



## Ohio Administrative Code

### Rule 5703-1-06 Certification of exempt facilities under sections 5709.20 to 5709.27 of the Revised Code.

Effective: October 27, 2023

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Pursuant to division (B) of section 5709.21 of the Revised Code, the tax commissioner hereby prescribes the manner and form of applying for the certification of exempt facilities under sections 5709.20 to 5709.27 of the Revised Code.

(A) Application for certification of an exempt facility as defined in division (E) of section 5709.20 of the Revised Code shall:

- (1) Be made by the person owning the facility at the time of application;
- (2) Contain plans and specifications of the property, including all materials incorporated or to be incorporated into the property and the associated costs of the materials, and a descriptive list of all equipment acquired or to be acquired by the applicant for the exempt facility and the associated costs of the equipment;
- (3) Include details of how the applicant determined the cost of any auxiliary property under section 5709.21 of the Revised Code;
- (4) Be accompanied by the nonrefundable fee prescribed by section 5709.212 of the Revised Code. Section 5709.212 of the Revised Code provides that until such fee is paid, the application is not complete, and the applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code.

An exemption will be allowed only for those exempt facility costs covered by the fee paid. If the exempt facility costs exceed those covered by the fee paid, a certificate will not be issued for the excess amount until the additional fee is paid.

An application is filed when a properly completed application is received by the commissioner. An application is not properly completed until all necessary fees, documents, and information are



received. The commissioner will provide the applicant at least thirty days after a request is sent to complete the application. Thereafter, the commissioner may deny issuing a certificate because the application is not properly completed. A final determination reflecting such denial may be issued without obtaining the opinion of the director of environmental protection or the director of development. The final determination is subject to appeal under section 5717.02 of the Revised Code. Once the denial becomes final, the applicant may file a new application if the applicant still wants a certificate to be issued.

An applicant generally needs to file a separate application for each location where the owner has facilities for which certification is sought and for every county where a facility is located. However, under authority of division (D) of section 5709.21 of the Revised Code, the commissioner may allow an applicant to file one application that applies to multiple facilities in the same county if the facilities are the same or substantially similar. In addition, a single application, listing each owner and its percentage of ownership, shall be filed for a jointly owned facility; if at any time before or after issuance of an exempt facility certificate the percentages of ownership change, the joint owners will notify the commissioner in writing of the change.

(B) As soon as is practicable after receipt of a properly completed application, the commissioner will provide a copy of the application and any accompanying documentation to the county auditor of the county in which the facility is located.

(C) The commissioner will provide a copy of a properly completed application to either the director of environmental protection or the director of development, as appropriate, to obtain the directors opinion concerning the facility. After obtaining the directors opinion and considering any additional information requested, the commissioner will ascertain if a certificate should be issued in whole or in part or denied.

The commissioner will give written notice of the proposed finding to the applicant and the appropriate county auditor. If the applicant or the county auditor desires a reconsideration of the proposed finding, either person may file a written request for reconsideration with the commissioner within sixty days after the notice was sent. Either person may include a request that the commissioner conduct a hearing on the application.



If a hearing has been requested, the commissioner will schedule a hearing and give notice thereof to the applicant, the county auditor, and the appropriate director. After the hearing, the commissioner will issue a final determination on the application and serve copies of the final determination on the applicant and the appropriate county auditor. The final determination is subject to appeal under section 5717.02 of the Revised Code.

After conclusion of the above proceedings, including exhaustion of any appeal, the commissioner will issue, if applicable, an exempt facility certificate, which will include an exempt facility certificate number. The number is used on all tax returns, all sales tax exemption certificates, and all other forms and correspondence pertaining to the facility.

(D) For purposes of audit and examination by employees of the tax commissioner, the taxpayer shall identify separately the exempted portion of a facility on the taxpayer's books and records.

(E) Upon the commissioner's own motion or upon receiving a complaint, the commissioner may, at the commissioner's discretion, after giving notice and the opportunity for a hearing to a certificate holder, revoke or modify such certificate in accordance with division (C) of section 5709.22 of the Revised Code.

(F) New applications for the addition, enlargement, expansion, or replacement of property at a previously certified exempt facility, filed under division (E) of section 5709.25 of the Revised Code, are separately ascertained for each such facility. If the exempt facility is a jointly owned facility, the new application is based on the aggregate costs of all the joint owners of the facility.

The new application shall be accompanied by the nonrefundable fee prescribed for applications filed under division (E) of section 5709.25 of the Revised Code. Section 5709.212 of the Revised Code provides that until the fee is paid, the application is not complete, and the applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code. A certificate will not be issued for the addition, enlargement, expansion, or replacement until the fee is paid.

(G) In the event of the transfer of an exempt facility certificate as provided by section 5709.27 of the Revised Code, the transferee shall promptly provide:



(1) Written notice of the transfer to the commissioner and to the county auditor of the county in which the facility is located, specifying the effective date of the transfer; and

(2) A copy of the instrument of transfer and a copy of the certificate transferred.

(H) As used in section 5709.21 of the Revised Code, "the date of the construction of the facility" means the date on which actual installation or construction of the facility, as set forth by the plans and specifications, is begun, which will result in the completed and operational facility.