



Ohio Administrative Code

Rule 3745-50-130 Getting a remedial action plan approved.

Effective: [March 7, 2025](#)

(A) The process for approving or denying an application for a remedial action plan (RAP).

(1) If the director tentatively finds that the owner's or operator's RAP application includes all of the information required by paragraph (D) of rule 3745-50-95 of the Administrative Code and that the proposed remediation waste management activities meet the regulatory standards, the director will make a tentative decision to approve the RAP application. The director will then prepare a draft RAP and provide an opportunity for public comment before making a final decision on the RAP application, according to rules 3745-50-80 to 3745-50-230 of the Administrative Code.

(2) If the director tentatively finds that the RAP application does not include all of the information required by paragraph (D) of rule 3745-50-95 of the Administrative Code or that the proposed remediation waste management activities do not meet the regulatory standards, the director may request additional information or ask the owner or operator to correct deficiencies in the RAP application. If the owner or operator fails or refuses to provide any additional information the director requests, or to correct any deficiencies in the RAP application, the director may make a tentative decision to deny the RAP application. After making this tentative decision, the director will prepare a notice of intent to deny the RAP application ("notice of intent to deny") and provide an opportunity for public comment before making a final decision on the RAP application, according to the requirements in rules 3745-50-80 to 3745-50-230 of the Administrative Code. The director may deny the RAP application either in the RAP application's entirety or in part.

(B) The director shall include the information in paragraphs (B)(1) to (B)(3) of this rule in a draft RAP.

(1) Information required under paragraphs (D)(1) to (D)(6) of rule 3745-50-95 of the Administrative Code;

(2) The following terms and conditions:



(a) Terms and conditions necessary to ensure that the operating requirements specified in the RAP comply with applicable requirements of Chapters 3745-54 to 3745-57 and 3745-205, 3745-266, and 3745-270 of the Administrative Code (including any recordkeeping and reporting requirements). In satisfying this provision, the director may incorporate, expressly or by reference, applicable requirements of Chapters 3745-54 to 3745-57 and 3745-205, 3745-266, and 3745-270 of the Administrative Code into the RAP or establish site-specific conditions as required or allowed by Chapters 3745-54 to 3745-57 and 3745-205, 3745-266, and 3745-270 of the Administrative Code;

(b) Terms and conditions in rule 3745-50-23 of the Administrative Code;

(c) Terms and conditions for modifying and terminating the RAP, as provided in paragraph (A) of rule 3745-50-170 of the Administrative Code; and

(d) Any additional terms or conditions that the director determines are necessary to protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP.

(3) If the draft RAP is part of another document, as described in paragraph (A)(4)(b) of rule 3745-50-80 of the Administrative Code, the director shall clearly identify the components of that document that constitute the draft RAP.

(C) Items that the director shall prepare in addition to the draft RAP or notice of intent to deny. Once the director has prepared the draft RAP or notice of intent to deny, the director shall then:

(1) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for those conditions, or the rationale for the notice of intent to deny;

(2) Compile an administrative record, including:

(a) The RAP application, and any supporting data furnished by the applicant;

(b) The draft RAP or notice of intent to deny;



(c) The statement of basis and all documents cited therein (material readily available at the issuing Ohio EPA office or published material that is generally available need not be physically included with the rest of the record, as long as such material is specifically referred to in the statement of basis); and

(d) Any other documents that support the decision to approve or deny the RAP.

(3) Make information contained in the administrative record available for review by the public upon request.

(D) Procedures for public comment on the draft RAP or notice of intent to deny.

(1) The director shall:

(a) Send notice to the owner or operator of the director's intention to approve or deny the RAP application, and send the owner or operator a copy of the statement of basis;

(b) Publish in a major local newspaper of general circulation a notice of the director's intention to approve or deny the RAP application;

(c) Broadcast over a local radio station the director's intention to approve or deny the RAP application; and

(d) Send a notice of the director's intention to approve or deny the RAP application to each unit of local government having jurisdiction over the area in which the site is located, and to each state agency having any authority under state law with respect to any construction or operations at the site.

(2) The notice required by paragraph (D)(1) of this rule shall provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least forty-five days.

(3) The notice required by paragraph (D)(1) of this rule shall include:



- (a) The name and address of the office processing the RAP application;
 - (b) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;
 - (c) A brief description of the activity the RAP will regulate;
 - (d) The name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;
 - (e) A brief description of the comment procedures in paragraph (D) of this rule, and any other procedures by which the public may participate in the RAP decision;
 - (f) If a hearing is scheduled, the date, time, location, and purpose of the hearing;
 - (g) If a hearing is not scheduled, a statement of procedures to request a hearing;
 - (h) The location of the administrative record, and times when the administrative record will be open for public inspection; and
 - (i) Any additional information the director considers necessary or proper.
- (4) If, within the comment period, the director receives written notice of opposition to the director's intention to approve or deny the RAP application and a request for a hearing, the director shall hold an informal public hearing to discuss issues relating to the approval or denial of the RAP application. The director also may determine on the director's own initiative that an informal hearing is appropriate. The hearing shall include an opportunity for any person to present written or oral comments. Whenever possible, the director shall schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in paragraph (D) of this rule. This notice, at a minimum, shall include the information required by paragraph (D)(3) of this rule and:



- (a) Reference to the date of any previous public notices relating to the RAP application;
 - (b) The date, time, and place of the hearing; and
 - (c) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.
- (E) Making a final decision on a RAP application.
- (1) The director shall consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise the draft RAP based on those comments, as appropriate.
 - (2) If the director determines that the RAP includes the information and terms and conditions required in paragraph (B) of this rule, then the director will issue a final decision approving the RAP and, in writing, shall notify the owner or operator and all commenters on the draft RAP that the RAP application has been approved.
 - (3) If the director determines that the RAP does not include the information required in paragraph (B) of this rule, then the director will issue a final decision denying the RAP and, in writing, notify the owner or operator and all commenters on the draft RAP that the RAP application has been denied.
 - (4) If the director's final decision is that the tentative decision to deny the RAP application was incorrect, the director will withdraw the notice of intent to deny the RAP application and then prepare a draft RAP, according to the requirements in rules 3745-50-80 to 3745-50-230 of the Administrative Code.
 - (5) When the director issues a final RAP decision, the director shall refer to the procedures for appealing the decision under paragraph (F) of this rule.
 - (6) Before issuing the final RAP decision, the director shall compile an administrative record. Material readily available at the issuing Ohio EPA office or published materials which are generally



available and which are included in the administrative record need not be physically included with the rest of the record as long as such materials are specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP shall include information in the administrative record for the draft RAP [see paragraph (C)(2) of this rule] and:

- (a) All comments received during the public comment period;
 - (b) Tapes or transcripts of any hearings;
 - (c) Any written materials submitted at these hearings;
 - (d) The responses to comments;
 - (e) Any new material placed in the record since the draft RAP was issued;
 - (f) Any other documents supporting the RAP; and
 - (g) A copy of the final RAP.
- (7) The director shall make information in the administrative record available for review by the public upon request.
- (F) Administrative appeal of the decision to approve or deny a RAP application.
- (1) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearings on the draft RAP, may appeal the director's decision to approve or deny the RAP application to the "Environmental Review Appeals Commission." Appeals of RAPs may be made to the same extent as for final permit decisions, or a decision under paragraph (D) of rule 3745-50-44 of the Administrative Code to deny a permit for the active life of a hazardous waste management facility or a hazardous waste management unit.
 - (2) This appeal is a prerequisite to seeking judicial review of these Ohio EPA actions.



(G) Effective date of the RAP. The RAP becomes effective thirty days after the director notifies the owner or operator and all commenters that the RAP is approved unless:

(1) The director's decision specifies a later effective date;

(2) The owner or operator or another person has appealed the RAP under paragraph (F) of this rule [if the RAP is appealed, and the request for review is granted under paragraph (F) of this rule, conditions of the RAP are stayed]; or

(3) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when the RAP is issued.

(H) Beginning physical construction of new units that are permitted under the RAP. The owner or operator shall not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a finally effective RAP.