



Ohio Administrative Code Rule 3746-7-08 Burden of proceedings.

Effective: January 1, 2018

(A) The burden of proceeding shall rest with the party asserting the affirmative of any issue, except where the commission orders another party to bear the burden of proceeding because the commission determines that party possesses or should possess knowledge of facts relevant to the issue not available to the party asserting the affirmative.

(B) The director or statutory agency shall have the burden of proceeding in the following cases, unless otherwise ordered by the commission:

(1) Where it has revoked a license or permit;

(2) Where it orders a party to take affirmative action to abate air or water pollution, or any other condition or nuisance; or

(3) Where it seeks to engage in activities that are objected to as environmentally harmful.

(C) A private party appealing a final action shall have the burden of proceeding in the following cases, unless otherwise ordered by the commission:

(1) Where there is a refusal to grant, issue, or reissue any license or permit, or to approve or disapprove any plans, standards, regulations, specifications, or actions;

(2) Where there is a refusal to grant a variance from any regulation, or the granting of any conditional, temporary, or supplementary permit, dealing with air or water quality standards or other situations in which variances of such special permits are possible;

(3) Where a party who is not the applicant or holder of a license or permit from the director or statutory agency protests its issuance or continuation; or



(4) Where a party appeals or objects to the settlement of a matter between the director or statutory agency and a private party.

(D) The commission may take official notice that a given activity normally causes or creates a substantial possibility of environmental damage, and the burden of rebutting such presumption shall be upon the party seeking to show otherwise.