



Ohio Administrative Code

Rule 3745-50-170 Procedures to modify or revoke a remedial action plan.

Effective: [March 7, 2025](#)

(A) Procedures to modify or revoke a remedial action plan (RAP) after the RAP is issued. In a RAP, the director shall specify, either directly or by reference, procedures for future modifications or revocations of the RAP. These procedures shall provide adequate opportunities for public review and comment on any RAP modification or RAP revocation that would significantly change the management of the remediation waste, or that otherwise merits public review and comment. If the RAP has been incorporated into a traditional hazardous waste permit, as allowed under paragraph (B)(3) of rule 3745-50-80 of the Administrative Code, then the RAP will be modified according to the applicable requirements in rules 3745-50-51 and 3745-50-52 of the Administrative Code, or revoked according to the applicable requirements in rules 3745-50-51 and 3745-50-53 of the Administrative Code.

(B) Reasons the director may choose to modify a final RAP.

(1) The director may modify a final RAP on the director's own initiative only if one or more of the reasons listed in paragraph (B) of this rule exists. If one or more of these reasons do not exist, then the director will not modify a final RAP, except at the owner's or operator's request. Reasons for the director to modify a final RAP are:

(a) The owner or operator made material and substantial alterations or additions to the activity that justify applying different conditions;

(b) The director finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

(c) The standards or rules on which the RAP was based have changed because of new or amended statutes, standards, or rules, or by judicial decision, after the RAP was issued;

(d) If the RAP includes any schedules of compliance, the director may find reasons to modify the



compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the owner or operator has little or no control and for which there is no reasonably available remedy;

(e) The owner or operator is not in compliance with conditions of the RAP;

(f) In the application or during the RAP issuance process, the owner or operator failed to disclose fully all relevant facts, or the owner or operator misrepresented any relevant facts at the time;

(g) The director has determined that the activity authorized by the RAP endangers human health or the environment and can be remedied only by modifying the RAP; or

(h) The owner or operator has notified the director [as required in the RAP under paragraph (L)(3) of rule 3745-50-58 of the Administrative Code] of a proposed transfer of a RAP.

(2) Notwithstanding any other provision in paragraph (B) of this rule, when the director reviews a RAP for a land disposal facility under paragraph (F) of this rule, the director may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in Chapters 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, and 3745-266 of the Administrative Code.

(3) The director will not re-evaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

(C) Reasons the director may choose to revoke a final RAP.

(1) The director may revoke a final RAP on the director's own initiative only if one or more reasons for revocation exists. If one or more reasons do not exist, then the director will not modify or revoke a final RAP, except at the owner's or operator's request. Reasons for modification or revocation are the same as the reasons listed for RAP modifications in paragraphs (B)(1)(e) to (B)(1)(h) of this rule if the director determines that revocation of the RAP is appropriate.



(2) The director will not re-evaluate the suitability of the facility location at the time of RAP revocation unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

(D) Reasons the director may choose to revoke a final RAP, or deny a RAP renewal application. The director may revoke a final RAP on the director's own initiative, or deny a renewal application for a RAP, for the same reasons as those listed for RAP modifications in paragraphs (B)(1)(e) to (B)(1)(g) of this rule if the director determines that revocation of the RAP or denial of the RAP renewal application is appropriate.

(E) Appeals of decisions to approve or deny a RAP modification or a RAP revocation.

(1) Appeal of the decision to approve a RAP modification or a RAP revocation. Any commenter on the modification or revocation of a RAP, or any person who participated in any hearings on these actions, may appeal the director's final decision to approve a modification or revocation of a RAP, according to paragraph (F) of rule 3745-50-130 of the Administrative Code. Any person who did not file comments or did not participate in any public hearings on the director's final decisions may make such appeal only of the changes from the draft to the final RAP decision.

(2) Appeal of the decision to deny a RAP modification or a RAP revocation. Any commenter on the modification or revocation of a RAP, or any person who participated in any hearings on these actions, may appeal the director's final decision to deny a modification or revocation of a RAP, according to the requirements of Ohio's "Environmental Review Appeals Commission" (ERAC). Any person who did not file comments or did not participate in any public hearings on the director's final decisions may make such appeal only of the changes from the draft to the final RAP decision.

(a) The process for appeal of the director's final decision to deny a modification or revocation of a RAP. The director's final action may be appealed to the ERAC pursuant to section 3745.04 of the Revised Code. The appeal shall be in writing, and set forth the action being appealed and the grounds upon which the appeal is based. The appeal shall be filed with the ERAC within thirty days after notice of the director's action. The appeal shall be accompanied by a filing fee of seventy dollars, made payable to "Treasurer, State of Ohio," which the ERAC, in its discretion, may reduce if by affidavit the appellee demonstrates that payment of the full amount of the fee would cause extreme



hardship. Notice of the filing of the appeal shall be filed with the director within three days after filing with the ERAC. Ohio EPA requests that a copy of the appeal be served upon the Ohio attorney general's office, environmental enforcement section. An appeal may be filed with the ERAC at the following address: "Environmental Review Appeals Commission, 30 East Broad Street, 4th floor Columbus, Ohio 43215". The ERAC review process is under ERAC's jurisdiction and control.

(b) This ERAC appeal is a prerequisite to seeking judicial review of these director's actions.

(F) RAP expiration. A RAP shall be issued for a fixed term not to exceed ten years. The RAP may be renewed upon approval by the director in fixed increments of no more than ten years. In addition, the director shall review any RAP for hazardous waste land disposal five years after the date of issuance or renewal, and the owner or operator or the director shall follow the requirements for modifying the RAP as necessary to assure that the owner or operator continues to comply with currently applicable requirements in the hazardous waste rules and in Chapter 3734. of the Revised Code.

(G) Renew an expiring RAP. An owner or operator who wishes to renew an expiring RAP shall follow the process for application for and issuance of RAPs in rules 3745-50-80 to 3745-50-230 of the Administrative Code.

(H) If the owner or operator has applied correctly for a RAP renewal but has not received approval by the time the existing RAP expires. If the owner or operator has submitted a timely and complete application for a RAP renewal but the director, through no fault of the owner or operator, has not issued a new RAP with an effective date on or before the expiration date of the expiring RAP, the expiring RAP conditions continue in force until the effective date of the new RAP, or until RAP denial.