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3745-400-11 **Operation of facilities.**

(A) Applicability. The owner or operator shall comply with the requirements and operational criteria specified in this rule until final closure has been completed in accordance with paragraph (G) of rule 3745-400-12 of the Administrative Code, ~~and the closure certification as required by paragraph (D) of rule 3745-400-08 of the Administrative Code has been submitted to and written concurrence received from the licensing authority,~~ as specified in this paragraph as follows:

(1) For active licensed disposal areas, the owner or operator shall comply with all the requirements and operational criteria contained in this rule.

(2) For inactive licensed disposal areas where no debris has been disposed, the owner or operator shall comply with the following paragraphs of this rule:

(a) Paragraph (B) on compliance.

(b) ~~Paragraphs~~Paragraph ~~(C)(1) and (C)(2)~~(C) on records management.

(c) Paragraph (Q)(1) on surface and ground water management.

(3) For inactive licensed disposal areas where debris has been disposed, the owner or operator shall comply with the following paragraphs of this rule:

(a) Paragraph (B) on compliance.

(b) ~~Paragraphs~~Paragraph ~~(C)(1) and (C)(2)~~(C) on records management.

(c) Paragraph (E) on construction.

(d) Paragraph (N) on the cap system.

(e) Paragraph (O) on leachate outbreaks.

(f) If applicable, paragraph (P) on leachate system management.

(g) Paragraph (Q) on surface and ground water management.

(h) Paragraph (R) on ground water monitoring and leachate sampling and analysis.

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(i) Paragraph (S) on financial assurance.

~~(4) For facilities in existence on the effective date of the rules and in operation prior to the issuance of the initial license, the owner or operator shall comply with the following paragraphs of this rule until the owner or operator receives the initial license for the facility:~~

~~(a) Paragraph (B)(1) on compliance/conduct of operations.~~

~~(b) Paragraph (B)(5) on compliance/closure.~~

~~(c) Paragraph (B)(9) on compliance/daily log.~~

~~(d) Paragraphs (B)(12) and (B)(14) to (B)(16) on compliance/operations~~

~~(e) Paragraph (C)(2) on records management/permits.~~

~~(f) Paragraphs (D)(2) and (D)(5) on debris placement/equipment and permits.~~

~~(g) Paragraphs (E) to (Q).~~

(B) Compliance.

(1) The owner or operator shall conduct all operations at the facility in strict compliance with the license, any orders, and other authorizing documents issued in accordance with Chapter 3714. of the Revised Code.

(2) The owner or operator shall dispose of construction and demolition debris only within the active licensed disposal area.

(3) The owner or operator shall comply with the applicable construction specifications and performance standards contained in rule 3745-400-07 of the Administrative Code.

(4) The owner or operator shall comply with the ground water monitoring requirements contained in rule 3745-400-10 of the Administrative Code.

(5) The owner or operator shall comply with the final closure requirements of rule 3745-400-12 of the Administrative Code.

(6) The owner or operator shall comply with the financial assurance requirements for final closure contained in ~~rules~~rule 3745-400-13 and post-closure care in rule~~3745-400-14~~ 3745-400-18 of the Administrative Code.

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(7) The owner or operator shall comply with the construction certification requirements contained in rule 3745-400-07 of the Administrative Code.

(8) The owner or operator ~~of an existing facility~~ shall not place debris in any unfilled areas without a liner, if required, and a leachate collection system after December 31, 1998.

(9) The owner or operator shall keep a daily log of operations of the facility that contains all the information specified on forms prescribed by the director. All entries required by the log form shall be completed. A copy of the log shall be available for inspection by the licensing authority during normal operating hours. When required by the licensing authority, log forms or summaries of daily logs shall be submitted to the licensing authority. The owner or operator may use alternate forms, either in paper or electronic formats, for the daily log of operations, provided that all of the information requested on the prescribed forms is present.

(10) The owner or operator shall keep records of all material prohibited for disposal that was accepted by the facility, including material removed from the working face in accordance with paragraph ~~(F)(3)~~(F)(4) of this rule. For prohibited materials removed by the owner or operator, dated records of volumes and destinations for proper disposal shall be kept. For prohibited materials removed by others or for rejected loads, the owner or operator shall list the responsible entity, including companies maintaining transfer containers at the facility for the purpose of collecting prohibited materials.

(11) The owner or operator shall conduct all operations at the facility with individuals thoroughly familiar with proper operating procedures, the terms and conditions of the facility license, and this rule.

(12) The owner or operator shall conduct special monitoring and testing if the licensing authority determines that a substantial threat of pollution to surface water, ground water, ~~and/or~~or air exists. In such a case, the owner or operator shall prepare a monitoring plan, approved by the licensing authority.

[Comment: For facilities with ground water monitoring, the procedure for determining whether a substantial threat to ground water exists is outlined in paragraph (D) of rule 3745-400-10 of the Administrative Code.]

(13) The owner or operator shall provide a topographic map of the ~~existing~~ inactive and active licensed disposal areas ~~or~~ of the facility if the licensing authority so requests. The topographic map shall represent existing contours and not be

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required more frequently than annually.

(14) The owner or operator shall supply additional control measures if deemed necessary by the licensing authority.

(15) The owner or operator shall not cause or allow operations to create a nuisance or health hazard from noise, dust, odors, and the attraction ~~and/or~~or breeding of birds, insects, rodents, and other vectors.

(16) The owner or operator shall not cause water pollution.

(C) Records management.

(1) The owner or operator shall obtain an approved and valid license as required by Chapter 3745-37 of the Administrative Code. The owner or operator shall retain at the facility during operational hours, the license application which contains the facility's construction and monitoring plans.

(2) The owner or operator shall maintain all applicable permits and authorizations required by Chapters 3704. (air pollution control) and 6111. (water pollution control) of the Revised Code.

(D) Debris placement. The owner or operator shall place and maintain markers defining the limits of the active licensed disposal area. Placement of debris into a newly active licensed disposal area cannot occur prior to the following:

(1) The owner or operator has submitted the construction certification report for the active licensed disposal area to the licensing authority in accordance with rule 3745-400-08 of the Administrative Code.

(2) The owner or operator is prepared for operation with all necessary equipment ready and operational.

(3) The licensing authority has inspected the active licensed disposal area. The licensing authority shall inspect the constructed disposal area ~~within~~not later than ten working days ~~of~~after receipt of the construction certification report.

[Comment: In any case, the constructed disposal area must be inspected by the licensing authority before placement of debris.]

(4) The owner or operator has implemented the ground water monitoring plan in

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accordance with paragraph (R) of this rule, and the information submitted in the license application required by rule 3745-37-02 and rule 3745-400-09 of the Administrative Code. For the purpose of this rule, implement means to commence ground water sampling.

(5) The owner or operator has applied for and received all applicable permits and authorizations required by Chapters 3704. and 6111. of the Revised Code.

[Comment: Requirements contained ~~at~~in 40 CFR 122 and Chapter 6111. of the Revised Code prohibit point source discharges to waters of the state without first obtaining a "National Pollutant Discharge Elimination System" (NPDES) permit. Application for permits regarding Chapter 6111. of the Revised Code must be requested through the appropriate Ohio EPA district office, division of surface water (DSW), NPDES permit section. Specific issues such as best management practices (BMP) for stormwater runoff control or sedimentation ponds must be discussed with the district staff to determine all required permits.]

[Comment: The ~~liner/leachate~~liner and leachate collection system certification report is not required to be reviewed or approved by the licensing authority prior to debris placement. The capping certification report is required to be reviewed and approved by the licensing authority before funds can be remitted to the owner or operator. The debris placement plan is submitted annually as a part of the license application and is therefore reviewed and approved annually. There is no certification report for the debris placement plan.]

(E) Construction. The owner or operator shall operate the facility to accommodate the following:

(1) The owner or operator shall maintain the integrity of the engineered components of the facility and repair any damage to or failure of the components. "Engineered components" includes the components described in rule 3745-400-07 of the Administrative Code and components of the ground water monitoring ~~system(s)~~systems installed in accordance with rule 3745-400-10 of the Administrative Code.

(2) The owner or operator shall investigate all tests of constructed engineered components which fail to meet the specifications outlined in rule 3745-400-08 of the Administrative Code. An area within a verified failure must be reconstructed to meet specifications. Reconstructed areas shall be retested.

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(3) The owner or operator of a facility with limits of debris placement located within five hundred feet of an occupied building which is not owned by the owner or operator shall establish a barrier to minimize visibility of the facility operations. The owner or operator shall place the barrier on sides with occupied buildings in existence at the time of the initial license application. For the purpose of this rule, an occupied building means any building regularly occupied in whole or in part as a habitation for human beings, or other buildings where people are accustomed to assemble.

[Comment: Examples of buildings where people are accustomed to assemble include buildings used for any commercial, social, religious, educational, or charitable purpose, such as churches, schools, and stores. Examples of barriers include trees and shrubs, earthen berms with landscaping, and opaque fences.]

(F) Waste acceptance and disposal. Prior to acceptance by the facility, debris shall be readily identifiable as construction and demolition debris and shall not have been shredded, pulverized, or otherwise rendered to the extent that the debris is unidentifiable. The owner or operator shall dispose of only construction and demolition debris ~~as defined in rule 3745-400-01 of the Administrative Code~~, except as specified in this rule.

(1) The owner or operator shall not accept pulverized debris. The owner or operator shall manage and remove pulverized debris in accoradance with sections 3714.081 and 3714.083 of the Revised Code.

~~(1)~~(2) The owner or operator of a facility shall not accept any hazardous wastes, infectious wastes, or containerized or bulk liquids. Any such materials found at the facility shall be removed as soon as practical. If any such prohibited materials are detected in incoming debris, the entire load shall be refused. All incidents concerning these prohibited materials shall be noted in the daily log.

[Comment: Radioactive waste is regulated by the Ohio department of health. Owners or operators are subject to their requirements pursuant to applicable state and federal law.]

~~(2)~~(3) The owner or operator of a facility shall not dispose of any solid wastes except as follows:

(a) Packaging which results from the use of construction materials may be disposed if it is incidental to the load.

[Comment: A load of packaging materials cannot be disposed of by a

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construction and demolition debris facility because the packaging is not incidental to the load.]

(b) Tree stumps, trunks and clean branches exceeding 4 inches (25 cm) in diameter may be disposed. For the purpose of this rule, clean branches means those without leaves and smaller branches attached.

[Comment: Paragraph (A) of rule 3745-400-03 of the Administrative Code provides that all tree materials removed from clearing a construction site may be disposed by burial on the site of generation. When taken off the site of generation, tree parts smaller than 4 inches in diameter are considered yard waste and shall be disposed in accordance with Chapter 3734. of the Revised Code.]

(c) Asbestos materials subject to NESHAP, 40 CFR Part 61, Subpart M, may be disposed of only if the necessary air pollution control permits have been issued.

[Comment: An owner or operator licensed, permitted, or otherwise authorized in accordance with Chapter 3714. of the Revised Code may accept solid waste materials if the activity is licensed, permitted, or otherwise authorized separately from the construction and demolition debris disposal facility license issued under Chapter 3714. of the Revised Code. For example, the owner or operator may also conduct a yard waste composting operation or operate a solid waste transfer facility, if so authorized. These separate activities may occur within the facility ~~bounds~~boundaries if the license acknowledges the additional separate activities. If the separate activities are conducted outside of the construction and demolition debris facility ~~bounds~~boundaries, then the construction and demolition debris license for the facility is not affected.]

[Comment: Prohibited materials that are removed are regulated as solid waste or infectious waste by Chapter 3745-27 of the Administrative Code or as hazardous waste by Chapters 3745-50 to ~~69~~3745-69 of the Administrative Code. Storage of any prohibited materials where such storage causes a nuisance or health hazard in the judgment of the health commissioner or the director or their authorized representatives shall constitute violation of Chapter 3734. of the Revised Code.]

[Comment: Pursuant to section 3734.01 of the Revised Code, materials resulting from mining operations, non-toxic fly ash, non-toxic spent foundry sand, and slag are not solid wastes. A construction and demolition debris facility can accept these materials for disposal once the owner or operator receives the authorization required pursuant to

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Chapter 6111. (water pollution control) of the Revised Code. The licensing authority may request the materials analysis data required for such authorization.]

~~(3)~~(4) The owner or operator shall deposit incoming loads of debris at a designated unloading zone where the debris shall be inspected and prohibited wastes shall be removed, unless the owner or operator has received approval of and has implemented a pre-acceptance debris screening program at the facility. If the owner or operator is implementing a pre-acceptance debris screening program that has been approved by the licensing authority through the license application, the owner or operator is not required to establish a designated unloading zone.

(a) The owner or operator shall unload the debris in clearly designated and marked unloading zones separate from the working face. Unloading zones may be temporary and adjacent to the active working face. Upon inspection of the unloaded debris, the owner or operator shall remove prohibited materials prior to placing the debris on the working face. No prohibited materials are permitted to be disposed at the working face. The owner or operator shall remove any prohibited material found at the working face.

(b) The owner or operator shall clearly mark the limits of the unloading zone with at least two temporary markers.

(c) Once prohibited materials are removed, the owner or operator shall spread and compact the debris on the working face. When debris is deposited on the working face, it shall be spread evenly over the working face and compacted to the smallest practical volume.

(d) Cliffing is prohibited. For the purpose of this rule, cliffing is the formation of an edge or cliff by the placement of debris ~~to~~ at the working face without compacting.

~~(4)~~(5) Debris that is burning or at a temperature likely to cause a fire or damage to any component of the facility shall be placed in a separate location at a sufficient distance from the working face and unloading zone to prevent fires from spreading ~~to the working face~~. The owner or operator shall immediately cover the hot or burning debris with sufficient amount of earth or other non-combustible material, or spray the debris with water or other fire suppressant to extinguish or prevent fire. When the debris has cooled, ~~and~~ is no longer smoking, and is at a temperature unlikely to cause a fire, the owner or operator shall deposit the extinguished material on the working face.

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(6) The owner or operator shall attempt to remove all solid wastes from the construction and demolition debris prior to disposal of construction and demolition debris on the working face of the facility as required under section 3714.021 of the Revised Code.

(G) Equipment. The owner or operator shall have available at all times adequate equipment for operations.

(H) Fire prevention. The owner or operator shall operate the facility in a manner that prevents fires by doing one of the following:

(1) Covering all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible. For the purpose of this rule, covering means to apply noncombustible material in a manner such that combustible debris is not visible.

(2) Preparing and utilizing an alternative fire prevention plan acceptable to the licensing authority. The plan shall include the monthly application of noncombustible cover plus ~~another method(s)~~other methods to prevent fires.

[Comment: ~~application~~Application of noncombustible cover; prevention of open discarding of smoking materials, such as cigarettes and matches, at the facility; and keeping debris moist through leachate recirculation are known methods to prevent fires at facilities.]

[Comment: Application of cover means all disposed combustible debris shall be covered at least once during the weekly or monthly schedule.]

(I) Access. The owner or operator shall limit access to the facility to prevent interference with proper operating procedures as follows:

(1) The owner or operator shall limit access to the facility to authorized personnel only, except when operating personnel are present during operating hours.

(2) The owner or operator shall exclude live domestic and live farm animals from the facility except those used for security or vector control.

(3) Access to the facility cannot be denied to the licensing authority and its authorized representatives, who upon proper identification, may enter the facility at reasonable times to determine compliance with Chapter 3714. of the Revised Code and rules adopted thereunder.

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(4) The owner or operator shall maintain access roads to allow passage of loaded vehicles with minimum dust generation or erosion during inclement weather.

[Comment: Dust generation is also addressed in Ohio EPA air pollution control permit for fugitive dust.]

(5) The owner or operator shall employ measures necessary to minimize the incidence of mud, dirt, and dust on public roads before vehicles leave the facility.

(6) The owner or operator shall post clear instructions for using the facility at the entrance. Instructions shall include a listing of wastes the disposal of which is prohibited as outlined in paragraph (F) of this rule and of telephone numbers of emergency personnel including the local fire department, the board of health, and the appropriate district office of Ohio EPA. The instructions shall be readable from vehicles arriving to deposit debris.

(J) Inclement weather. The owner or operator shall ensure that preparations have been made to receive, spread, and cover debris during inclement weather. Preparations shall include designated areas where debris will be deposited, spread, and covered during inclement weather, all-weather access roads leading to these designated areas, and stockpiles of cover material.

(K) Scavenging. No person shall conduct or allow scavenging. For the purpose of this rule, scavenging is the extraction or removal of material from a construction and demolition debris facility by ~~a person(s)~~persons unauthorized by the facility operator.

(L) Litter. The owner or operator shall employ all reasonable measures to collect, properly contain, and dispose of scattered litter at the active licensed disposal area of a facility, including frequent policing of the area and the use of portable wind screens where necessary.

(M) Fire control. The owner or operator shall have available at or near the facility, adequate fire control equipment, material, and services to control fire and explosion. The owner or operator shall act immediately to control or extinguish any fire.

(N) Cap system. The owner or operator shall construct the cap system as specified in paragraph (G) of rule 3745-400-07 of the Administrative Code.

(O) Leachate outbreaks. If there is an outbreak of leachate at the surface, the owner or

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operator shall do all of the following:

(1) Contain the leachate.

(2) Manage and dispose the leachate in accordance with applicable regulations.

(3) Repair the outbreak.

(P) Leachate system management. The owner or operator shall operate and maintain the leachate collection system as follows:

(1) The owner or operator shall operate the leachate collection system to maintain no more than one foot of head anywhere on the in situ ~~and/or~~ or added geologic material or constructed liner, with the exception of the sump ~~area(s)~~areas.

(2) The owner or operator shall maintain the leachate collection system in such a manner as to prevent blockage or clogging that could impede the proper collection of leachate. If a collection pipe network is utilized in the leachate management system, the owner or operator shall inspect it to verify no crushing or clogging exists after placement of the first lift of debris and annually thereafter.

(3) The owner or operator shall manage and dispose of leachate in accordance with applicable regulations.

[Comment: Leachate recirculation is allowed if approved by the licensing authority.]

(Q) Surface and ground water management. The owner or operator shall control surface and ground water to minimize the generation of leachate in the following manner:

(1) The owner or operator shall divert surface and ground water from the active and inactive licensed disposal areas of the facility by nonmechanical means. The owner or operator shall not divert surface water under, over, or through disposal areas of a facility.

[Comment: Diversion of streams may require authorization from the army corps of engineers ~~and/or~~or the Ohio environmental protection agency pursuant to 33 USCS 1341 and 33 USCS 1344.]

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(2) The owner or operator shall grade the facility and provide drainage systems to insure minimal infiltration of water through the cover material and cap system as well as erosion of the cover material and cap system.

(3) If ponding or erosion occurs in active or inactive licensed disposal areas, the owner or operator shall correct the conditions causing the ponding or erosion.

(4) If silting or scouring occurs in surface water structures, the owner or operator shall correct the conditions causing the silting or scouring and shall repair the surface water drainage structures.

(5) If a substantial threat of surface water pollution exists, the licensing authority may require monitoring of surface water.

(R) Ground water monitoring and leachate sampling and analysis. The owner or operator shall do the following:

(1) ~~Sample and test leachate annually, in accordance with paragraph (C) of rule 3745-400-10 of the Administrative Code, if the facility has a leachate collection system.~~Conduct leachate sampling and analysis in accordance with rule 3745-400-20 of the Administrative Code.

(2) Maintain and operate the monitoring wells, piezometers and other measurement, sampling and analytical devices to perform to the design specifications in accordance with the ground water monitoring program ~~of~~required by rule 3745-400-10 of the Administrative Code throughout the life of the ground water monitoring program.

(3) ~~For new facilities, implement~~Implement the ground water monitoring program in accordance with rule 3745-400-10 of the Administrative Code ~~prior to accepting debris for disposal~~. For the purpose of this rule, implement means to install the ground water monitoring system and begin sampling.

(S) Financial assurance. ~~The owner or operator shall establish and maintain financial assurance for closure as required by rule 3745-400-13 of the Administrative Code.~~

(1) The owner or operator shall establish and maintain financial assurance for final closure as required by rule 3745-400-13 of the Administrative Code.

(2) The owner or operator shall establish and maintain financial assurance for post-closure care as required by rule 3745-400-18 of the Administrative Code.

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(T) Incorporation by reference. The text of the incorporated materials is not included in this rule and are hereby made a part of this rule. Only the specific version specified in this rule is incorporated. Any amendment or revision to a referenced document is not incorporated until this rule has been amended to specify the new version. The materials incorporated by reference are available as follows:

(1) Code of federal regulations (C.F.R.). Information and copies may be obtained by writing to: "U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000." The full text of the C.F.R. is also available in electronic format at http://www.ecfr.gov. The C.F.R. compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio." Appropriate "Code of Federal Regulations" listed in this rule are those effective on July 1, 2014 and include:

(a) 40 C.F.R. Part 61, Subpart M; "National Emission Standards for Hazardous Air Pollutants;" as published in the July 1, 2014 Code of Federal Regulations.

(b) 40 C.F.R. Part 122 ; "EPA Administered Permit Programs: The National Pollutant Discharge Elimination System;" as published in the July 1, 2014 Code of Federal Regulations.

(2) Federal statutes. The full text is available in electronic format at http://www.gpo.gov/fdsys. These laws are also available for inspection and copying at most public libraries and "The State Library of Ohio." As used in this rule:

(a) "Navigation and Navigable Waters, Subchapter IV: Certification." 33 U.S.C 1341; amended January 15, 2013.

(b) "Navigation and Navigable Waters, Subchapter IV: Permits for dredged or fill material;" 33 U.S.C. 1344; amended January 15, 2013.