

3745-29-07

Additional criteria for approval of industrial solid waste landfill facility permit to install applications.

(A) General criteria. The director shall not approve any permit to install application for an industrial solid waste landfill facility unless the director determines that all of the following criteria are met:

- (1) Establishment or modification and operation of the industrial solid waste landfill facility will not violate Chapter 3704., 3734., or 6111. of the Revised Code.
- (2) The industrial solid waste landfill facility will be capable of being constructed, operated, closed, and maintained during the post-closure care period in accordance with Chapter 3745-29 of the Administrative Code, and with the terms and conditions of the permit.
- (3) The applicant, and/or the person(s) listed as owner and operator if the owner and operator are not the applicant, who has previously been or is currently responsible for the management or operation of one of more solid waste facilities, has managed or operated such facility in substantive compliance with applicable provisions of Chapters 3704., 3734., 3714., and 6111. of the Revised Code, and any rules, permits or other authorizations issued thereunder, and has maintained substantial compliance with all applicable orders issued by the director, the Ohio environmental review appeals commission, or courts having jurisdiction in accordance with Chapter 3746-13 of the Administrative Code, in the course of such previous or current management or operations. The director may take into consideration whether substantial compliance has been maintained with any applicable order from a board of health maintaining a program on the approved list and any other courts having jurisdiction.
- (4) The person listed as operator meets the requirements of division (L) of section 3734.02 of the Revised Code and rules adopted thereunder.
- (5) The applicant meets the requirements of sections 3734.42 to 3734.44 of the Revised Code and rules adopted thereunder.

(B) Discretionary criteria. The director may consider, when determining whether or not to approve a permit to install application for an industrial solid waste landfill facility, the following:

- (1) The impact the proposed industrial solid waste landfill facility may have on corrective actions that have been taken, are presently being taken, or are proposed to be taken at the facility or in the immediate area.

- (2) The technical ability of the owner or operator to adequately monitor the impact of the industrial solid waste landfill facility on the environment.
- (C) Design criteria. The director shall not approve a permit to install application unless the director determines that the application conforms to the appropriate paragraphs of rule 3745-29-08 of the Administrative Code as follows:
- (1) New industrial solid waste landfill facilities and lateral expansion areas shall comply with paragraphs (B), (C), and (D) of rule 3745-29-08 of the Administrative Code.
 - (2) A proposed vertical expansion, as defined in rule 3745-27-01 of the Administrative Code, shall do the following:
 - (a) At a minimum, comply with paragraphs (B)(1)(a) and (B)(1)(e) to (B)(1)(h), paragraph (B)(2) as required, paragraph (B)(3) as relevant, paragraphs (C)(4) to (C)(7), and paragraphs (D)(1) to (D)(3) and (D)(18) to (D)(27) of rule 3745-29-08 of the Administrative Code if the expansion is above the authorized fill area of the industrial solid waste landfill facility.
 - (b) At a minimum, comply with paragraphs (B), (C), and (D) of rule 3745-29-08 of the Administrative Code if the vertical expansion is below the authorized fill area of the industrial solid waste landfill facility.

[Comment: If a land fill is permitted to vertically expand below a previously approved, but unfilled, area, that area must be constructed in accordance with current rule requirements.]
 - (3) Vertical expansion construction. For a permit application submitted after the effective date of this rule that includes a vertical expansion over an authorized fill area, the expansion area(s) must be constructed over either of the following:
 - (a) A separatory liner system constructed in accordance with rule 3745-29-08 of the Administrative Code.
 - (b) An authorized fill area that is underlain by a composite liner or engineered liner previously approved by the director, and a leachate collection system.

- (4) Applications for an industrial solid waste landfill facility submitted in response to divisions (A)(3) and (A)(4) of section 3734.05 of the Revised Code shall comply with paragraphs (B), (C), and (D) of rule 3745-29-08 of the Administrative Code, with the exception that filled areas of the industrial solid waste landfill facility shall, at a minimum, meet the requirements of paragraphs (D)(1) to (D)(4), (D)(18) to (D)(23), and (D)(25) to (D)(27) of rule 3745-29-08 of the Administrative Code.
- (5) Permit to install applications exclusively requesting a change in technique of waste receipt, or type of waste received, or type of equipment used, need not comply with rule 3745-29-08 of the Administrative Code.
- (6) Applications exclusively requesting a change in the authorized maximum daily waste receipt (AMDWR) and submitted pursuant to paragraph (E) of this rule need not comply with rule 3745-29-08 of the Administrative Code.
- (7) Other modifications of an industrial solid waste landfill facility, as that term is defined in rule 3745-27-02 of the Administrative Code shall comply with the relevant paragraphs of rule 3745-29-08 of the Administrative Code.

(D) [Reserved.]

(E) Additional criteria for authorized maximum daily waste receipt (AMDWR) applications.

The director shall not approve a permit to install application for a permanent change in the AMDWR for the industrial solid waste landfill facility unless the owner or operator demonstrates that the industrial solid waste landfill facility can operate in compliance with all applicable solid waste regulations while receiving the requested maximum daily waste receipt. An adequate demonstration for an industrial solid waste landfill facility includes, but is not limited to, the following:

- (1) An explanation of the overall facility design including construction time frames and fill sequences for the industrial solid waste landfill facility.
- (2) Operational criteria such as the industrial solid waste landfill facility's equipment availability, cover availability, and manpower.
- (3) If applicable, the owner's or operator's previous compliance history throughout the life of the industrial solid waste landfill facility and the daily logs for any period that the industrial solid waste landfill facility was out of compliance.

[Comment: An application for a temporary increase in the AMDWR must satisfy the criteria specified in rule 3745-37-14 of the Administrative Code.]

(F) [Reserved.]

(G) Applicability of siting criteria.

For the purposes of this rule, an "authorized fill area" is an area within the limits of solid waste placement of an industrial solid waste landfill facility that is authorized, by a permit(s) to install, plan approval, operational report, or other authorizing document(s) to accept industrial solid waste as of the date of submittal of the permit to install application for a lateral or vertical expansion.

The director shall not approve the permit to install application for an industrial solid waste landfill facility unless the director determines that the application meets the criteria specified in paragraph (H) of this rule, as follows:

(1) Call-in permits. An individual solid waste landfill facility for which a permit to install application, including any proposed lateral or vertical expansions, is submitted in response to division (A)(3) or (A)(4) of section 3734.05 of the Revised Code, shall meet all the criteria specified in paragraph (H) of this rule; however, the director may approve the application for one or more noncontiguous areas which meet the criteria specified in paragraph (H) of this rule, even though other areas do not meet the criteria specified in paragraph (H) of this rule.

[Comment: The purpose of a call-in permit is to upgrade a facility to the standards in Chapter 3745-29 of the Administrative Code. The review of a call-in permit should be distinguished from a "voluntary" expansion, or AMDWR permit application. Since the call-in process looks at the entire facility, including any expansions proposed in the call-in application, a voluntary application which by be approvable by itself may not be adequate when viewed in the context of the entire facility. It is the applicant's option to submit voluntary vertical or lateral expansions with the call-in application or to submit a voluntary application before the call-in application.]

(2) Operation changes. A permit to install application that exclusively proposes a substantial change in technique of waste receipt, or type of waste received, or type of equipment used at the industrial solid waste landfill facility, need not comply with the criteria specified in paragraph (H) of this rule.

(3) AMDWR increase. A permit to install application which exclusively proposes a change in the AMDWR limit for the industrial solid waste landfill facility

need not comply with the criteria specified in paragraph (H) of this rule.

(4) Other modification permits. A permit to install application that incorporates a "modification" of the industrial solid waste landfill facility, as that term is defined in rule 3745-27-02 of the Administrative Code, and the modification does not incorporate a capacity increase or otherwise change the vertical or horizontal limits of waste placement, need not comply with the criteria specified in paragraph (H) of this rule.

(5) Vertical expansion. For the purposes of this rule, a vertical expansion, as defined in rule 3745-27-01 of the Administrative Code, includes the proposed vertical expansion and all waste within the vertical projection above or below the proposed vertical expansion. When evaluating a proposed vertical expansion, the director shall apply the following criteria:

(a) All of the criteria specified in paragraph (H) of this rule, except for paragraph (H)(4) of this rule (general setbacks).

[Comment: Paragraph (H)(4) of this rule includes setbacks for natural areas, three hundred feet from facility boundary, one thousand feet from domicile, and two hundred feet from surface waters.]

(b) The criteria specified below apply to all areas of the authorized fill area that are contiguous to the proposed vertical expansion but which are not directly above or below the proposed vertical expansion:

(i) Paragraph (H)(1) of this rule (location in national park, etc.).

(ii) Paragraph (H)(2) of this rule (ground water aquifer system protection).

[Comment: Paragraph (H)(2) of this rule includes protection standards for sand/gravel pits, limestone/sandstone quarries, sole source aquifer system, one hundred gpm aquifer system, and fifteen foot separation distance.]

[Comment: See diagram no. 1 in appendix I of this rule. Vertical expansion permits seek a voluntary vertical change in waste placement boundaries. A decision for final denial of a voluntary vertical expansion permit application does not alter the current authorizing document(s) for the facility. Filling may continue in the authorized fill area in accordance with the applicable authorizing document(s).]

(6) Proposed new landfill or lateral expansion.

A proposed new landfill or a lateral expansion of an existing landfill shall meet all of the criteria specified in paragraph (H) of this rule; however, the director may approve the application for one or more noncontiguous areas proposed in the application that meet the criteria specified in paragraph (H) of this rule, even though other proposed areas do not meet the criteria specified in paragraph (H) of this rule.

(7) "Authorized fill area," that is contiguous or noncontiguous to a proposed lateral expansion.

(a) Noncontiguous authorized fill area. When evaluating a proposed lateral expansion, the criteria specified in paragraph (H) of this rule do not apply to an authorized fill area that is noncontiguous with the lateral expansion proposed in the permit to install application.

[Comment: In this situation, the permit to install application proposes a lateral expansion of the facility that is not contiguous to the currently permitted fill area (the "authorized fill area"). All siting criteria apply to the "lateral expansion"; no siting criteria apply to the authorized fill area. See diagram no. 2 in appendix I of this rule.]

(b) Contiguous authorized fill area. When evaluating a permit to install application that includes a proposed contiguous new unit(s) without a vertical expansion above or below some or all of the authorized fill areas, the following apply:

[Comment: In the situation addressed in this paragraph, the permit to install application proposes a lateral expansion of the facility that is contiguous to the currently permitted fill area (the "authorized fill area"). All siting criteria apply to the "lateral expansion"; however, paragraphs (G)(7)(b)(i) and (G)(7)(b)(ii) of this rule specify the criteria that apply to the authorized fill area. A final denial decision on the voluntary proposed lateral expansion application does not alter the approval to fill in the authorized fill area.]

(i) When evaluating a proposed lateral expansion, the following criteria specified in paragraph (H) of this rule do not apply to the authorized fill area contiguous with the lateral expansion proposed in the permit to install application:

(a) Paragraph (H)(3) of this rule (ground water setbacks).

(b) Paragraph (H)(4) of this rule (general setbacks).

[Comment: Paragraph (H)(3) of this rule includes setbacks for five year time of travel to public water supply well, underground mines, and one thousand feet from water supply well. Paragraph (H)(4) of this rule includes setbacks for natural areas, three hundred feet from facility boundary, one thousand feet from domicile, and two hundred feet from surface waters.]

(ii) When evaluating a proposed lateral expansion, the following criteria always apply to the authorized fill area contiguous to the lateral expansion in the permit to install application:

(a) Paragraph (H)(1) of this rule (location in national park, etc.).

(b) Paragraph (H)(2) of this rule (ground water aquifer system protection).

[Comment: Paragraph (H)(2) of this rule includes protection standards for sand/gravel pits, limestone/sandstone quarries, sole source aquifer system, one hundred gpm aquifer system, and fifteen-foot separation distance.]

(c) Contiguous lateral expansion, authorized fill area, and vertical expansion. When evaluating a permit to install application that includes a proposed contiguous lateral expansion and also includes a vertical expansion above or below some or all of the authorized fill area, the following apply:

(i) Evaluate the vertical expansion component of the permit to install application in accordance with paragraph (G)(5) of this rule, and, if it meets the criteria specified in paragraph (G)(5) of this rule, then

(ii) Evaluate the proposed lateral expansion component of the permit to install application and the authorized fill area in accordance with paragraph (G)(7)(b) of this rule.

[Comment: See diagram no. 3 in appendix I of this rule. If the vertical expansion component does not meet the criteria specified in paragraph (G)(5) of this rule, then the applicant may consider revising the application to meet the requirements specified in

paragraph (G)(7)(b) of this rule. A final denial decision on this voluntary permit does not alter the filling approved in the authorized fill area.]

(H) Siting criteria.

(1) National parks, national recreation areas, and state parks.

The limits of solid waste placement of the industrial solid waste landfill facility are not located within one thousand feet of or within any of the following areas, in existence on the date of receipt of the permit to install application by Ohio EPA:

- (a) National park or recreation area.
- (b) Candidate area for potential inclusion in the national park system.
- (c) State park or established state park purchase area.
- (d) Any property that lies within the boundaries of a national park or recreation area but that has not been acquired or is not administered by the secretary of the United States department of the interior.

The one-thousand-foot setback from the limits of solid waste placement does not apply if the applicant obtains a written authorization from the owner(s) and the designated authority of the areas designated in paragraph (H)(1) of this rule to locate the limits of solid waste placement within one thousand feet. Such authorizations must be effective prior to the issuance date of the permit.

[Comment: Pursuant to division (M) of section 3734.02 of the Revised Code, the limits of solid waste placement cannot be located within these areas.]

If the industrial solid waste landfill facility is located within a park or recreation area and exclusively disposes of wastes generated within the park or recreation area, this paragraph shall not apply.

(2) Ground water aquifer system protection.

- (a) Sand or gravel pit.

The industrial solid waste landfill facility is not located in a sand or gravel pit where the sand or gravel deposit has not been completely removed.

For the purposes of this paragraph, a sand or gravel pit is an excavation resulting from a mining operation where the removal of sand or gravel is undertaken for use in another location or for commercial sale. This term does not include excavations of sand or gravel resulting from the construction of the industrial solid waste landfill facility.

(b) Limestone or sandstone quarry.

The industrial solid waste landfill facility is not located in a limestone quarry or sandstone quarry.

For the purposes of this paragraph, a limestone or sandstone quarry is an excavation resulting from a mining operation where limestone or sandstone is the principal material excavated for use in another location or for commercial sale. This term does not include excavations of limestone resulting from the construction of the industrial solid waste landfill facility.

(c) Sole source aquifer.

The industrial solid waste landfill facility is not located above an aquifer declared by the federal government under the Safe Drinking Water Act, 42 U.S.C 300f et seq. (2003), to be a sole source aquifer prior to the date of receipt of the permit to install application by Ohio EPA.

(d) One hundred gallons per minute (gpm) aquifer system.

The industrial solid waste landfill facility is not located above an unconsolidated aquifer system capable of sustaining a yield of one hundred gpm for a twenty-four-hour period to an existing or future water supply well located within one thousand feet of the limits of solid waste placement of the industrial solid waste landfill facility.

(e) Isolation distance.

The isolation distance between the uppermost aquifer system and the bottom of the recompacted soil liner of a industrial solid waste landfill facility is not less than fifteen feet of in-situ or added geologic material constructed in accordance with rule 3745-29-08 of the Administrative

Code.

(3) Ground water setbacks.

(a) Five year time of travel.

The limits of solid waste placement of the industrial solid waste landfill facility and any temporary or permanent leachate ponds or lagoons are not located within the surface and subsurface areas of either of the following:

- (i) Surrounding an existing or proposed public water supply well through which contaminants may move toward and may reach the public water supply well through underground geologic or man-made pathways within a period of five years.

For purposes of this paragraph, a proposed public water supply well is a well for which plans have been submitted to Ohio EPA for inclusion in a public water supply system on, or before, the date the permit to install application was received by Ohio EPA for which a final denial has not been issued.

- (ii) A wellhead protection area or drinking water source protection area for a public water system using ground water.

For purposes of this paragraph, a wellhead protection area includes areas near or surrounding a public water supply well or well field as delineated by the owner or operator of the public water supply well or well field and endorsed by Ohio EPA. For purposes of this paragraph, a drinking water source protection area for a public water system using ground water includes areas near or surrounding a public water supply well or well field as delineated by Ohio EPA. For the purposes of this paragraph, the prohibition against siting in a drinking water source protection area for a public water system using ground water shall not be effective until a map of the delineated area is sent by Ohio EPA and received by the owner or operator of the relevant public water supply well or well field.

[Comment: Information on wellhead protection areas and a drinking water source protection area for a public water system using ground water may be obtained from Ohio EPA's division of drinking and ground waters.]

(b) Underground mine.

The industrial solid waste landfill facility is not located within an area of potential subsidence due to an underground mine or within the angle of draw of an underground mine in existence on the date of receipt of the permit to install application by Ohio EPA unless the potential impact to the facility due to subsidence is minimized.

[Comment: Removal or filling of the mines is an acceptable method for minimizing the potential for subsidence.]

(c) One thousand feet from water supply well.

The limits of solid waste placement of the industrial solid waste landfill facility are not located within one thousand feet of a water supply well or a developed spring in existence on the date the permit to install application was received by Ohio EPA, unless one or more of the following conditions are met:

(i) The water supply well or developed spring is controlled by the owner or operator of the industrial solid waste landfill facility and provided the following:

(a) The water supply well or developed spring is needed as a source of nonpotable water in order to meet the requirements of the approved permit.

(b) No other reasonable alternate water source is available.

(c) The water supply well or developed spring is constructed to prevent contamination of the ground water.

(ii) The water supply well or developed spring is at least five hundred feet hydrogeologically upgradient of the limits of solid waste placement of the industrial solid waste landfill facility and the applicant demonstrates that the potential for migration of landfill gas to that well or developed spring is minimized.

[Comment: If the applicant does not meet the demonstration, then the limits of solid waste placement must be located at least one thousand feet hydrogeologically downgradient of the water supply well or developed spring.]

[Comment: Constructing a landfill with a composite bottom liner system or an active gas management system is an acceptable means to minimize the potential for gas migration.]

- (iii) The water supply well or developed spring is separated from the limits of solid waste placement of the industrial solid waste landfill facility by a hydrogeologic barrier.
- (iv) The water supply well or developed spring was constructed and is used solely for monitoring ground water quality.

For the purposes of this paragraph, a developed spring is any spring that has been permanently modified by the addition of pipes or a collection basin to facilitate the collection and use of the spring water.

(4) General setbacks.

- (a) One thousand feet from natural areas.

The limits of solid waste placement of the industrial solid waste landfill facility are not located within one thousand feet of the following, that are in existence on the date of receipt of the permit to install application by Ohio EPA:

- (i) Areas designated by the Ohio department of natural resources as either a state nature preserve including all lands dedicated under the Ohio natural areas law, a state wildlife area, or a state wild, scenic or recreational river.
- (ii) Areas designated, owned, and managed by the Ohio historical society as a nature preserve.
- (iii) Areas designated by the United States department of the interior as either a national wildlife refuge or a national wild, scenic or recreational river.
- (iv) Areas designated by the United States forest service as either a special interest area or a research natural area in the Wayne national forest.
- (v) Stream segments designated by Ohio EPA as either a state resource

water, a coldwater habitat, or an exceptional warmwater habitat.

[Comment: Stream segments designated as state resource waters may include some wetlands. Those wetlands that do not meet this designation are addressed in paragraph (H)(4)(d) of this rule.]

- (b) Three hundred feet from property line.

The limits of solid waste placement of the industrial solid waste landfill facility are not located within three hundred feet of the industrial solid waste landfill facility's property line.

- (c) One thousand feet from domicile.

The limits of solid waste placement of the industrial solid waste landfill facility are not located within one thousand feet of a domicile, whose owner has not consented in writing to the location of the industrial solid waste landfill facility, in existence on the date of receipt of the permit to install application by Ohio EPA.

- (d) Two hundred feet from surface waters.

The limits of solid waste placement of the industrial solid waste landfill facility are not located within two hundred feet of areas determined by Ohio EPA or the United States army corps of engineers to be a stream, lake, or wetland.

- (5) The industrial solid waste landfill facility is not located in a floodway, and the limits of solid waste placement and the leachate management system of the industrial solid waste facility are not locate in a regulatory flood plain.

[Comment: Pursuant to division (A) or (G) of section 3734.02 of the Revised Code, an applicant may request a variance or exemption from any of the siting criteria contained in this rule. However, pursuant to division (M) of section 3734.02 of the Revised Code, the director shall not issue a permit, variance or exemption that authorizes a new industrial solid waste landfill facility, or an expansion of an existing industrial solid waste landfill facility, within the boundaries of the areas indicated in paragraph (H)(1) of this rule.]