

3304:1-21-06

Bureau-operator, temporary bureau-operator agreements.

- (A) Before an operator can be assigned to operate a facility, the operator must agree to and sign a BOA or TBOA with the BE program. A BOA shall specify all of the following:
- (1) That the operator has received a copy of the relevant agreement between the BE program and the grantor for the proposed facility to which the operator will be assigned and agrees to operate the facility in accordance with all of the terms contained within the BGA;
 - (2) That the operator agrees to operate the facility in compliance with Chapter 3304. of the Revised Code and Chapter 3304:1-21 of the Administrative Code; and
 - (3) That the operator is to receive the net monthly proceeds and agrees to pay service charges from the net monthly proceeds from the facility which is operated under this agreement.
- (B) The director of BSVI, or designee may immediately suspend a BOA for up to forty-five days which shall not be considered discipline. However, the operator maintains the right to request a hearing under OAC 3304:1-21-14 whenever the operator receives notice of a suspension. Any proposed extension of a suspension beyond forty-five days requires the active participation of the OVRC. In no case shall a suspension exceed six months. If the suspended operator is returned to the facility and the BOA is reinstated, then the operator may apply for a stipend as a displaced operator for the duration of the suspension. The BOA may be suspended for any of the following reasons:
- (1) When the acts or omissions of the operator places the BE program in jeopardy of losing a site or facility because of noncompliance with the permit, contract, or BGA;
 - (2) The operator is absent from a site or facility, which results in the site or facility being closed in violation of the BGA;
 - (3) The operator is arrested, engaging in, or indicted for criminal activity;
 - (4) The operator's conduct at a site or the facility causes or allows conditions to exist which are a danger to the operator or others; or
 - (5) The operator's access to the site or facility has been revoked.

(C) The BSVI director, or designee may terminate a BOA for the following reasons:

- (1) Failure to satisfy the terms of a performance improvement plan as stated in paragraph (B) of rule 3304:1-21-10 of the Administrative Code;
- (2) Failure of an operator to pay any fee required by the BOA, BGA, or permit, or to submit a MOR within thirty days after being informed by the BE program in writing that a fee or MOR is late;
- (3) Termination of the BGA, whether voluntary or involuntary;
- (4) Revocation or suspension of the operator's license in accordance with rule 3304:1-21-13 of the Administrative Code;
- (5) For reasons noted in paragraph (B) of this rule after active participation of the OVRC;
- (6) BE approval of written notice of resignation by the operator to BE; or
- (7) As otherwise listed in Chapter 3304:1-21 of the Administrative Code.

(D) An operator shall have only one BOA in place at any time in Ohio. On entering into a new BOA under paragraph (A) of this rule, any existing BOA shall terminate.

(E) After consulting with the selection panel, BE may enter into a TBOA to ensure continued operation of a facility or site, or to establish reliable sales data for a vacant facility or site. Any TBOA that extends more than six months requires the active participation of the OVRC. BE, after consultation with the selection panel, shall select a temporary operator considering the transitioning operator, any displaced operators, and lowest income operators. Operators are not eligible for temporary assignments if the operator:

- (1) Is not currently licensed by the BE program, except with the discretion of the BSVI Director in emergency situations and limited in duration to no more than six months;
- (2) Has past due program charges;
- (3) Attempts to obtain the facility or site through fraud, falsification, or criminal activity;

- (4) Has submitted three or more late reports and/or payments in the previous twelve months;
 - (5) Has pending discipline;
 - (6) Has been removed from a facility, pursuant to paragraphs (C)(2), (C)(4), and (C)(5) of this rule, within the previous twelve months of the date on which the temporary assignment is offered;
 - (7) Is currently on an operator performance improvement plan.
- (F) Before an operator can be assigned to temporarily operate a facility or site, the operator shall sign a TBOA with the BE program. A TBOA shall specify all of the following:
- (1) That the operator has received a copy of the relevant agreement between the BE program and the grantor for the proposed facility or site to which the operator will be temporarily assigned and agrees to operate the facility or site in accordance with all of the terms contained within the BGA;
 - (2) That the operator agrees to operate the facility or site in compliance with Chapter 3304. of the Revised Code and Chapter 3304:1-21 of the Administrative Code;
 - (3) That the TBOA may be terminated immediately without cause on written notice by either party; and
 - (4) That the temporary operator shall be compensated either by a fee or net proceeds as follows:
 - (a) If compensated by net proceeds, the temporary operator is required to pay a set-aside fee pursuant to rule 3304:1-21-08 of the Administrative Code to the BE program.
 - (b) If compensated by an agreed on fee, the operator shall pay all facility or site profits to BE. The temporary operator shall record any temporary operator fee on the MOR for the same reporting period. All unpaid profits shall be reported and paid on the final MOR.
- (G) Whenever an operator's TBOA is terminated, or their BOA is suspended or

terminated, notice must be sent both to the operator and their OVRC representative in their preferred formats.

(H) The BE program is subject to any applicable anti-discrimination law.