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Search ORC:

Go

[Ohio Administrative Code](#) [Home](#) [Help](#)

Route:

- [Ohio Revised Code](#)
- » [Title \[37\] XXXVII HEALTH - SAFETY - MORALS](#)
- » [Chapter 3704: AIR POLLUTION CONTROL](#)

3704.03 Director of environmental protection - powers and duties.

The director of environmental protection may do any of the following:

- (A) Develop programs for the prevention, control, and abatement of air pollution;
- (B) Advise, consult, contract, and cooperate with any governmental or private agency in the furtherance of the purposes of this chapter;
- (C) Encourage, participate in, or conduct studies, investigations, and research relating to air pollution, collect and disseminate information, and conduct education and training programs relating to the causes, prevention, control, and abatement of air pollution;
- (D) Adopt, modify, and rescind rules prescribing ambient air quality standards for the state as a whole or for various areas of the state that are consistent with and no more stringent than the national ambient air quality standards in effect under the federal Clean Air Act;
- (E) Adopt, modify, suspend, and rescind rules for the prevention, control, and abatement of air pollution, including rules prescribing for the state as a whole or for various areas of the state emission standards for air contaminants, and other necessary rules for the purpose of achieving and maintaining compliance with ambient air quality standards in all areas within the state as expeditiously as practicable, but not later than any deadlines applicable under the federal Clean Air Act; rules for the prevention or control of the emission of hazardous or toxic air contaminants; rules prescribing fugitive dust limitations and standards that are related, on an areawide basis, to attainment and maintenance of ambient air quality standards; rules prescribing shade, density, or opacity limitations and standards for emissions, provided that with regard to air contaminant sources for which there are particulate matter emission standards in addition to a shade, density, or opacity rule, upon demonstration by such a source of compliance with those other standards, the shade, density, or opacity rule shall provide for establishment of a shade, density, or opacity limitation for that source that does not require the source to reduce emissions below the level specified by those other standards; rules for the prevention or control of odors and air pollution nuisances; rules that prevent significant deterioration of air quality to the extent required by the federal Clean Air Act; rules for the protection of visibility as required by the federal Clean Air Act; and rules prescribing open burning limitations and standards. In adopting, modifying, suspending, or rescinding any such rules, the director, to the extent consistent with the federal Clean Air Act, shall hear and give consideration to evidence relating to all of the following:
 - (1) Conditions calculated to result from compliance with the rules, the overall cost within this state of compliance with the rules, and their relation to benefits to the people of the state to be derived from that compliance;

- (2) The quantity and characteristics of air contaminants, the frequency and duration of their presence in the ambient air, and the dispersion and dilution of those contaminants;
- (3) Topography, prevailing wind directions and velocities, physical conditions, and other factors that may or may combine to affect air pollution.

Consistent with division (K) of section 3704.036 of the Revised Code, the director shall consider alternative emission limits proposed by the owner or operator of an air contaminant source that is subject to an emission limit established in rules adopted under this division and shall accept those alternative emission limits that the director determines to be equivalent to emission limits established in rules adopted under this division.

(F)

- (1) Adopt, modify, suspend, and rescind rules consistent with the purposes of this chapter prohibiting the location, installation, construction, or modification of any air contaminant source or any machine, equipment, device, apparatus, or physical facility intended primarily to prevent or control the emission of air contaminants unless an installation permit therefor has been obtained from the director or the director's authorized representative.

(2)

- (a) Applications for installation permits shall be accompanied by plans, specifications, construction schedules, and such other pertinent information and data, including data on ambient air quality impact and a demonstration of best available technology, as the director may require. Installation permits shall be issued for a period specified by the director and are transferable. The director shall specify in each permit the applicable emission standards and that the permit is conditioned upon payment of the applicable fees as required by section [3745.11](#) of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the permit has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with such standards, this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder. Each proposed new or modified air contaminant source shall provide such notice of its proposed installation or modification to other states as is required under the federal Clean Air Act. Installation permits shall include the authorization to operate sources installed and operated in accordance with terms and conditions of the installation permits for a period not to exceed one year from commencement of operation, which authorization shall constitute an operating permit under division (G) of this section and rules adopted under it.

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 rules adopted under this section.

No installation permit shall be issued except in accordance with all requirements of this chapter and rules adopted thereunder. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

- (b) An air contaminant source that is the subject of an installation permit shall be installed or modified in accordance with the permit not later than eighteen months

after the permit's effective date at which point the permit shall terminate unless one of the following applies:

- (i) The owner or operator has undertaken a continuing program of installation or modification during the eighteen-month period.
- (ii) The owner or operator has entered into a binding contractual obligation to undertake and complete within a reasonable period of time a continuing program of installation or modification of the air contaminant source during the eighteen-month period.
- (iii) The director has extended the date by which the air contaminant source that is the subject of the installation permit must be installed or modified.
- (iv) The installation permit is the subject of an appeal by a party other than the owner or operator of the air contaminant source that is the subject of the installation permit, in which case the date of termination of the permit is not later than eighteen months after the effective date of the permit plus the number of days between the date in which the permit was appealed and the date on which all appeals concerning the permit have been resolved.
- (v) The installation permit has been superseded by a subsequent installation permit, in which case the original installation permit terminates on the effective date of the superseding installation permit.

Division (F)(2)(b) of this section applies to an installation permit that has not terminated as of the effective date of this amendment.

The director may adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing additional requirements that are necessary for the implementation of division (F)(2)(b) of this section.

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Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-29-1993; 08-03-2006; 2007 HB119 06-30-2007.

Related Legislative Provision: See 129th General Assembly File No.39, SB 171, §4 .

Go To:	<input type="text"/>	Go
Prev Next		