3745-47-05 DRAFT OR ~~Proposed~~ PROPOSED action.

(A) Except as provided in ~~Section 3745-47-05(D)~~ PARAGRAPHS (C) OR (E) OF THIS RULE, in all actions of the ~~Agency~~ AGENCY, the ~~Director~~ DIRECTOR shall prepare and ~~give notice to the parties of~~ ISSUE TO THE PERSON SUBJECT THERETO a proposed action ~~without an adjudication hearing. The proposed action shall be in the same form as, and include all elements of, a final action and where issuance of permits is proposed, shall include a proposed permit. Any person may file comments or request an adjudication hearing as provided by these Rules. The Director may hold a public meeting on an application for a permit or variance or renewal thereof prior to the issuance of a proposed action.~~ THE PROPOSED ACTION MAY BEAR A DATE UPON WHICH IT WILL BECOME EFFECTIVE AS A FINAL ACTION, OR IT MAY BE ISSUED WITH NO SUCH DATE STATED. IF THE PROPOSED ACTION BEARS SUCH A DATE, THE DATE SHALL NOT BE PRIOR TO:

(1) THE DEADLINE FOR FILING COMMENTS SET FORTH IN PARAGRAPH (F) OF THIS RULE; OR

(2) THE DEADLINE FOR REQUESTING PUBLIC MEETINGS SET FORTH IN RULE 3745-47-12 OF THE ADMINISTRATIVE CODE; OR

(3) THE DEADLINE FOR FILING ADJUDICATION HEARING REQUESTS AND OBJECTIONS SET FORTH IN RULE 3745-47-13 OF THE ADMINISTRATIVE CODE.

~~(B) If no adjudication hearing is held, or if no public meeting is held subsequent to the issuance of a proposed action, the Director, after consideration of all written comments submitted within thirty days of public notice of the proposed action, or such longer period specified in the public notice, shall: (1) issue the proposed action as his final action; (2) permit the proposed action to become final if the proposed action provides that the proposed action will become final unless withdrawn by the Director prior to the expiration of a specified period of time; or (3) withdraw the proposed action and issue a revised proposed action. A revised proposed action shall be treated in all respects as a proposed action except that the Agency need not hold further public meetings.~~

(B) (1) EXCEPT AS PARAGRAPH (B) (2) OF THIS RULE AUTHORIZES OR PARAGRAPH (B) (3) OF THIS RULE REQUIRES THE CONTRARY, THE DIRECTOR SHALL ISSUE THE PROPOSED ACTION AS HIS FINAL ACTION ON THE EFFECTIVE DATE STATED.

(2) (a) IF A PROPOSED ACTION IS ISSUED WITH AN EFFECTIVE DATE, THE DIRECTOR MAY AMEND THE PROPOSED ACTION PRIOR TO ITS EFFECTIVE DATE, OR, IF HEARING PROCEEDINGS ARE INITIATED, AT ANY TIME PRIOR TO ENTRY OF THE PROPOSED ACTION UPON THE DIRECTOR'S JOURNAL AS A FINAL ACTION. A PROPOSED ACTION ISSUED WITHOUT AN EFFECTIVE DATE MAY BE AMENDED AT ANY TIME PRIOR TO ENTRY UPON THE DIRECTOR'S JOURNAL AS A FINAL ACTION.

Ohio Environmental Protection Agency
ENTERED DIRECTOR'S JOURNAL

MAY 22 1981

(b) THE DIRECTOR MAY WITHDRAW THE PROPOSED ACTION PRIOR TO THE EFFECTIVE DATE STATED, OR, IF NO DATE IS STATED, AT ANY TIME. HOWEVER, THE DIRECTOR MAY NOT WITHDRAW A PROPOSED ACTION AFTER INITIATION OF HEARING PROCEEDINGS, UNLESS ALL REQUESTS FOR ADJUDICATION HEARINGS AND OBJECTIONS HAVE BEEN WITHDRAWN OR DISMISSED.

(3) (a) THE DIRECTOR SHALL NOT ISSUE A FINAL ACTION PRIOR TO ANY OF THE DATES SET FORTH IN PARAGRAPHS (A) (1) THROUGH (A) (3) OF THIS RULE.

(b) THE DIRECTOR SHALL NOT ISSUE A FINAL ACTION

(i) IF AN OBJECTION IS RECEIVED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE APPLICABLE LAW PROHIBITS ISSUANCE OF A FINAL ACTION UNDER SUCH CIRCUMSTANCES; OR

(ii) UNTIL PARAGRAPH (D) OF RULE 3745-47-12 OF THE ADMINISTRATIVE CODE IS COMPLIED WITH; OR

(iii) UNTIL PARAGRAPH (C) OF RULE 3745-47-13 OF THE ADMINISTRATIVE CODE IS COMPLIED WITH; OR

(iv) UNTIL PARAGRAPH (F) OF THIS RULE IS COMPLIED WITH.

~~(C) The Director may withdraw a proposed action at any time before the proposed action becomes final.~~

(C) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS RULE, THE DIRECTOR MAY ISSUE A DRAFT ACTION TO THE PERSON SUBJECT THERETO IN ANY INSTANCE IN WHICH THE DIRECTOR WOULD BE PERMITTED TO ISSUE A FINAL ACTION WITHOUT A HEARING PURSUANT TO PARAGRAPH (E) OF THIS RULE. THE DRAFT ACTION MAY BEAR A DATE UPON WHICH IT WILL BECOME EFFECTIVE AS A FINAL ACTION, OR IT MAY BE ISSUED WITH NO SUCH DATE STATED. IF THE DRAFT ACTION BEARS SUCH AN EFFECTIVE DATE, THE DATE SHALL NOT BE PRIOR TO

(1) THE DEADLINE FOR FILING COMMENTS SET FORTH IN PARAGRAPH (F) OF THIS RULE; OR

(2) THE DEADLINE FOR REQUESTING PUBLIC MEETINGS SET FORTH IN RULE 3745-47-12 OF THE ADMINISTRATIVE CODE.

(D) (1) EXCEPT AS PARAGRAPH (D)(2) OF THIS RULE AUTHORIZES OR PARAGRAPH (D)(3) OF THIS RULE REQUIRES THE CONTRARY, THE DIRECTOR SHALL ISSUE THE DRAFT ACTION AS HIS FINAL ACTION ON THE EFFECTIVE DATE STATED.

hio Environmental Protection Agency
ED DIRECTOR'S JOURNAL
MAY 22 1981

(2) (a) IF A DRAFT ACTION IS ISSUED WITH AN EFFECTIVE DATE, THE DIRECTOR MAY AMEND THE DRAFT ACTION AT ANY TIME PRIOR TO ITS STATED EFFECTIVE DATE. A DRAFT ACTION ISSUED WITHOUT AN EFFECTIVE DATE MAY BE AMENDED AT ANY TIME PRIOR TO ENTRY UPON THE DIRECTOR'S JOURNAL AS A FINAL ACTION.

(b) THE DIRECTOR MAY WITHDRAW THE DRAFT ACTION PRIOR TO THE EFFECTIVE DATE STATED, OR, IF NO DATE IS STATED, AT ANY TIME.

(3) (a) THE DIRECTOR SHALL NOT ISSUE A FINAL ACTION PRIOR TO EITHER OF THE DATES SET FORTH IN PARAGRAPHS (C)(1) AND (C)(2) OF THIS RULE.

(b) THE DIRECTOR SHALL NOT ISSUE A FINAL ACTION

(i) IF AN OBJECTION IS RECEIVED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE APPLICABLE LAW PROHIBITS ISSUANCE OF A FINAL ACTION UNDER SUCH CIRCUMSTANCES, OR

(ii) UNTIL PARAGRAPH (D) OF RULE 3745-47-12 OF THE ADMINISTRATIVE CODE IS COMPLIED WITH; OR

(iii) UNTIL PARAGRAPH (F) OF THIS RULE IS COMPLIED WITH.

~~(D)~~ (E) Notwithstanding the provisions of ~~3745-47-05(A) above~~ PARAGRAPH (A) OF THIS RULE, the ~~Director~~ DIRECTOR may issue a final action without ~~a hearing~~ FIRST ISSUING A PROPOSED ACTION where ~~the rules of the Agency or~~ the statutes pertaining to the ~~Agency~~ AGENCY specifically give a right to appeal to the ~~Environmental Board~~ ENVIRONMENTAL BOARD of ~~Review~~ REVIEW and also give the appellant a right to a hearing ~~de novo~~ on such appeal IN ACCORDANCE WITH CHAPTER 119. OF THE REVISED CODE, and where no statutory provision or regulation prohibits such action from being effective before persons permitted by statute or ~~regulation~~ RULE to participate in an adjudication hearing have been afforded an opportunity for a hearing.

(F) ANY PERSON MAY SUBMIT WRITTEN COMMENTS RELATING TO A PROPOSED ACTION OR A DRAFT ACTION. ALL COMMENTS RECEIVED BY THE AGENCY WITHIN THIRTY DAYS AFTER PUBLIC NOTICE, OR SUCH LONGER PERIOD AS THE PUBLIC NOTICE MAY SPECIFY, SHALL BE CONSIDERED PRIOR TO ISSUANCE OF A FINAL ACTION. THIS PARAGRAPH DOES NOT APPLY TO AMENDED DRAFT OR AMENDED PROPOSED ACTIONS UNLESS THE AGENCY GIVES PUBLIC NOTICE OF THE AMENDED DRAFT OR AMENDED PROPOSED ACTION UNDER RULE 3745-47-07 OF THE ADMINISTRATIVE CODE.

Effective: June 30, 1981

CERTIFICATION: James F McAvoy

MAY 21 1981

Date

Ohio Environmental Protection Agency
ENTERED DIRECTOR'S JOURNAL

MAY 22 1981

Promulgated under: RC Chapter 119

Rule amplifies: RC Chapter 3734.

Amended: July 5, 1973