

3745-400-06 Prohibited locations for construction and demolition debris facilities.

(A) Paragraph (B) of this rule does not apply to a facility operating or under construction on July 24, 1990, the effective date of section 3714.06 of the Revised Code, or to the expansion of such facility onto contiguous land owned by the facility owner or operator on the date the initial license application for the facility was submitted to the licensing authority.

(B) No portion of a construction and demolition debris facility shall be located in either of the following locations:

(1) Within the boundaries of the one-hundred-year flood plain of a watercourse, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, unless the owner or operator has obtained an exemption from the licensing authority in accordance with paragraph (D)(2) of rule 3745-400-15 of the Administrative Code. With respect to watercourses or portions thereof for which no such maps have been prepared, the boundaries of the one-hundred-year flood plain shall be determined by the applicant for a license based upon a design storm of seven inches of precipitation in twenty-four hours and upon standard methodologies set forth in "Urban Hydrology for Small Watersheds" (Soil Conservation Service Technical Release Number 55) and Section 4 of the "National Engineering Hydrology Handbook" of the Soil Conservation Service of the United States department of agriculture.

[Comment: Note that the above-mentioned maps also include flood plains not associated with a watercourse. Location in such flood plains is not prohibited by this rule. However there may be other authorities, such as the federal emergency management agency, that may otherwise restrict a facility from locating in a flood plain.]

(2) Within the boundaries of a sole source aquifer designated by the Administrator of the United States environmental protection agency under the "Safe Drinking Water Act," 88 Stat. 1660, 42 U.S.C. 300F.

[Comment: For facilities established after September 30, 1996, an exemption to the provisions of paragraph (B)(1) of this rule may be granted through paragraph (D)(2) of rule 3745-400-15 of the Administrative Code. No exemptions can be granted from the provisions of paragraph (B)(2) of this rule in accordance with section 3714.04 of the Revised Code.]

(3) Incorporation by reference. The text of the incorporated materials is not included in this rule and is 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:

(a) 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:

(i) "Safe Drinking Water Act;" 88 Stat. 1660, 42 U.S.C. 300F; amended January 7, 2011.

(ii) "National Flood Insurance Act of 1968;" 82 Stat. 572, 42 U.S.C. 4001; amended January 7, 2011.

(b) Other publications. The availability of these documents is provided below; however, many of the documents are also available for inspection and copying at most public libraries and "The State Library of Ohio." As used in this rule:

- (i) "National Hydrology Engineering Handbook," included in the United States department of agriculture, natural resources conservation service publication, "National Engineering Handbook," updated May 2012. Section four updated March 1993. The full text is available in electronic format at <http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/water/?&cid=stelprdb1043063>.
- (ii) United States department of agriculture, natural resources conservation service technical release number 55, "Urban Hydrology for Small Watersheds," updated June 1986. The full text is available in electronic format at <ftp://ftp.wcc.nrcs.usda.gov/wntsc/H&H/other/TR55documentation.pdf>.

Effective: 01/01/2017

Five Year Review (FYR) Dates: 03/10/2016 and 01/01/2022

CERTIFIED ELECTRONICALLY

Certification

07/13/2016

Date

Promulgated Under: 119.03
Statutory Authority: 3714.02
Rule Amplifies: 3714.02, 3714.03
Prior Effective Dates: 9/30/1996, 8/31/2002