

3745-31-02 Applicability, requirements, and obligations.

[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 (LLLLL) of rule 3745-31-01 of the Administrative Code titled, "referenced materials".]

This chapter provides requirements for installation, modification and operation of new and existing air contaminant sources at facilities that are not subject to Chapter 3745-77 of the Administrative Code. This chapter also provides requirements for installation and modification of air contaminant sources at facilities that are, or will be, subject to Chapter 3745-77 of the Administrative Code. The operating requirements for air contaminant sources, defined as Title V sources, can be found in Chapter 3745-77 of the Administrative Code.

[Comment: Prior to June 30, 2008, requirements for permits-to-operate for sources not subject to Chapter 3745-77 of the Administrative Code were contained in Chapter 3745-35 of the Administrative Code. On June 30, 2008, Chapter 3745-35 was rescinded and all operating requirements for sources at facilities not subject to Chapter 3745-77 of the Administrative Code were incorporated into this chapter. Rules 3745-31-01 to 3745-31-07 of the Administrative Code provide regulatory requirements for installation and modification for all sources. Rules 3745-31-01 to 3745-31-07 of the Administrative Code also provide regulatory requirements for operation of sources at facilities not subject to Chapter 3745-77 of the Administrative Code. Rule 3745-31-08 of the Administrative Code provides the on-going regulatory requirements for sources at facilities not subject to Chapter 3745-77 of the Administrative Code that previously received registration status for permit-to-operate purposes under the now rescinded Chapter 3745-35 of the Administrative Code. Updated requirements for registration status, now defined as express permit-to-install or express PTIOs, are incorporated into rule 3745-31-05 of the Administrative Code. Rule 3745-31-09 of the Administrative Code provides for operation or other use of an air contaminant source that emits any air pollutant under a variance. This provision was previously established in the now rescinded rule 3745-35-03 of the Administrative Code. Rule 3745-31-29 of the Administrative Code provides for general permits-to-install and general PTIOs. Rule 3745-31-33 of the Administrative Code identifies activities that are included and excluded from meaning of begin actual construction, as defined in rule 3745-31-01 of the Administrative Code. The remaining rules in this chapter, rules 3745-31-10 to 3745-31-28 and rule 3745-31-32 of the Administrative Code, provide additional regulatory requirements for installation and modification of air contaminant sources that are located at a major stationary source or are considered major modifications, as defined in rule 3745-31-01 of the Administrative Code. Installation or modification of air contaminant sources that are located at a major stationary source or are considered major modifications, are, or will become, subject to Chapter 3745-77 of the Administrative Code. The operating regulatory requirements for these types of sources are contained in Chapter 3745-77 of the Administrative Code.]

(A) Permit-to-install or PTIO

(1) Except as provided in rule 3745-31-03 of the Administrative Code or paragraph (A)(3) of this rule, no person shall cause, permit, or allow any of the following:

(a) Installation or modification of any new source that is, or will be, part of a facility, as defined in Chapter 3745-77 of the Administrative Code, and that is required to obtain a Title V permit under Chapter 3745-77 of the Administrative Code, without first obtaining a permit-to-install from the director.

(b) Installation or modification, and subsequent operation of any new source that is not part of a facility, as defined in Chapter 3745-77 of the Administrative Code, and that is not required to obtain a Title V permit under Chapter 3745-77 of the Administrative Code, without first obtaining a PTIO from the director.

[Comment: Paragraph (A)(1)(b) of this rule is not intended to prohibit any new source, as defined in rule 3745-31-01 of the Administrative Code, currently operating under an effective permit-to-install or permit-to-operate from continuing operation in accordance with those permits. Nor is it intended to prohibit any new source currently operating under an expired permit-to-operate, where a timely and complete application for renewal is pending in accordance with division (C) of section 119.06 of the Revised Code, from continuing operation in accordance with the expired permit-to-operate until such time as a new PTIO is issued or denied.]

(c) Operation of any air contaminant source, except as provided in rule 3745-31-08 of the Administrative Code, not defined as a new source under rule 3745-31-01 of the Administrative Code, that is not part of a facility, as defined in Chapter 3745-77 of the Administrative Code, and that is not required to obtain a Title V permit under Chapter 3745-77 of the Administrative Code, without first obtaining authority to operate through issuance of a PTIO from the director, which may include any of the following:

(i) Requirements for equipping the air contaminant source with instrumentation and sensing devices to monitor and record emission data and other information about the operation of the air contaminant source.

(ii) Requirements for performance tests that demonstrate that the source is in compliance with applicable emission limitations and other applicable laws, at the applicant's expense, in accordance with methods prescribed by the Ohio environmental protection agency. The Ohio environmental protection agency, or its representatives, may observe, participate in, or conduct any performance test required.

- (2) An owner or operator who currently holds a permit-to-install or permit-to-operate for an air contaminant source which permit was issued prior to the effective date of this rule, may be issued a PTIO for the same air contaminant source. The director may require the owner or operator of the air contaminant source submit an updated application for the PTIO. Upon final issuance of the PTIO, any permit-to-install or permit-to-operate for the air contaminant source will be superseded by the issuance of the PTIO. The superseded permits will terminate and cease to be enforceable.
- (3) No installation permit shall be required for activities that are subject to and in compliance with a plant-wide applicability limit issued by the director in accordance with rule 3745-31-32 of the Administrative Code.

(B) Changes in applicability: Title V versus non-Title V.

This paragraph is applicable to an owner or operator where a change in the air contaminant source, stationary source, or applicable law results in a change in the requirements applicable to the source under this chapter or Chapter 3745-77 of the Administrative Code. A change may include, but is not limited to, a modification or major modification as defined in this chapter, a relaxation of a federally enforceable limitation on the potential to emit applicable under paragraph (D) of rule 3745-31-05 of the Administrative Code, or the imposition of a federally enforceable limitation, or limitation legally and practicably enforceable by the state, on the potential to emit that restricts a stationary source's potential to emit below major source thresholds applicable under paragraph (D) of rule 3745-31-05 of the Administrative Code.

- (1) The following is applicable to an owner or operator who holds a permit-to-install, permit-to-operate or PTIO where a change subjects the owner or operator to the requirements of Chapter 3745-77 of the Administrative Code:
 - (a) The owner or operator shall submit a Title V permit application and obtain a Title V permit from the director, as required under Chapter 3745-77 of the Administrative Code.
 - (b) If the change is defined as a new source, modification or major modification under this chapter, the owner or operator shall submit the required application and obtain a permit-to-install, as required under this chapter, from the director.
 - (c) Upon final issuance of the permit required under paragraph (B)(1)(a) of this rule, and, if applicable, under paragraph (B)(1)(b) of this rule, any permit-to-operate, or any terms and conditions specifically identified in the standard terms and conditions of a PTIO as no longer enforceable under conditions described in paragraph (B)(1) of this rule, will be superseded by the issuance of the Title V permit required under paragraph (B)(1)(a) of this rule, and, if applicable, the permit-to-install

required under paragraph (B)(1)(b) of this rule. All superseded permits-to-operate and specifically superseded terms and conditions of a PTIO, will terminate and cease to be enforceable. As applicable, terms and conditions of any PTIO not superseded will function as the permit-to-install.

- (2) The following is applicable to an owner or operator who currently holds a Title V permit where a change eliminates the applicability of Chapter 3745-77 of the Administrative Code but the change does not exempt the owner or operator from requirements to obtain a PTIO:
- (a) The owner or operator may submit the required application and obtain a PTIO or Federally Enforceable PTIO (FEPTIO) from the director, as required under this chapter.
- [Comment: An owner or operator with authority to operate under a Title V permit which subsequently makes a change at the facility that eliminates the applicability of Chapter 3745-77 of the Administrative Code is not obligated to obtain a PTIO or FEPTIO if the owner or operator elects to continue to be permitted under the Title V permit.]
- (b) Final issuance of any permit under paragraph (B)(2)(a) of this rule does not release the owner or operator from the requirements contained in Chapter 3745-77 of the Administrative Code or the owner or operator's active Title V permit, except as expressly released in rule, by order of the director, or a in a federally enforceable permit.
- (C) Permanent shutdown of an air contaminant source subject to the terms and conditions of a permit-to-install or PTIO.

When expressly provided in the terms and conditions of a permit-to-install or PTIO, the owner or operator of an air contaminant source that is permanently shutdown may be relieved from certain requirements in the terms and conditions of the permit-to-install or PTIO, without obtaining a modification or administrative modification, upon meeting the requirements specified in the permit for permanently shutting down air contaminant sources. Those terms and conditions for which the owner or operator is relieved will cease to be enforceable upon meeting the requirements for permanently shutting down air contaminant sources contained in the terms and conditions of the permit.

- (D) The director, in the director's discretion, may issue an order requiring any person planning to install or modify, or in the process of installing or modifying, any air contaminant source as defined in rule 3745-31-01 of the Administrative Code, that is otherwise exempted, to obtain a permit-to-install or PTIO, before proceeding with installation or modification, if in the director's judgment, operation of the air contaminant source after installation or modification might result in a violation of the criteria established in paragraph (A) of rule 3745-31-05 of the Administrative Code.

- (E) The director, in the director's discretion or where required to do so by federal laws or regulations, may issue a single permit-to-install or PTIO having application to all pollutants of any kind emanating from any air contaminant source, or issue a single permit-to-install or PTIO having applicability to more than one air contaminant source, controlled by a common owner or operator, located in the same county.
- (F) The approval to construct or operate under this chapter shall not relieve any owner or operator of a stationary source of the responsibility to comply fully with applicable provisions of this chapter and any other requirements under local, state or federal law.
- (G) If any provision of this chapter or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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Certification

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Date

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