable requirements, which shall include all of the following:
- (a) For all applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements, ~~;~~.
 - (b) For all applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner such requirements that become effective during the permit term shall satisfy

this provision, unless a more detailed plan or schedule is required by the requirement~~;~~.

- (c) For applicable requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements and a schedule of compliance. The compliance schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with the applicable requirements on which it is based~~;~~.
- (d) A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation~~;~~.
- (e) The compliance plan content requirements specified in paragraphs (C)(9)(a) to (C)(9)(d) of this rule shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded in regulations promulgated under Title IV of the act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations~~;~~ ~~and~~.
- (f) If the owner or operator of the source is required to develop and register a risk management plan pursuant to Section 112(r) of the act, the applicant shall specify the compliance status of the requirement to register such a plan~~;~~.

(10) Compliance certification shall include all of the following:

- (a) A certification of compliance status with all applicable requirements by a responsible official consistent with paragraph (D) of this rule and Section 114 (a)(3) of the act~~;~~.
- (b) A statement of the methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods~~;~~.

- (c) A schedule for submission of compliance certifications during the Title V permit term, to be submitted annually or more frequently if specified by the applicable requirement~~;~~.
 - (d) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the act~~; and~~.
 - (e) If the owner or operator of the source is required to develop and register a risk management plan pursuant to Section 112(r) of the act, the applicant shall certify compliance with the requirement to register such a plan~~; and~~.
- (11) The information specified in nationally standardized forms for the acid rain portions of applications and compliance plans, as required by regulations promulgated under Title IV of the act.

(D) Certification of truth, accuracy, and completeness.

Any application form, report, or compliance certification submitted pursuant to this chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification requirement under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(E) Confidential information.

The application shall clearly identify any information the applicant claims is confidential as business information under 40 CFR Part 2 or a trade secret as defined in section ~~1333.5~~1333.61 of the Revised Code, and shall include a brief statement of the basis for any such claim. Information claimed to be confidential shall not thereafter be released except as provided by either condition listed below:

- (1) If the administrator requests information subject to a claim of confidentiality, the director shall promptly require in writing that the applicant submit the information and claim of confidentiality directly to the administrator. If the applicant fails to submit such information and claim of confidentiality to the administrator within thirty days after receipt of the director's request to do so, the director shall submit such information and claim of confidentiality directly to the administrator~~; or~~.
- (2) If a third party request information subject to a claim of confidentiality, such information shall be released only after the director finds the claim of

confidentiality is not justified, notifies the applicant of the finding, and any appellate review is either not pursued or exhausted.

(F) Duty to supplement application.

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

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3745-77-04

Transition and application filing dates.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "~~Referenced~~referenced materials."]

(A) Compliance with existing permits.

Prior to the issuance or denial of the initial Title V permit, the owner or operator of a source for which a timely and complete Title V permit application has been filed pursuant to this rule and rule 3745-77-05 of the Administrative Code shall continue to comply with all effective terms and conditions of permit-to-install, permits-to-install and operate and permits-to-operate that were issued to one or more emissions units at such source in accordance with present or former Chapter 3745-31 or former Chapter 3745-35 of the Administrative Code. The filing of a timely and complete Title V permit application shall have the same effect as filing an application for a renewal of a permit-to-install and operate for purposes of section 119.06 of the Revised Code.

(B) Initial application filing and processing.

Sources required to obtain a Title V permit shall submit an application no later than the date specified below based on the location of the source:

- (1) Sources that are located within the areas identified in appendix A to this rule shall file an application in accordance with rule 3745-77-03 of the Administrative Code by no later than sixty days after approval of the Title V permit program.
- (2) Sources that are located within the areas identified in appendix B to this rule shall file an application in accordance with rule 3745-77-03 of the Administrative Code by no earlier than sixty-one days after approval of the Title V permit program and no later than one hundred eighty days after approval of the Title V permit program.
- (3) Sources that are located within the areas identified in appendix C to this rule shall file an application in accordance with rule 3745-77-03 of the Administrative Code by no earlier than one hundred eighty-one days after approval of the Title V permit program and no later than three hundred sixty-five days after approval of the Title V permit program.
- (4) Sources subject to paragraph (B)(1) or (B)(2) of this rule may submit a request at least forty-five days prior to the Title V permit application submittal deadline and request up to a ninety day extension of time to submit a Title V permit

application. The director shall act on the request within thirty days or the request will automatically be approved.

- (5) Sources within the jurisdiction of the same local air pollution control agency or district office may, by mutual consent of the director and the owners or operators of the sources involved, trade the deadline dates for the submission of initial Title V permit applications under this paragraph.
- (C) Notwithstanding the provisions of paragraph (B) of this rule, no initial Title V permit application shall be due less than one year after the effective date of this rule.
- (D) A timely application for a source applying for a Title V permit for the first time, other than a source required to file under paragraph (B) of this rule, is one that is submitted within twelve months after the source becomes subject to the Title V permit program. Sources required to have a preconstruction permit under Part C or Part D of Title I of the act shall submit a complete Title V permit application within twelve months after commencing operation, provided that where an existing Title V permit would prohibit construction or operation of such new or modified source, a Title V permit revision must be obtained before operation of such new or modified source.
- (E) Title V permit renewal applications shall be filed no earlier than eighteen months and no later than six months prior to the expiration of the Title V permit.
- (F) Applications for initial phase II acid rain permits shall be submitted to the director by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.
- (G) An owner or operator of a Title V source required to meet the requirements of Section 112(g) of the act shall file a Title V permit application within twelve months after commencing operation of a modification subject to that section.
- (H) An application filed by the appropriate due date in this rule, and, where necessary, supplemented in accordance with rule 3745-77-05 of the Administrative Code, shall be deemed timely.

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3745-77-06

Application shield.

- (A) If the owner or operator of a Title V source submits a timely and complete initial or renewal application in accordance with rules 3745-77-04 and 3745-77-05, paragraph (D) of rule 3745-77-07, and rule 3745-77-08 of the Administrative Code for initial permit issuance or permit renewal, the facility's failure to have a Title V permit for such source is not a violation of this chapter or Chapter 3704. of the Revised Code until the director takes final action on the permit application.
- (B) For purposes of this rule only, an application filed under paragraph (B) of rule 3745-77-04 of the Administrative Code shall not be considered untimely unless it is filed later than ~~one year after approval of the Title V permit program~~ October 1, 1996.

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3745-77-07

Permit content.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "Referenced materials."]

(A) Standard permit requirements. Each Title V permit shall include all of the following elements:

(1) Emission limitations and standards. The permit shall include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance.

(a) The Title V permit shall specify authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(b) The Title V permit shall state that, where an applicable requirement of the act is more stringent than an applicable requirement of regulations promulgated under Title IV of the act, both provisions shall be incorporated into the permit and shall be federally enforceable.

(c) If the applicable implementation plan so provides, upon an applicant's request, pursuant to division (E) of section 3704.03 and division (K) of section 3704.036 of the Revised Code, that an alternative limit or means of compliance be specified in the Title V permit, and such alternative limit satisfies the criteria set forth in division (E) of section 3704.03 and division (K) of section 3704.036 of the Revised Code, such an alternative emission limit or means of compliance shall be included in the permit upon a showing satisfactory to the director that it is quantifiable, accountable, enforceable, and based on replicable procedures. The applicant shall include in the permit application proposed permit terms and conditions to satisfy the requirements of this paragraph.

(2) Permit duration. The director shall issue Title V permits for a fixed period, not to exceed five years, except as ~~provided in paragraphs (A)(2)(a) to (A)(2)(c)~~ of this rule follows:

(a) Permits issued to affected sources shall in all cases have a fixed term of five years.

- (b) Permits issued to solid waste incineration units combusting municipal waste subject to standards under Section 129(e) of the act shall have a term not to exceed twelve years. Such permits shall be reviewed every five years.
- (c) A permit may be terminated, or terminated in part, prior to expiration in accordance with the requirements of paragraph (H) of rule 3745-77-08 of the Administrative Code.

(3) Monitoring and related recordkeeping and reporting requirements.

- (a) Each permit shall contain all of the following requirements with respect to monitoring:
 - (i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to Sections 114(a)(3) or 504(b) of the act;
 - (ii) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to paragraph (A)(3)(c) of this rule. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Such monitoring requirements may apply to operating parameters, fuels, raw materials, or other reliable indicators of the rate of emissions, or combinations thereof. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; ~~and~~.
 - (iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- (b) With respect to recordkeeping, the permit shall incorporate all applicable requirements that relate to recordkeeping and require, where applicable, all of the following:
 - (i) Records of required monitoring information that include all of the following:

- (a) The date, place as defined in the permit, and time of sampling or measurements;~~;~~
 - (b) The date(s) analyses were performed;~~;~~
 - (c) The company or entity that performed the analyses;~~;~~
 - (d) The analytical techniques or methods used;~~;~~
 - (e) The results of such analyses; ~~and~~
 - (f) The operating conditions as existing at the time of sampling or measurement; ~~and~~
- (ii) Retention of records of all required monitoring data and support information for a period of five years from the date the record was created. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. The permit shall specify that records may be maintained in computerized form.
- (c) With respect to reporting, the permit shall incorporate all applicable requirements that relate to reporting. The permit shall also require all of the following:
- (i) That the permittee submit a report of any required monitoring every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification.
 - (ii) That each report submitted under paragraph (A)(3)(c)(i) of this rule shall clearly identify any deviations from the permit requirements that have occurred since the previous report has been submitted.
 - (iii) That each permit shall require prompt reporting of deviations from federally enforceable permit requirements, including deviations attributable to malfunctions as described in paragraph (B)(1) of rule 3745-15-06 of the Administrative Code, regardless of duration, the probable cause of such deviations, and any corrective actions or preventive measures taken. The requirement to include all deviations attributable to malfunctions in these quarterly deviation reports is in addition to the verbal and

written reporting requirements specified in rule 3745-15-06 of the Administrative Code. An exceedance of the visible emission limitations specified in paragraph (A)(1) of rule 3745-17-07 of the Administrative Code that is caused by a malfunction does not need to be reported as a deviation if the owner or operator of the affected air contaminant source or air pollution control equipment complies with the requirements of paragraph (A)(3)(c) of rule 3745-17-07 of the Administrative Code. Malfunctions that are reported in accordance with rule 3745-15-06 of the Administrative Code shall be referenced in the deviation reports required by this paragraph. Deviations resulting from approved requests for scheduled maintenance of air pollution control equipment pursuant to paragraph (A) of rule 3745-15-06 of the Administrative Code also shall be reported in accordance with this paragraph.

- (iv) Unless otherwise specified in the specific permit terms and conditions for an emissions unit, prompt reporting for the purpose of this rule shall be quarterly for all deviations from emission limitations, operational restrictions, and control device operating parameter limitations (except as prescribed in rule 3745-15-06 of the Administrative Code for malfunctions); and semi-annually for all deviations from monitoring, recordkeeping, and reporting requirements pursuant to paragraph (A)(3)(c)(i) of this rule.
 - (v) That each report required under paragraph (A)(3)(c) of this rule shall be signed by a responsible official certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.
- (4) Risk management plans. If the owner or operator of the source is required to develop and register a risk management plan pursuant to Section 112(r) of the act, the permit shall specify that the permittee will comply with the requirement to register such a plan.
- (5) Title IV provisions. The permit shall include provisions necessary to ensure compliance by an affected source with the requirements of 40 CFR Part 72. The permit shall prohibit emissions exceeding any allowances that the source lawfully holds under Title IV of the act or the regulations promulgated thereunder.
- (a) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program,

provided that such increases do not require a permit revision under any other applicable requirement.

- (b) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.
 - (c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the act.
- (6) Severability clause. The Title V permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
- (7) General requirements. The Title V permit shall include provisions stating all of the following:
- (a) The permittee must comply with all conditions of the permit. Any noncompliance with the federally enforceable terms and conditions of the permit constitutes a violation of the act and is grounds for enforcement action or for permit revocation, revocation and reissuance, or modification, or for denial of a permit renewal application.
 - (b) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the federally enforceable conditions of the permit.
 - (c) The permit may be modified, reopened, revoked, or revoked and reissued, for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or revocation, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - (d) The permit does not convey any property rights of any sort, or any exclusive privilege.
 - (e) The permittee shall furnish to the director, upon receipt of a written request and within a reasonable time, any information that the director may request to determine whether cause exists for modifying, reopening, or revoking the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the director copies of records required to be kept by the permit. For information claimed to be confidential in the submittal to the director, if the administrator requests

such information, the permittee may furnish such records directly to the administrator along with a claim of confidentiality.

- (8) Fees. The permit shall provide that the permittee will pay fees to the director in accordance with section 3745.11 of the Revised Code and Chapter 3745-78 of the Administrative Code.
- (9) Marketable permit programs. The permit shall provide that no permit revision shall be required under any approved economic incentive, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit.
- (10) Reasonably anticipated operating scenarios. The permit shall include terms and conditions applicable to all operating scenarios described in the permit application unless prohibited by federally enforceable requirements, including all applicable requirements and requirements of this chapter. As approved by the director, the permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee, contemporaneous with making a change from one operating scenario to another, to record in a log at the permitted facility the scenario under which it is operating. The permit shield provided in paragraph (F) of this rule shall apply to all operating scenarios authorized in the permit.
- (11) Emissions trading. The permit shall include terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:
 - (a) Shall include all terms required under paragraphs (A) and (C) of this rule to determine compliance;
 - (b) May extend the permit shield described in paragraph (F) of this rule to all terms and conditions that allow such increases and decreases in emissions; ~~and~~
 - (c) Must meet all applicable requirements and requirements of this chapter.
- (12) Reopening for cause. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit.
- (13) Insignificant activities and emissions levels.

- (a) Any insignificant activities and emissions levels that are subject to one or more applicable requirements, shall be listed in the federally enforceable portion of the permit along with the applicable requirements or the identification number of each permit to install that establishes one or more applicable requirements for the insignificant activities and emissions levels. This listing is presumed to satisfy the requirements of paragraph (A)(1) of this rule.
 - (b) Monitoring, recordkeeping or reporting requirements established for insignificant activities and emissions levels in a permit to install or under applicable rules are presumed adequate to satisfy the monitoring, recordkeeping or reporting requirements of paragraph (A)(3) of this rule for the insignificant activities and emissions levels, unless the director determines otherwise.
- (B) Federally enforceable and state enforceable terms and conditions. Federally enforceable terms and conditions shall be identified as such in the permit. Voluntary restrictions established in the permit to avoid federal applicable requirements shall be identified as federally enforceable terms and conditions. Federally enforceable terms and conditions shall be clearly differentiated from terms and conditions that are not required under the act or any applicable requirements and that are imposed pursuant to state law only. Terms and conditions that are not required under the act or any of its applicable requirements shall be identified as such in the permit and clearly differentiated from those that are.
- (1) All terms and conditions of a Title V permit that are required under the act or any of its applicable requirements, including relevant terms and conditions designed to limit the potential to emit of a source, are enforceable by the administrator and citizens under the act.
 - (2) All other terms and conditions of a Title V permit not described in paragraph (B) (1) of this rule shall not be federally enforceable and shall be enforceable under state law only.
- (C) Compliance requirements. The federally enforceable portion of each Title V permit shall contain all of the following elements with respect to compliance:
- (1) Consistent with paragraph (A)(3) of this rule, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the federally enforceable terms and conditions of the permit. Any document (including reports) required by a Title V permit shall contain a certification by a responsible official that, based on information and belief

formed after reasonable inquiry, the statements in the document are true, accurate, and complete;.

- (2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the director or an authorized representative of the director to do all of the following:
 - (a) Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;.
 - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit, subject to the protection from disclosure to the public of confidential information consistent with paragraph (E) of rule 3745-77-03 of the Administrative Code;.
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;~~and~~.
 - (d) As authorized by the act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit and applicable requirements.
- (3) A requirement that sources meet in a timely manner applicable requirements that become effective during the permit term and shall contain an approved schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule of compliance shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. Such a schedule of compliance shall resemble and be at least as stringent as that contained in any judicial or administrative order or consent decree to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;.
- (4) Progress reports consistent with a schedule of compliance in the permit for meeting an applicable requirement. Progress reports must be submitted semiannually, or more frequently if specified in the applicable requirement, or by the director. Progress reports shall contain both of the following:

- (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved~~;~~₂
 - (b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted~~;~~~~and~~₂
- (5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify all of the following:
- (a) The frequency (which shall be annual unless the applicable requirement specifies submission more frequently) or submissions of compliance certifications~~;~~₂
 - (b) In accordance with paragraph (A)(3) of this rule, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices~~;~~₂
 - (c) A requirement that the compliance certification include all of the following:
 - (i) The identification of each term or condition of the permit that is the basis of the certification~~;~~₂
 - (ii) The permittee's compliance status over the period covered by the certification~~;~~₂
 - (iii) Whether compliance was continuous or intermittent~~;~~₂
 - (iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (A)(3) of this rule~~;~~~~and~~₂
 - (v) Such other facts as the director may require in the permit to determine the compliance status of the source~~;~~₂
 - (d) A requirement that all compliance certifications be submitted to the administrator as well as to the director~~;~~~~and~~₂
 - (e) Such additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the act.

(D) General Title V permits.

- (1) The director may issue a general Title V permit to any source class or category if the director concludes that the class or category is appropriate for permitting on a generic basis, including, but not limited to, a class or category that has numerous similar facilities or air contaminant sources, or similar federally applicable requirements. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the act.
- (2) A general Title V permit may be issued for a source category based upon an application from the owner or operator of a source within the source category or upon the director's own initiative. The director shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for allowance of a general permit as for any other permit issued under this part.
- (3) A general Title V permit may be issued for any of the following purposes:
 - (a) To establish terms and conditions to implement applicable requirements for a source category or for numerous similar sources; ~~or,~~
 - (b) To establish federally enforceable caps on emissions from sources in a specified category or from numerous similar sources.
- (4) A general Title V permit issued under paragraph (D) of this rule shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, the owner or operator of any source may submit a request to be covered under the permit. A general permit shall apply to the owner or operator of a facility or air contaminant source only upon application of the owner or operator to, and acceptance by, the director.
 - (a) A request for coverage under a general permit shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general Title V permit. Such request shall conform to the application requirements in the general permit, which may deviate from the application requirements set forth in rule 3745-77-03 of the Administrative Code, provided that such applications meet the requirements of Title V of the act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit.

- (b) The director shall act to approve or deny the request for coverage under a general permit within ninety days of receipt.
 - (c) After a general Title V permit has been issued in accordance with paragraph (D)(4) of this rule, the director may grant requests for authorization to operate under the general Title V permit without repeating the public participation procedures required under rule 3745-77-08 of the Administrative Code.
- (5) A copy of the general Title V permit, together with a list of sources approved for coverage under it, shall be kept on file by the director for public review.
- (6) A general Title V permit issued under this section shall provide that any source approved for coverage under a general Title V permit shall be entitled to the protection of the permit shield under paragraph (F) of this rule for all operations, emissions, and activities addressed by the general Title V permit. Notwithstanding these shield provisions, the owner or operator of any such source shall be subject to enforcement action for operation without a Title V permit if the source is later determined not to qualify for the conditions and terms of the general permit.
- (7) If some, but not all, of a source's operations, emissions, and activities are eligible for coverage under one or more general permits, the owner or operator of the source may apply for and receive coverage under the relevant general ~~permit(s)~~ permit for the operations, emissions, and activities that are so eligible. If the owner or operator of the source is required under this rule to obtain a permit addressing the remainder of the operations, emissions, and activities at the source, the owner or operator may apply for and receive a permit that addresses specifically only those items not covered by one or more general permits. In such a case, the source's permit shall identify all operations, emissions, and activities that are subject to general permits and incorporate those general Title V permits by reference.
- (E) Temporary sources. The director may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include all of the following:
- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the director at least ten days in advance of each change in location; ~~and.~~

(3) Conditions that assure compliance with all other applicable provisions of this rule.

(F) Permit shield.

(1) Each permit issued under this rule shall include a permit shield provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this rule) shall be deemed compliance with the applicable requirements identified and addressed in the permit as of the date of permit issuance.

(2) Upon written request of the permit applicant, the director shall include in the permit, or in a separate written finding issued with the permit, a determination identifying specific requirements or class of requirements that do not apply to the source or to one or more emissions units within the source. The permit applicant shall specify in the request for such a determination the requirements as to which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to amend the shield to requirements deemed inapplicable to a source or an emissions unit may be made either in conjunction with the original permit application or in conjunction with a subsequent application for a permit modification.

(3) Nothing in paragraph (F) of this rule or in the permit shall alter or affect any of the following:

(a) The provisions of Section 303 of the act, including the authority of the administrator under that section; ~~and.~~

(b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; ~~and.~~

(c) Applicable requirements of the acid rain program, consistent with Section 408(a) of the act; ~~or.~~

(d) The ability of the administrator to obtain information from a source pursuant to Section 114 of the act.

(G) Emergencies.

- (1) Definition. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of god, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.
 - (2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (G)(3) of this rule are met.
 - (3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence showing that all of the following:
 - (a) An emergency occurred and the permittee can identify the cause(s) of the emergency~~;~~
 - (b) The permitted facility was being properly operated at the time~~;~~
 - (c) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit~~;~~ ~~and~~
 - (d) The permittee submitted notice of the emergency to the director within two working days of the time when emission limitations were exceeded due to the emergency. Such notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirements of paragraph (A)(3)(c)(iii) of this rule.
 - (4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof with regard to the occurrence of the emergency.
 - (5) The emergency defense provision in paragraph (G) of this rule is in addition to any emergency or upset provision contained in any applicable requirement.
- (H) Operational flexibility: changes allowed without requiring permit revisions.
- (1) Changes allowed with seven day advance notice. An owner or operator of a stationary source with a Title V permit is authorized, and each permit issued under this rule shall expressly provide such authorization, to make a change, as

provided in paragraphs (H)(1)(a) to (H)(1)(c) of this rule, within the permitted stationary source without obtaining a permit revision, if such change is not a modification under any provision of Title I of the act and does not result in an exceedance of the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions), and the owner or operator of the source provides the administrator and the director with written notification as provided in paragraph (H)(2) of this rule.

- (a) Changes that contravene express permit term. Changes that contravene an express permit term, except for changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- (b) Emission trades under applicable implementation plan. Title V permitted sources may trade increases and decreases in emissions in the permitted stationary source, where the applicable implementation plan provides for such emissions trades without requiring a permit revision. This provision is available in those cases where the permit does not already provide for such emissions trading. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the applicable implementation plan authorizing emissions trades.
- (c) Emissions trades to comply with federally enforceable cap.
 - (i) Upon the applicant's request in a Title V permit application, the director shall issue a permit that contains terms and conditions, including all terms required under this rule to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements.
 - (ii) The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure that the emissions trades are quantifiable and enforceable. The director shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades.

(iii) The permit shall require compliance with all applicable requirements.

(2) Notification.

- (a) Written notification to the administrator and director required under paragraph (H)(1) of this rule shall be provided a minimum of seven days in advance of the proposed changes, unless the change is associated with, or in response to, emergency conditions.
- (b) If less than seven days notice is provided because of a need to respond more quickly to such emergency conditions, the permittee shall provide notice to the administrator and the director as soon as possible after learning of the need to make the change.
- (c) The permittee and the director shall thereafter attach each such notice to their copy of the relevant permit.
- (d) The written notification required in paragraph (H)(1)(a) of this rule shall include one of the following:
- (i) For sources making changes under paragraph (H)(1)(a) of this rule, the notification shall include all of the following:
- (a) A brief description of the change within the permitted facility;
- (b) The date on which the change will occur;
- (c) Any change in emissions; ~~and~~
- (d) Any permit term or condition that is no longer applicable as a result of the change;
- (ii) For sources implementing emission trades as provided in paragraph (H)(1)(b) of this rule, the notification shall include all of the following:
- (a) When the proposed change will occur;
- (b) A brief description of each change;
- (c) Any change in emissions;
- (d) The pollutants emitted subject to the emission trade;

- (e) The provisions in the applicable implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the applicable implementation plan authorizing the trade;~~and,~~
 - (f) The permit requirements with which the source will comply;~~or,~~
- (iii) For sources implementing emission trades as provided in paragraph (H)(1)(c) of this rule, the notification shall include all of the following:
- (a) When the change will occur;~~,~~
 - (b) Description of the changes in emissions that will result;~~and,~~
 - (c) How these increases and decreases in emission will comply with the terms and conditions of the permit.
- (3) Permit shield. The permit shield provided under paragraph (F) of this rule shall not apply to changes made under this paragraph, except those provided for in paragraph (H)(1)(c) of this rule; however, the protection of the permit shield shall continue to apply to operations and emissions that are not affected by the change, provided that the permittee complies with the terms and conditions of the permit applicable to such operations and emissions. The permit shield may be reinstated for emissions and operations affected by the change if either of the following occurs:
- (a) If subsequent changes cause the facility's operations and emissions to revert to those anticipated in the permit and the permittee resumes compliance with the terms and conditions of the permit;~~or,~~
 - (b) If the permittee obtains a significant modification to the permit pursuant to this chapter to modify the change in the permit. Nothing in this paragraph shall be construed as requiring such a modification to be obtained.
- (I) Off-permit changes. The owner or operator of a Title V source may make any change in its operations or emissions at the source that is not specifically addressed or prohibited in the Title V permit, without obtaining an amendment or modification of the permit, provided that all of the following conditions are met:
- (1) The change does not result in conditions that violate any applicable requirements or that violate any existing federally enforceable permit term or condition;~~,~~

- (2) The permittee provides contemporaneous written notice of the change to the director and the administrator, except that no such notice shall be required for changes involving insignificant emission levels or activities as defined in rule 3745-77-01 of the Administrative Code, that are not subject to one or more applicable requirements. Such written notice shall describe each such change, the date of such change, any change in emissions or pollutants emitted, and any federally applicable requirement that would apply as a result of the change.
- (3) The change shall not qualify for the permit shield under paragraph (F) of this rule.
- (4) The permittee shall keep a record describing all changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes; ~~and~~.
- (5) The change is not subject to any applicable requirement under Title IV of the act or is not a modification under any provision of Title I of the Act.

~~Paragraph (I) of this rule applies only to modification or amendment of the permittee's Title V permit. The change made may require a permit-to-install under Chapter 3745-31 of the Administrative Code if the change constitutes a modification as defined in that chapter. Nothing in paragraph (I) of this rule shall affect any applicable obligation under Chapter 3745-31 of the Administrative Code.~~

[Comment: Paragraph (I) of this rule applies only to modification or amendment of the permittee's Title V permit. The change made may require a permit-to-install under Chapter 3745-31 of the Administrative Code if the change constitutes a modification as defined in that chapter. Nothing in paragraph (I) of this rule shall affect any applicable obligation under Chapter 3745-31 of the Administrative Code.]

Effective: 7/19/2018
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CERTIFIED ELECTRONICALLY

Certification

07/09/2018

Date

Promulgated Under: 119.03
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3745-77-08 **Permit issuance, modifications, revisions, revocations, reopenings, and termination.**

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "~~Referenced~~referenced materials."]

(A) Action on application.

- (1) A Title V permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:
 - (a) The director has received a complete application for a Title V permit, permit modification, or permit renewal, as determined in accordance with rule 3745-77-05 of the Administrative Code~~;~~.
 - (b) Except for modifications qualifying for minor permit modification procedures under paragraphs (C)(1) and (C)(2) of this rule, the director has complied with the requirements for public participation under paragraph (G) of this rule and the procedural requirements of division (F) (1) of section 3704.036 of the Revised Code~~;~~.
 - (c) The director has complied with the requirements for notifying and responding to affected states under paragraph (B) of rule 3745-77-09 of the Administrative Code~~;~~.
 - (d) The director determines that the conditions of the permit provide for compliance with all applicable requirements, and the requirements of this chapter~~;~~ ~~and~~.
 - (e) The administrator has received a copy of the proposed permit and any notices required under rule 3745-77-09 of the Administrative Code, and has not objected to issuance of the permit under paragraph (C) of rule 3745-77-09 of the Administrative Code within the time specified therein.
- (2) Following review of a Title V application submitted in accordance with this chapter, the director shall issue a draft permit or denial, permit modification or denial, or permit renewal or denial for public comment, in accordance with paragraph (G) of this rule. The draft shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The director shall send this statement of basis to the administrator, to the applicant, and to any other person who requests it.

- (3) Following the completion of the public comment period on the draft permit, the director shall send the applicant a preliminary proposed permit that incorporates all changes the director proposes to make to the draft permit and the director's responses to comments received on the draft permit. Within fourteen days after receipt of a preliminary proposed permit, the applicant may request an informal conference with the director. In the event of such request from the applicant, the director shall hold a conference with the applicant on the preliminary proposed permit prior to the submission of a proposed permit to the administrator pursuant to paragraph (A)(4) of this rule.
- (4) Following completion of the public comment period and review of the preliminary proposed permit as provided in paragraphs (A)(2) and (A)(3) of this rule, the director shall prepare and submit to the administrator a proposed Title V permit, permit modification, or permit renewal. Any denial of an application for a Title V permit, permit modification, or permit renewal shall be made in compliance with division (F)(1) of section 3704.036 of the Revised Code.
 - (a) The proposed Title V permit or proposed denial, modification, or renewal shall be submitted to the administrator no later than forty-five days preceding the deadline for final action under paragraph (A)(6) of this rule and shall contain all applicable requirements that have been promulgated and made applicable to the source as of the date of issuance of the draft permit.
 - (b) If new applicable requirements are promulgated or otherwise become newly applicable to the source following submission of the proposed permit to the administrator but before issuance of the final permit, the director shall extend or reopen the public comment period to solicit comment on additional permit provisions to implement the new applicable requirements.
- (5) The following actions shall occur after review by the administrator:
 - (a) Upon receipt of notice that the administrator will not object to a proposed Title V permit, permit modification, or permit renewal that has been submitted for the administrator's review pursuant to this rule, the director shall issue the Title V permit, permit modification, or permit renewal forthwith and in any event no later than the tenth day following receipt of the notice from the administrator.
 - (b) Upon the passage of forty-five days after submission of a Title V permit, permit modification, or permit renewal for the administrator's review, and if the administrator has not notified the director of an objection to the

proposed permit, the director shall issue the permit, permit modification, or permit renewal forthwith and in no event later than the fifty-fifth day following submission for review by the administrator.

- (c) If the administrator objects to the proposed Title V permit, permit modification, or permit renewal, the director shall consult with the administrator and the applicant and shall submit a revised proposed Title V permit to the administrator within ninety days after the date of the administrator's objection, unless the director determines that one or more revisions sought by the administrator are inconsistent with applicable statutes or regulations. In that case, the director may so inform the administrator within ninety days following the date of the objection and decline to make those particular revisions. In no event shall the director issue a final Title V permit over the administrator's objection.
- (6) Except as provided in this paragraph or in paragraph (C)(1)(e) or (C)(2)(d) of this rule, the director shall take final action on each initial or renewal application or application for a modification within eighteen months after receiving a complete application. For each such application that the director does not propose to deny, the director shall submit a proposed Title V permit, modification, or renewal to the administrator no later than forty-five days before the deadline for final action established in this paragraph.
- ~~(a) The director shall take final action on at least one third of all initial permit applications annually during the first two years and shall take action on the remainder of the initial applications in the third year following approval of the Title V permit program.~~
 - ~~(b)~~(a) The director shall take action on any permit, permit modification, or permit renewal application submitted in compliance with regulations promulgated under Titles IV or V of the act for the permitting of affected sources under the acid rain program within the time specified in those regulations.
 - ~~(c)~~(b) The director may suspend action on a pending Title V permit application if the applicant has made appropriate application to the director pursuant to Chapter 3745-31 or 3745-35 of the Administrative Code to establish federally enforceable limits that would exempt the source in question from the requirement to obtain a Title V permit under rule 3745-77-02 of the Administrative Code until after the director has taken final action on the application under Chapter 3745-31 or 3745-35 of the Administrative Code.

~~(d)~~(c) The director shall take action on any complete permit application containing any early reduction demonstration under Section 112(i)(5) of the act within nine months of receipt of the complete application.

~~(e)~~(d) Pursuant to division (F) of section 3704.036 of the Revised Code, the director's failure to take final action on a Title V permit renewal or modification application within the times prescribed by this chapter, may be appealed to the environmental review appeals commission under section 3745.04 of the Revised Code.

(B) Administrative permit amendments.

(1) An administrative permit amendment may be made by the director consistent with all of the following:

(a) The director shall take no more than sixty days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected states, provided that it designates any such permit revisions as administrative permit amendments made pursuant to this paragraph.

(b) The director shall submit a copy of the revised permit to the administrator.

(c) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(2) Permit shield. Administrative permit amendments defined in paragraph (C)(5) of rule 3745-77-01 of the Administrative Code shall be covered by the permit shield in paragraph (F) of rule 3745-77-07 of the Administrative Code upon the director's final action granting a request for such administrative permit amendment.

(3) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the act.

(C) Permit modification.

A permit modification is any revision to a Title V permit that cannot be accomplished under the administrative permit amendment provisions under paragraph (B) of this rule. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the act.

(1) Minor permit modification procedures.

(a) Criteria. Minor permit modification procedures may be used only for those permit modifications that fulfill all of the following:

(i) Do not violate any applicable requirement~~s~~.

(ii) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit~~s~~.

[Comment: Because of the size limitations on insignificant emissions units, the consequences of a change in monitoring at an insignificant emissions unit would be quite small. Such a change is not significant and, therefore, is eligible for minor modification procedures. In addition, a relaxation in a recordkeeping and reporting requirement for a best available technology emission limitation or operational restriction for an insignificant emissions unit does not require the use of the significant modification process. Such a relaxation to the recordkeeping or reporting requirements would have small consequences, and such a change could be made using the permit modification procedures stated in this paragraph.]

(iii) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis~~s~~.

[Comment: Case-by-case determinations of best available technology emission limitations, operational restrictions, or other standards for insignificant emissions units are created by the permit to install and then are incorporated into the Title V permit. The Title V permit does not create or change the best available technology emission limitation, operational restriction or other standard; the best available technology emission limitation, operational restriction or other standard may be created and changed only by the permit to install. Therefore, the Title V permit does not "require or change" such an emission limit, operational restriction or other standard. Accordingly, in such case the minor modification procedures may be used.]

(iv) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include either of the following:

- (a) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the act; ~~or.~~
 - (b) An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the act;~~.~~
 - (v) Are not modifications under any provision of Title I of the act; ~~and.~~
 - (vi) Are not required under paragraph (C)(3) of this rule to be processed as a significant modification.
- (b) Notwithstanding paragraphs (C)(1)(a) and (C)(2)(a) of this rule, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the applicable implementation plan or in applicable requirements promulgated by the administrator.
- (c) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of rule 3745-77-03 of the Administrative Code and shall include all of the following:
- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;~~.~~
 - (ii) The source's suggested draft permit;~~.~~
 - (iii) Certification by a responsible official, consistent with paragraph (D) of rule 3745-77-03 of the Administrative Code that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; ~~and.~~
 - (iv) Completed applications in a form and manner prescribed by the director to use to notify the administrator and affected states as required under rule 3745-77-09 of the Administrative Code.
- (d) Administrator and affected state notification. Within five working days of receipt of a complete permit modification application, the director shall meet the obligation of paragraphs (A)(1) and (B)(1) of rule 3745-77-09 of the Administrative Code to notify the administrator and affected states of the requested permit modification. The director promptly shall send

any notice required under paragraph (B)(2) of rule 3745-77-09 of the Administrative Code to the administrator.

- (e) Timetable for issuance. Within ninety days of the director's receipt of an application under minor permit modification procedures, or fifteen days after the end of the administrator's forty-five day review period under paragraph (C) of rule 3745-77-09 of the Administrative Code, whichever is later, the director shall do one of the following:
- (i) Issue the permit modification as proposed~~;~~.
 - (ii) Propose to deny the permit modification application that will be effective in thirty days unless an adjudication hearing is requested~~;~~.
 - (iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures under paragraph (C)(3) of this rule~~;~~~~or~~.
 - (iv) Revise the draft permit modification and transmit to the administrator the new proposed permit modification as required by paragraph (A) of rule 3745-77-09 of the Administrative Code.
- (f) Ability to make changes. The applicant may make the change proposed in its minor permit modification application immediately after it files such application. After the applicant makes the change allowed by the preceding sentence, and until the director takes any of the actions specified in paragraph (C)(1)(e) of this rule, the owner or operator of the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the owner or operator of the source need not comply with the existing permit terms and conditions the applicant seeks to modify. However, if the owner or operator of the source fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions the applicant seeks to modify may be enforced against the source.
- (g) Permit shield. The permit shield under paragraph (F) of rule 3745-77-07 of the Administrative Code shall not extend to minor permit modifications.

(2) Group processing of minor permit modifications.

Consistent with this paragraph, the director may modify the procedure outlined in paragraph (C)(1) of this rule to process groups of an applicant's applications

for certain modifications eligible for minor permit modification processing including modifications for insignificant emissions units subject to one or more applicable requirements.

(a) Criteria. Group processing of modifications may be used only for those permit modifications that meet both of the following:

- (i) Meet the criteria for minor permit modification procedures under paragraph (C)(1)(a) of this rule; ~~and.~~
- (ii) Collectively are below ten per cent of the emissions allowed by the permit for the emissions unit for which the change is requested, below twenty per cent of the applicable definition of major source in rule 3745-77-01 of the Administrative Code, or below five TPY, whichever is least.

(b) Application. An applicant requesting the use of group processing procedures shall meet the requirements of rule 3745-77-03 of the Administrative Code and shall include all of the following in the application:

- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs; ~~;~~
- (ii) The source's suggested draft permit; ~~;~~
- (iii) Certification by a responsible official, consistent with paragraph (D) of rule 3745-77-03 of the Administrative Code, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used; ~~;~~
- (iv) A list of the applicant's other pending applications for group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under paragraph (C)(2)(a)(ii) of this rule; ~~;~~
- (v) Certification, consistent with paragraph (D) of rule 3745-77-03 of the Administrative Code that the applicant has notified the administrator of the proposed modification. Such notification need contain only a brief description of the requested modification; ~~and.~~
- (vi) Completed applications, in the form and manner prescribed by the director to notify the administrator and affected states as required under rule 3745-77-09 of the Administrative Code.

- (c) Administrator and affected state notification. On a quarterly basis or within five business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under paragraph (C)(2)(a)(ii) of this rule, whichever is earlier, the director promptly shall meet the obligation under paragraphs (A)(1) and (B)(1) of rule 3745-77-09 of the Administrative Code to notify the administrator and affected states of the requested permit modifications. The director shall send any notice required under paragraph (B)(2) of rule 3745-77-09 of the Administrative Code to the administrator.
- (d) Timetable for issuance. The provisions of paragraph (C)(1)(e) of this rule shall apply to modifications eligible for group processing, except that the director shall take one of the actions specified in paragraphs (C)(1)(e)(i) to (C)(1)(e)(iv) of this rule within one hundred eighty days of receipt of the application or fifteen days after the end of the administrator's forty-five day review period under paragraph (C) of rule 3745-77-09 of the Administrative Code, whichever is later.
- (e) Ability to make changes. The director may allow the owner or operator of the source to make the changes proposed for group processing in the minor permit modification application immediately after the applicant files such the source makes the changes allowed by the preceding sentence, and until the director takes any of the actions specified in paragraphs (C)(1)(e)(i) to (C)(1)(e)(iv) of this rule, the owner or operator of the source must comply with both the applicable requirements governing the changes and the proposed permit terms and conditions. During this time period, the owner or operator of the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the owner or operator of the source fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions the applicant seeks to modify may be enforced against the owner or operator of the source.
- (f) Permit shield. The permit shield under paragraph (F) or rule 3745-77-07 of the Administrative Code shall not extend to group processing of minor permit modifications.

(3) Significant modification procedures.

- (a) Criteria. Significant modification procedures shall be used for applicants requesting permit modifications that do not qualify as minor permit

modifications or as administrative amendments, including either of the following:

- (i) Significant change in existing monitoring permit terms or conditions;
~~or.~~
 - (ii) A relaxation of reporting or recordkeeping permit terms or conditions, except for those relating to best available technology emission limitations, operational restrictions or other standards for insignificant emission units, which are subject to the minor modification procedures and comments set forth at paragraph (C) (1) of this rule.
- (b) No permit condition that is rendered inapplicable as a result of a modification shall be construed to prohibit the modification.
 - (c) Significant permit modifications shall meet all requirements of this chapter, including those for applications, public participation, review by affected states, and review by the administrator, as they apply to permit issuance and permit renewal. The director shall complete review on a majority of significant permit modifications within nine months after receipt of a complete application.
 - (d) A complete application for a significant permit modification shall be filed within twelve months after commencing operation of the modified source, provided that where an existing Title V permit would prohibit construction or operation of such modified source, a Title V permit revision must be obtained before operation of such modified source. This paragraph shall not affect the applicability of Chapter 3745-31 of the Administrative Code to any source that is required to have a permit to install under that chapter.

(D) Reopening for cause.

- (1) Causes for reopening prior to permit expiration. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - (a) Additional applicable requirements under the Act become applicable to a major Title V source with a remaining permit term of three or more years. Such a reopening shall be completed not later than eighteen months after promulgation of the applicable requirement. No such reopening is

required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to paragraph (E)(1) of this rule.

- (b) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.
- (c) The director or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
- (d) The administrator or the director determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(2) Reopening procedure.

Procedures to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance under paragraph (A) of this rule and, except as provided in paragraph (B)(3) of this rule, shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(3) Advance notice to permittee.

Reopenings under paragraph (D)(1) of this rule shall not be initiated before a notice of such intent is provided to the owner or operator of the Title V source by the director at least thirty days in advance of the date that the permit is to be reopened, except that the director may provide a shorter time period in the case of an emergency.

(4) Action by the administrator.

Within ninety days, or longer if the administrator extends this period, after receipt of notification by the administrator that the administrator has found cause to exist to revoke, modify, or revoke and reissue a permit pursuant to paragraph (D)(1) of this rule, the director shall forward to the administrator a proposed determination of revocation, modification, or revocation and reissuance, as appropriate. Within ninety days receipt of the administrator's objection to a proposed determination, the director shall address and act upon the administrator's objection unless the director determines that one or more

revisions sought by the administrator are inconsistent with applicable statutes or regulations.

(E) Renewal applications and processing.

- (1) If the director fails to take a final action on the application to renew a Title V permit prior to expiration of the Title V permit and the owner or operator of the source filed the application in accordance with paragraph (E) of rule 3745-77-04 of the Administrative Code and such application was deemed complete in accordance with paragraph (A) of rule 3745-77-05 of the Administrative Code. All provisions and authorizations of the expired permit shall remain in effect until the director's final action on the pending renewal application. If a Title V operating permit expires after a timely and complete renewal application has been filed in accordance with paragraph (E) of rule 3745-77-04 of the Administrative Code with the director, all authorizations and provisions under the permit shield of the expired permit shall remain in effect until the director's final action on the pending renewal application.
- (2) If a permit has been reopened for cause within two years of the expiration of the permit, the owner or operator of the source may elect to use the reopening procedure to renew the entire permit.

(F) Revocation.

- (1) The director may revoke a Title V permit if the director determines that any of the federally enforceable conditions, terms, or standards of paragraph (A) (7)(a) of rule 3745-77-07 of the Administrative Code or any other applicable requirement have been or will be violated. Where the director determines that such violations occurred only at individual emission units covered by the Title V permit, the director may revoke the Title V permit and reissue it for only those emission units that are not in violation.
- (2) The director shall afford a prompt hearing to any permit holder whose Title V permit is revoked in the manner prescribed in Chapter 3745-47 of the Administrative Code.
- (3) Revocation and reissuance of a Title V permit shall be final thirty days after service of notice to the permit holder.
- (4) A Title V permit that has been revoked shall be surrendered forthwith to the director.

(G) Public participation.

Except for modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall follow the procedures in this paragraph for public comment and hearing.†

- (1) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located and in the "Ohio EPA Weekly Review"; to persons on a mailing list developed by the director, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public.‡
- (2) The notice shall identify the affected facility; the name and address of the permittee; the name and address of the director; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any permit application, compliance plan, permit, and monitoring and compliance certification report pursuant to Section 503(e) of the act, except for information entitled to confidential treatment pursuant to Section 114(c) of the act, and all other materials available to the director that are relevant to the permit decision; a brief description of the comment procedures required by this chapter; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).‡
- (3) The director shall provide such notice and opportunity for participation by affected states as is provided for by rule 3745-77-09 of the Administrative Code.‡
- (4) The director shall provide at least thirty days for public comment and shall give notice of any public hearing at least thirty days in advance of the hearing.‡
- (5) The director shall keep a record of the commenters and also of the issues raised during the public participation process and such records shall be available to the public.

(H) Termination.

- (1) Other than upon Title V permit expiration, a Title V permit, or terms and conditions within a Title V permit that apply to a specific emissions unit or activity level, terminate when any of the following occur:
 - (a) The responsible official of a permittee submits to the Ohio environmental protection agency and the Ohio environmental protection agency receives

a document certifying permanent shutdown of the Title V facility or, as applicable, the specific emissions unit within the facility;

- (b) A change is made at the Title V facility such that the facility is no longer a Title V source pursuant to paragraph (B) of rule 3745-77-02 of the Administrative Code, and the owner or operator submits to the director a complete application for a permit-to-install and operate (PTIO) that demonstrates the facility is no longer a Title V source under paragraph (B) of rule 3745-77-02 of the Administrative Code or is exempt pursuant to paragraph (C) of rule 3745-77-02 of the Administrative Code from the requirements to obtain a Title V permit, and the director has issued a PTIO pursuant to Chapter 3745-31 of the Administrative Code for all air contaminant sources at the facility for which a PTIO is required if the sources are not covered by a Title V permit;
 - (c) The owner or operator submits to the director a complete application for a PTIO requesting federally-enforceable restrictions (i.e. application for a federally enforceable PTIO (FEPTIO)) that demonstrates upon issuance of an FEPTIO the facility will no longer be Title V source under paragraph (B) of rule 3745-77-02 of the Administrative Code because it will be exempt pursuant to paragraph (C)(4) of rule 3745-77-02 of the Administrative Code from the requirements to obtain a Title V permit, and the director has issued the FEPTIO and, as needed, a PTIO, for all air contaminant sources at the facility for which a FEPTIO and, if applicable, a PTIO is required if the sources are not covered by a Title V permit.
- (2) Provided a complete application for a PTIO or FEPTIO is filed under paragraph (H)(1)(b) or (H)(1)(c) of this rule six months prior to expiration of the Title V permit, if the director fails to take final action on the application, the owner or operator is permitted by this rule to continue to operate the facility in accordance with all terms and conditions and authorizations of the expired Title V permit until the director takes final action on the application.
- (3) An owner or operator shall submit to the Ohio environmental protection agency by no later than the date required by the terminated Title V permit or by the terms and conditions of the expired Title V permit applied to the source under paragraph (H)(2) of this rule, any quarterly deviation reports, semiannual deviation reports, annual compliance certifications, or similar report or certification, for the last period during which the Title V permit applied to the source, or during which the terms and conditions of the expired Title V permit applied to the source under paragraph (H)(2) of this rule.

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Five Year Review (FYR) Dates: 11/15/2017 and 11/15/2022

CERTIFIED ELECTRONICALLY

Certification

07/09/2018

Date

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3745-77-09

Permit review by the administrator and affected states.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "~~Referenced~~referenced materials."]

(A) Transmission of information to the administrator.

- (1) Unless the administrator waives this requirement as provided in 40 CFR 70.8(a)(2), the director shall provide to the administrator a copy of each Title V permit application (including any application for Title V permit modification), each proposed Title V permit, and each final Title V permit. The director may require the applicant to provide a copy of the permit application (including the compliance plan) directly to the administrator. Upon agreement with the administrator, the director may submit to the administrator a Title V permit application summary form and any relevant portion of the Title V permit application and compliance plan, in place of the complete permit application and compliance plan.
- (2) The director shall keep for five years such records and submit to the administrator such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the act and 40 CFR Part 70.

(B) Review by affected states.

- (1) The director shall give notice of each draft Title V permit to any affected state on or before the time that the director provides this notice to the public under paragraph (G) of rule 3745-77-08 of the Administrative Code except to the extent paragraphs (C)(1)(d) and (C)(2)(c) of rule 3745-77-08 of the Administrative Code require the timing of the notice to be different.
- (2) As part of the director's submittal of a proposed Title V permit to the administrator (or as soon as possible after the submittal for minor permit modification procedures under paragraph (C)(1) or (C)(2) of rule 3745-77-08 of the Administrative Code, the director shall notify the administrator and any affected state in writing of any refusal by the director to accept all recommendations for the proposed Title V permit that the affected state submitted during the public or affected state review period. The notice shall include the director's reasons for not accepting any such recommendation. The director is not required to accept recommendations that are not based on federally applicable requirements or the requirements of this chapter.

(C) Objection by the administrator.

- (1) No Title V permit for which an application must be transmitted to the administrator under paragraph (A) of this rule shall be issued if the administrator objects to its issuance in writing within forty-five days of receipt of the proposed permit and all necessary supporting information.
- (2) The director shall, within ninety days after the date of receipt of an objection under paragraph (C)(1) of this rule, revise and submit a proposed Title V permit in response to the objection unless the director determines that no change in the proposed permit is necessary or appropriate to comply with applicable requirements or requirements of this chapter. In no event shall the director issue a Title V permit over the objection of the administrator.

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3745-77-10

State law applicability.

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph ~~(SS)~~(TT) of rule 3745-77-01 of the Administrative Code titled "~~Referenced~~referenced materials."]

(A) General authority for state only permit terms and conditions.

The director shall have authority to include in Title V permits any terms and conditions that are authorized by Ohio law, including terms and conditions that are consistent with the requirements of ~~Chapters~~ Chapter 3745-31 of the Administrative Code that would be applicable in the absence of the Title V permit program. Such terms and conditions shall be "state only" requirements. The director shall prescribe the manner and form for the inclusion of such information in Title V permit applications submitted pursuant to this chapter as is necessary to implement state only requirements applicable to one or more emissions units at a Title V source.

(B) Separation of state only and federally enforceable permit terms and conditions.

Terms and conditions of a Title V permit that are imposed pursuant to state law only shall be identified in the permit as not federally enforceable and shall be differentiated from federally enforceable permit terms and conditions that are required under the act or any applicable requirements. Notwithstanding the separation of state only and federally enforceable terms and conditions in a Title V permit, all federally enforceable terms and conditions in a Title V permit shall be enforceable by the director as well as by the administrator.

(C) Revision of state only permit terms and conditions.

The director may modify or eliminate any state only terms and conditions of a Title V permit in accordance with the same procedures applicable to the modification or elimination of terms and conditions in a permit-to-install or ~~permit-to-install-and operate~~ ~~(PTIO)~~ PTIO pursuant to Chapter 3745-31 of the Administrative Code, provided that such modification or elimination does not result in a Title I modification and does not cause the source to become subject to an applicable requirement or violate any federally enforceable term or condition in the Title V permit. Nothing in this paragraph shall affect the applicability of the notification and recordkeeping requirements of paragraph (I) of rule 3745-77-07 of the Administrative Code.

(D) Violation of state only permit terms and conditions.

No person shall violate any state only term or condition of a Title V permit. Any violation of any state only term or condition of a Title V permit shall be a violation

of division (J)(2) of section 3704.05 of the Revised Code. The director may suspend or revoke the state only authority to operate one or more emissions units subject to a Title V permit consistent with paragraph (B) of rule 3745-31-07 of the Administrative Code. No person shall operate an emissions unit after the effective date of a final suspension or revocation of the applicable state only portion of a Title V permit.

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