

3745-33-03 **Permit applications.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules and federal statutory provisions referenced in this rule, see rule 3745-33-01 of the Administrative Code.]

- (A) Applications for Ohio NPDES permits shall be filed only on forms approved by Ohio EPA and shall contain such information as Ohio EPA deems necessary. These forms may be electronic. As a minimum, these applications shall contain any NPDES application information required by regulations adopted by the administrator, including 40 C.F.R. 122 to 125, 129 to 133, 136, 400 to 471, 501 and 503.
- (B) Any person proposing to commence the discharge of pollutants shall file an application at least one hundred eighty days prior to commencement of the discharge. If a permit renewal application is submitted at least one hundred eighty days prior to the expiration date of the existing permit, and the director does not issue a new permit before the expiration date, the conditions of the expired permit shall continue in force until the director acts on the permit application.
- (C) Application requirements for materials added to wastewater.
 - (1) The applicant shall attach to the application a list of chemicals or substances that the applicant proposes to add to the wastewater being or to be discharged including, but not limited to, maintenance chemicals and chemicals used to aid in the treatment of the wastewater.
 - (2) If these chemicals or substances have not been approved in a permit to install issued under Chapter 3745-42 of the Administrative Code or director's final findings and orders, the applicant shall also attach to the application, for each chemical or substance, material safety data sheets (MSDS). The following substances are exempt from the MSDS submission requirement:
 - (a) Acids and bases used only to alter the pH of discharge;
 - (b) Ferric chloride;
 - (c) Aluminum sulfate; and
 - (d) Sodium bisulfite.
- (D) Any application that on its face fails to provide Ohio EPA with requested information needed for ascertaining compliance with the applicable provisions of this chapter, may be considered defective. Ohio EPA may either request additional information or

return the application to the applicant without further processing. An indication of the deficiency shall accompany the application returned.

(E) An applicant may request that information submitted with applications be treated as confidential business information.

(1) A request for confidential treatment shall be submitted to Ohio EPA simultaneously with an application with documentation sufficient to support that the information is confidential. Failure to make such a timely request shall constitute a waiver of the right to prevent public disclosure. A request at a later time will be entertained by Ohio EPA, but Ohio EPA will not be liable for any information released prior to receiving the request.

(2) A decision as to whether to treat the information as confidential shall be made by the director within forty-five days of receipt of the request and accompanying documentation. Until such decision is made, the information or part thereof, shall be treated as confidential. The applicant requesting confidentiality shall be notified in writing of the director's decision.

(3) Any information determined to be confidential may be disclosed:

(a) To officers, employees, or authorized representatives of the state or a federal agency, without the consent of the affected person, when necessary to sustain an action brought pursuant to Chapter 6111. of the Revised Code or during an adjudication hearing or when otherwise necessary to fulfill any requirement of the act or Chapter 6111. of the Revised Code;

(b) In any judicial proceeding in accordance with paragraph (E)(3)(d) of this rule; and

(c) In any administrative hearing in accordance with paragraph (E)(3)(d) of this rule.

(d) Information determined to be confidential may be disclosed in any judicial proceeding or in any administrative hearing after notification to the affected person and the presiding officer sufficient to allow submission of comments by the affected person prior to disclosure of the information. Upon consideration of such comments, the presiding officer may condition disclosure of the information on the making of such protective arrangements and commitments found to be necessary and appropriate.

(e) Disclosure of information determined to be confidential in accordance with paragraph (E)(3) of this rule shall not, of itself, affect the eligibility of information for confidential treatment under the other provisions of this rule.

(4) Information required by NPDES application forms provided by the director under this rule may not be claimed confidential. This includes information on the forms themselves and any attachments used to supply information required by the forms. Claims for confidentiality will be denied for the following information:

(a) The name and address of any permit applicant or permittee; and

(b) Permit applications, permits, and effluent data.

(F) An application submitted to the director pursuant to this chapter shall be signed as follows:

(1) In the case of a corporation, by a responsible corporate officer. For these purposes, a responsible corporate officer means:

(a) 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

(b) The manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) In the case of a partnership, by a general partner.

(3) In the case of a sole proprietorship, by the proprietor.

(4) In the case of a municipal, state, or other public facility, by either the principal executive officer, the ranking elected official or other duly authorized employee.

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Rule Amplifies: R.C. 6111.03

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