



## Ohio Revised Code Section 3745.08 Complaints.

Effective: April 6, 2007

Legislation: House Bill 443 - 126th General Assembly

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(A) An officer of an agency of the state or of a political subdivision, acting in the officer's representative capacity, or any person who is or will be aggrieved or adversely affected by a violation that has occurred, is occurring, or will occur may file a complaint, in writing and verified by the affidavit of the complainant, the complainant's agent, or attorney, with the director of environmental protection, in accordance with the rules of the director adopted pursuant to Chapter 119. of the Revised Code, alleging that another person has violated, is violating, or will violate any law, rule, standard, or order relating to air pollution, water pollution, solid waste, infectious wastes, construction and demolition debris, public water supply, hazardous waste, products that contain mercury, or cessation of chemical handling operations, or, if the person is in possession of a valid license, permit, variance, or plan approval relating to air pollution, water pollution, solid waste, infectious wastes, construction and demolition debris, public water supply, or hazardous waste, that the person has violated, is violating, or will violate the conditions of the license, permit, variance, or plan approval. The affidavit verifying a complaint authorized by this section may be made before any person authorized by law to administer oaths and shall be signed by the person who makes it. The person before whom it was taken shall certify that it was sworn to before that person and signed in that person's presence, and that person's certificate signed officially by that person shall be evidence that the affidavit was made, that the name of the person making the affidavit was written by the maker of the affidavit, and that the maker of the affidavit was that person.

(B) Upon receipt of a complaint authorized by this section, the director shall cause a prompt investigation to be conducted such as is reasonably necessary to determine whether a violation, as alleged, has occurred, is occurring, or will occur. The investigation shall include a discussion of the complaint with the alleged violator. If, upon completion of the investigation, the director determines that a violation, as alleged, has occurred, is occurring, or will occur, the director may enter such order as may be necessary, request the attorney general to commence appropriate legal proceedings, or, where the director determines that prior violations have been terminated and that future violations of the same kind are unlikely to occur, the director may dismiss the complaint. If the director does not determine that a violation, as alleged, has occurred, is occurring, or will occur, the director shall



dismiss the complaint. Before taking any action under this division, the director may commence a hearing. Twenty days prior to any hearing, the director shall cause publication of notice of the hearing in a newspaper with general circulation in the county wherein the alleged violation has occurred, is occurring, or will occur, and also shall mail written notice by certified mail, return receipt requested, to the person who filed the complaint and to the alleged violator. If the director enters an order pursuant to this division without having commenced a hearing, the director or the director's delegate, prior to entry of the order, shall provide an opportunity to the complainant and the alleged violator to attend a conference with the director or the director's delegate concerning the alleged violation.

(C) Any hearing commenced under this section shall be conducted before the director or a hearing examiner designated by the director. The agency and the alleged violator shall be parties. The person who filed the verified complaint may participate as a party by filing with the director, at any time prior to the hearing, a written notice of the complainant's intent to so participate. Any other person may be permitted to intervene upon the granting by the director or hearing examiner of a motion to intervene filed in accordance with the rules of the director adopted pursuant to Chapter 119. of the Revised Code.

(D) A complaint filed under this section may be consolidated with any other complaint filed under this section, or any finding of the director, where the director determines that consolidation will facilitate enforcement of any law that the agency is charged with administering under section 3745.01 of the Revised Code and there are one or more issues of fact or law in common. Not more than one hearing under this section shall be conducted with respect to each violation alleged.