

3745-400-15

**Modifications and exemptions.**

(A) Facility modifications. The following shall be deemed a modification to a construction and demolition debris facility:

- (1) Any ~~extension beyond the approved limits of debris placement specified in the valid operating license; or~~ change that triggers the applicability of siting criteria under section 3714.03 of the Revised Code or rule 3745-400-06 of the Administrative Code.
- (2) Any extension beyond the active licensed disposal area within the limits of construction and demolition debris placement as specified in the valid operating license; ~~or.~~
- (3) Any other substantial change to the approved facility design plan contained in the valid operating license.

[Comment: The contents of the facility design plan are specified in rule 3745-400-07 of the Administrative Code. Changes to operational activities are not modifications, since the operational aspects of the facility change annually by means of the license review and approval process.]

(4) When expanding the facility onto property within the property boundaries identified in the application for the initial license for that facility or any subsequent license issued for that facility up to and including the license issued for that facility for calendar year 2005, either of the following:

(a) A change where the road that is designated by the owner or operator as the main hauling road at the facility to and from the limits of construction and demolition debris placement within the expansion area is proposed to be located within five hundred feet of an occupied dwelling, unless written permission is given by the owner of the occupied dwelling.

(b) A change where a proposed expansion area is located in an area in which an applicable zoning resolution allows residential construction, unless there will be vegetated earthen berms or an equivalent barrier with a minimum height of six feet separating the expansion area from the adjoining property upon which zoning allows residential construction.

(B) Application for a modification. The owner or operator who desires to modify a facility shall make application for a specific facility modification ~~at least~~ not later than ninety days prior to the proposed implementation date of the modification. The application shall contain sufficient detail so the licensing authority can understand the proposed ~~change(s)~~ changes.

An application to laterally extend the limits of debris placement shall include a demonstration that the entire limits of debris placement (proposed and existing) meet the requirements of rule 3745-400-07 of the Administrative Code.

- (C) Criteria for modification approval. If the licensing authority finds that the modification is unlikely to adversely affect the public health or safety or the environment or create a fire hazard, then the licensing authority shall approve the modification.

[Comment: For ease in program implementation, decisions with respect to modification applications remain separate from decisions made with respect to license applications. This will allow an owner or operator to continue operations if a license application is approvable and issued, but a modification request is not approvable and is denied. Note that all denials are first issued as proposed actions of the licensing authority.]

- (D) Exemptions.

- (1) General exemption criteria. The licensing authority may by order exempt any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the licensing authority, are unlikely to adversely affect the public health or safety or the environment, or create a fire hazard, from any provision of ~~Chapter 3745-400~~this chapter or Chapter 3745-37 of the Administrative Code or Chapter 3714. of the Revised Code or order issued pursuant to either chapter, except for those circumstances stated in paragraph (E) of this rule.

[Comment: Guidelines for exemption criteria, including alternatives to ground water monitoring, are available from ~~the~~ Ohio EPA.]

- (2) ~~One-hundred-year Floodplain~~floodplain exemption criteria. The licensing authority may grant an exemption from the one-hundred-year floodplain restriction stated in paragraph (B)(1) of rule 3745-400-06 of the Administrative Code if the licensing authority finds that the ~~establishment of a new~~expansion of a licensed construction and demolition debris facility within the boundaries of a ~~in-the~~ one-hundred-year floodplain would not result in an increase of more than one foot in the elevation of that flood stage of the watercourse upstream or downstream from the proposed facility.

- (E) The licensing authority shall not grant an exemption to paragraph (B)(2) of rule 3745-400-06 ("Sole Source Aquifer Location Prohibition") of the Administrative Code or to paragraph (F)(3)(c) of rule 3745-400-11 ("Asbestos") of the

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Administrative Code.