



Ohio Administrative Code

Rule 3745-77-09 Permit review by the administrator and affected states.

Effective: [March 11, 2024](#)

[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 (AA) of rule 3745-77-01 of the Administrative Code titled "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 significant or minor Title V permit modification), the statement required by paragraph (A)(2) of rule 3745-77-08 of the Administrative Code (sometimes referred to as the 'statement of basis'), each proposed Title V permit, and each final Title V permit, and, if significant comment is received during the public participation process, the written response to comments (which includes a written response to all significant comments raised during the public participation process on the draft permit and recorded under paragraph (G)(5) of rule 3745-77-08 of the Administrative Code), and an explanation of how those public comments and the permitting authority's responses are available to the public. 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.

(a) Where the public participation process for a draft permit concludes before the proposed permit is submitted to the administrator, submit the statement required by paragraph (A)(2) of rule 3745-77-08 of the Administrative Code (sometimes referred to as the 'statement of basis') and the written response to comments, if significant comment was received during the public participation process, with the proposed permit along with other supporting materials required in paragraph (A) of this rule, excepting the final permit. The administrator's forty-five day review period for this proposed permit



does not begin until such materials have been received by the administrator.

(b) In instances where the administrator has received a proposed permit from a permitting authority before the public participation process on the draft permit has been completed, submit the statement required by paragraph (A)(2) of rule 3745-77-08 of the Administrative Code (sometimes referred to as the 'statement of basis') with the proposed permit along with other supporting materials, required in paragraph (A) of this rule, excepting the final permit and the written response to comments. If the permitting authority receives significant comment on the draft permit during the public participation process, but after the submission of the proposed permit to the administrator, the administrator will no longer consider the submitted proposed permit as a permit proposed to be issued under section 505 of the act. In such instances, submit any revisions to the permit and permit record necessary to address such public comments, including preparation of a written response to comments (which includes a written response to all significant comments raised during the public participation process on the draft permit and recorded under paragraph (G)(5) of rule 3745-77-08 of the Administrative Code), with the proposed permit and the supporting material required under paragraph (A)(1)(a) of this rule, excepting the final permit, to the administrator after the public comment period has closed. This later submitted permit will then be considered as a permit proposed to be issued under section 505 of the act, and the administrator's review period for the proposed permit does not begin until all required materials have been received by the administrator.

(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 shall 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 required under paragraph (A)(1) of this rule, including under paragraph (A)(1)(a) or (A)(1)(b) of this rule where applicable.

(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.