

3745-47-01 Applicability.

- (A) ~~These Rules~~ CHAPTER 3745-47 OF THE ADMINISTRATIVE CODE shall govern procedure for all adjudication hearings, public meetings RELATING TO ADJUDICATORY ACTS (INCLUDING PUBLIC MEETINGS ON DRAFT OR PROPOSED ACTIONS), and other proceedings relating to adjudicatory acts conducted by the ~~Ohio Environmental Protection Agency~~ AGENCY or by its duly authorized hearing examiners pursuant to ~~Chapters~~ CHAPTERS 119., 3704., ~~3734.,~~ 3745., 6109., 6111., and ~~Sections~~ SECTIONS 1505.07, ~~1509.081,~~ 3707.42, ~~3734.02,~~ 6101.13, 6101.39, 6103.17, 6112.02, 6117.34, 6117.46, and 6119.35, OF THE ~~Ohio~~ Revised Code, or any other statute ~~requiring~~ PROVIDING FOR an adjudication hearing before the ~~Agency~~ AGENCY.
- (B) ~~These Rules shall be effective 10 days after enactment and shall govern all procedural questions in new or pending proceedings arising thereafter.~~

Effective: June 30, 1981

CERTIFICATION:


MAY 21 1981

Date

Promulgated under: RC Chapter 119

Rule amplifies: RC Chapters 3704,
3734, 3745, 6109,
6111, 1505, 3707,
6101, 6103, 6112,
6117, 6119.

Amended: July 5, 1973

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~~These Rules and regulations~~ CHAPTER 3745-47 OF THE ADMINISTRATIVE CODE shall be construed liberally to accomplish the purposes of the ~~Chapters~~ CHAPTERS and ~~Sections~~ SECTIONS of the ~~Ohio~~ Revised Code within the jurisdiction of the ~~Agency~~ AGENCY, and to afford maximum procedural fairness consistent with just, speedy, and inexpensive resolution of controversies.

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3745, 6109, 6111

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3745-47-03 Definitions.

As used ~~herein~~ IN CHAPTER 3745-47 OF THE ADMINISTRATIVE CODE:

- ~~(A)~~ "Act" shall mean any statute administered by the Ohio Environmental Protection Agency.
- ~~(B)~~ (A) "Action" shall mean MEANS the issuance, modification, or revocation of any lawful AN order, ~~other than an emergency order~~ INCLUDING AN ORDER DISMISSING A VERIFIED COMPLAINT; the issuance, denial, renewal, modification, or revocation of a license, permit, lease, variance, or certificate; or the approval or disapproval of plans and specifications pursuant to law or regulation ~~thereunder~~.
- ~~(C)~~ (B) "Adjudication hearing" shall mean MEANS an adversary proceeding at which are determined rights, duties, privileges, benefits or legal relationships of a specified person.
- ~~(D)~~ (C) "Agency" shall mean MEANS the Ohio Environmental Protection Agency ENVIRONMENTAL PROTECTION AGENCY.
- ~~(E)~~ (D) "Director" shall mean MEANS the ~~Director~~ DIRECTOR of ~~Environmental Protection~~ ENVIRONMENTAL PROTECTION of Ohio.
- (E) "DRAFT ACTION" MEANS A WRITTEN STATEMENT THAT GIVES THE DIRECTOR'S INTENTION WITH RESPECT TO THE ISSUANCE, DENIAL, RENEWAL, MODIFICATION, OR REVOCATION OF ANY PERMIT, VARIANCE, LICENSE, CERTIFICATE, OR LEASE; APPROVAL OR DISAPPROVAL OF PLANS AND SPECIFICATIONS; OR ISSUANCE, MODIFICATION, OR REVOCATION OF AN ORDER, AND CONCERNING WHICH PERSONS AUTHORIZED BY LAW OR AGENCY REGULATIONS MAY FILE COMMENTS OR REQUEST A PUBLIC MEETING, BUT WHICH WILL NOT BE THE SUBJECT OF AN ADJUDICATION HEARING BEFORE THE DIRECTOR. IF THE DRAFT ACTION INDICATES AN INTENT TO ISSUE A PERMIT, LICENSE, VARIANCE, ORDER, OR CERTIFICATE, IT SHALL INCLUDE A DRAFT PERMIT, LICENSE, VARIANCE, ORDER OR CERTIFICATE.
- (F) "Fact sheet" shall mean MEANS the statement of facts provided for in ~~3745-47-06(A)~~, PARAGRAPH (A) OF RULE 3745-47-06 OF THE ADMINISTRATIVE CODE relative to ISSUANCE OF AN ACTION, ~~an application for issuance or renewal of a permit under Section 6111.03(J), Revised Code~~
- (G) "Final action" shall mean MEANS the WRITTEN decision on any ~~adjudicatory~~ matter when all administrative remedies have been exhausted, or waived by failure timely to pursue such remedies THAT IS SIGNED BY THE DIRECTOR AND ENTERED INTO THE JOURNAL PURSUANT TO RULE 3745-47-27 OF THE ADMINISTRATIVE CODE.
- ~~(H)~~ "Hearing examiner" shall include the Director when he personally conducts a hearing or performs any other act which hearing examiners are authorized to perform.

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~~(I)~~(H) "Initiation of hearing proceedings" ~~shall mean~~ MEANS the occurrence of ~~that~~ ANY event ~~which~~ THAT requires that an adjudication hearing ~~shall~~ be held, including but not limited to, ~~a request for a hearing~~ A TIMELY OBJECTION TO A PROPOSED ACTION pursuant to ~~Section~~ SECTION 3745.07, OF THE ~~Ohio~~ Revised Code, service of a verified complaint upon an alleged violator pursuant to ~~Section~~ SECTION 3745.08, OF THE ~~Ohio~~ Revised Code, and notice of a hearing pursuant to ~~Section~~ SECTION 6109.14 OR 6111.32- ~~Ohio~~ OF THE Revised Code.

(I) "ISSUE" ("ISSUANCE") MEANS

- (1) IN THE CASE OF A DRAFT OR PROPOSED ACTION, TO PLACE THE ACTION INTO THE UNITED STATES MAIL.
- (2) IN THE CASE OF A FINAL ACTION, TO ENTER THE ACTION INTO THE DIRECTOR'S JOURNAL AFTER IT IS SIGNED BY THE DIRECTOR.

(J) "Party" ~~shall mean~~ MEANS

- (1) ~~the~~ THE ~~State or Agency~~ AGENCY;
- (2) ~~and the~~ THE ~~applicant or respondent~~ PERSON TO WHOM THE PROPOSED ACTION IS ISSUED, OR THE ALLEGED VIOLATOR UPON WHOM A NOTICE OF HEARING IS SERVED PURSUANT TO SECTION 6109.14, 3745.08, OR 6111.32 OF THE REVISED CODE;

~~(2)~~(3) ~~any~~ANY person who ~~requests an adjudication hearing~~ OBJECTS pursuant to ~~3745-47-13(A)~~ SECTION 3745.07 OF THE REVISED CODE; ~~or~~

~~(3)~~(4) ~~any~~ANY person who intervenes pursuant to ~~Rule~~ RULE 3745-47-15 OF THE ADMINISTRATIVE CODE; OR

- (5) ANY PERSON WHO FILES A VERIFIED COMPLAINT UNDER SECTION 3745.08 OF THE REVISED CODE, WITH RESPECT TO THE ALLEGED VIOLATION THAT IS THE SUBJECT OF THE HEARING, IF THE PERSON HAS, PRIOR TO THE HEARING, FILED WITH THE DIRECTOR A WRITTEN NOTICE OF INTENT TO PARTICIPATE AS A PARTY.

NO OTHER PERSON SHALL BE DEEMED TO BE A PARTY TO AN ADJUDICATION HEARING.

(K) "Permit," "license," "certificate," or "variance" ~~shall include~~ INCLUDES any provisions, terms, conditions, specifications, requirements, or limitations with which the permittee or licensee must comply, or which affect exercise of the permit or license, whether such ~~provision~~ PROVISIONS, terms, conditions, specifications, requirements, or limitations are set forth fully on the permit or license document, appended thereto, or incorporated by reference. All requirements of statutes or regulations applicable to the permittee or ~~licensee~~ LICENSEE shall be conditions of such permit, license or variance, although not set forth on the permit, license, or variance, or appended thereto or incorporated by reference.

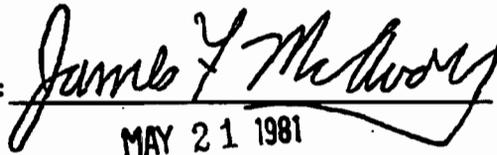
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- (L) "Person" ~~shall mean~~ MEANS the ~~State~~ STATE of Ohio OR ANY AGENCY THEREOF, the federal government or ANY agency thereof, any other state or agency thereof, any interstate agency, any municipal corporation, political subdivision, public or private corporation, individual, partnership, or other entity.
- (M) "Proposed action" ~~shall mean~~ MEANS a WRITTEN statement, ~~in the same form as and including all the elements of a final action,~~ that gives the ~~Director's~~ DIRECTOR'S intention with respect to the issuance, denial, renewal, modification, or revocation of any permit, variance, license, certificate, or lease; or approval or disapproval of plans and specifications; or issuance, modification, or revocation, of an order, and concerning which persons authorized by law or agency regulations may file comments or request an adjudication hearing or public meeting. IF THE PROPOSED ACTION INDICATES AN INTENT TO ISSUE A PERMIT, LICENSE, VARIANCE, ORDER, OR CERTIFICATE, IT SHALL INCLUDE A PROPOSED PERMIT, LICENSE, VARIANCE, ORDER, OR CERTIFICATE.
- (N) "Public meeting" ~~shall mean~~ MEANS a non-adversary public hearing, where any person may present written or oral ~~testimony, evidence, opinions and arguments for the record for consideration by the Director in acting upon applications for the issuance or renewal of a permit or variance~~ STATEMENTS FOR THE DIRECTOR'S CONSIDERATION PERTAINING TO THE APPLICATION, DRAFT ACTION, OR PROPOSED ACTION THAT IS THE SUBJECT OF THE MEETING, and ~~shall include~~ INCLUDES public hearings held pursuant to ~~Section 3704.03(H)~~ DIVISION (H) OF SECTION 3704.03 of the ~~Ohio~~ Revised Code.
- (O) "Verified complaint" ~~shall mean~~ MEANS a WRITTEN complaint, VERIFIED BY THE AFFIDAVIT OF THE COMPLAINANT, HIS AGENT, OR HIS ATTORNEY. THE AFFIDAVIT MAY BE MADE BEFORE ANY PERSON AUTHORIZED BY LAW TO ADMINISTER OATHS, AND SHALL BE SIGNED BY THE PERSON WHO MAKES THE AFFIDAVIT. THE PERSON WHO ADMINISTERS THE OATH SHALL CERTIFY THAT THE AFFIDAVIT WAS SWORN TO BEFORE HIM AND SIGNED IN HIS PRESENCE. ~~the allegations of which are sworn to by the complainant before a notary public,~~

Effective: June 30, 1981

CERTIFICATION:


MAY 21 1981
 Date

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Rule amplifies: RC Chapters 3745, 6109, and 6111

Amended: April 26, 1976

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