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Ohio Administrative Code

Rule 3745-30-06 Additional criteria for approval of residual solid waste landfill facility permit to install applications.

Effective: May 28, 2021

(A) General criteria. The director shall not approve a permit to install application for an industrial landfill or a residual landfill facility unless the director determines the following:

(1) Establishment or modification and operation of the industrial landfill or residual landfill facility will not violate Chapter 3704., 3734., or 6111. of the Revised Code.

(2) The industrial landfill or residual landfill facility will be capable of being constructed, operated, closed, and maintained during the post-closure care period in accordance with this chapter, and with the terms and conditions of the permit.

(3) The applicant or person listed as owner and operator if the owner and operator are not the applicant, who has been or is currently responsible for the management or operation of one or more solid waste facilities, has managed or operated such facility in substantial compliance with applicable provisions of Chapters 3704., 3714., 3734., 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 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 the licensing authority and any other courts having jurisdiction.

(4) The applicant meets the requirements of sections 3734.40 to 3734.44 of the Revised Code and rules adopted thereunder.

(5) Disposal of secondary aluminum waste will occur only in a monocell or monofill that has been permitted for that purpose.

(B) Discretionary criteria. The director may consider, when determining whether or not to approve a

permit to install application for the industrial landfill or residual landfill facility, the following:

(1) The impact the establishment or modification of the industrial landfill or residual 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 landfill or residual 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 3745-30-07 of the Administrative Code as follows:

(1) New industrial landfill or residual landfill facilities and lateral expansion areas shall comply with paragraphs (B) to (E) of rule 3745-30-07 of the Administrative Code.

(2) At a minimum, a vertical expansion over the industrial landfill or residual landfill facility shall comply with paragraphs (D)(4) to (D)(7), as applicable to the cap system, and paragraphs (D)(9) to (D)(20) of rule 3745-30-07 of the Administrative Code. A vertical expansion below the industrial landfill or residual landfill facility shall comply with paragraphs (B) to (E) of rule 3745-30-07 of the Administrative Code. 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 shall be constructed over either of the following:

(a) A separatory liner system designed in accordance withrule 3745-30-07 of the Administrative Code.

(b) An authorized fill area that is underlain by a linersystem and leachate collection system meeting the requirements established inrule 3745-30-07 of the Administrative Code.

(3) A permit to install application exclusively requesting a change in technique of waste receipt, type of waste received, or type of equipment used need not comply with rule 3745-30-07 of the Administrative Code.

(4) A permit to install application exclusively requesting a change in the authorized maximum daily waste receipt and submitted pursuant to paragraph (E) of this rule need not comply with rule 3745-30-07 of the Administrative Code.

(5) Other modifications of the industrial landfill or residual landfill facility, as that term is defined in rule 3745-27-02 of the Administrative Code, shall comply with the relevant paragraphs of rule 3745-30-07 of the Administrative Code.

(D) [Reserved.]

(E) Additional criteria for authorized maximum daily waste receipt applications. The director shall not approve a permit to install application for a permanent change in the authorized maximum daily waste receipt for the industrial landfill or residual landfill facility whose annual license fee is established pursuant to division (A)(1) of section 3734.06 of the Revised Code, unless the owner or operator demonstrates that the industrial landfill or residual landfill facility can operate in compliance with all applicable solid waste regulations while receiving the requested maximum daily waste receipt. At a minimum, the demonstration for the industrial landfill or residual landfill facility shall include the following:

(1) An explanation of the overall facility design including construction time frames and fill sequences for the industrial landfill or residual landfill facility.

(2) Operational criteria such as the industrial landfill or residual 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 landfill or residual landfill facility and the daily logs for any period that the industrial landfill or residual landfill facility was out of compliance.

[Comment: An application for a temporary increase in the authorized daily waste receipt must satisfy the criteria specified in rule 3745-501-75 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 waste placement of the industrial landfill or residual landfill facility that is authorized by a permit to install, plan approval, operational report, or other authorizing document to accept IMW as of the date of submittal of the permit to install application for a lateral or vertical expansion. A permit to install application for an industrial landfill or residual landfill facility shall not be approved unless the director determines that the application meets the criteria specified in paragraph (H) of this rule, as follows:

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

(2) Authorized maximum daily waste receipt increase. A permit to install application that exclusively proposes a change in the authorized maximum daily waste receipt limit for the industrial landfill or residual landfill facility need not comply with the criteria specified in paragraph (H) of this rule.

(3) Other modification permits. A permit to install application that incorporates a modification of the industrial landfill or residual landfill facility that does not incorporate a capacity increase or otherwise extend the vertical or horizontal limits of waste placement or incorporate a subsurface leachate storage structure or leachate lift station need not comply with the criteria specified in paragraph (H) of this rule.

(4) Vertical expansion. For the purposes of this rule, a vertical expansion 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) The criteria specified in paragraph (H) of this rule exceptfor paragraph (H)(4) of this rule.

(b) For the areas of the authorized fill area that are contiguousto the proposed vertical expansion but

that are not directly above or below theproposed vertical expansion, the following:

(i) Paragraph (H)(1) of this rule.

(ii) Paragraph (H)(2) of this rule.

[Comment: See diagram 1 in appendix A to 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 for the facility. Filling may continue in the authorized fill area in accordance with the applicable authorizing document.]

(5) Proposed new landfill or lateral expansion. A proposed new landfill or lateral expansion of an existing landfill shall meet the criteria specified in paragraph (H) of this rule. The director may approve the application for one or more noncontiguous areas proposed in the application which meet the criteria specified in paragraph (H) of this rule, even if other proposed areas do not meet the criteria specified in paragraph (H) of this rule.

(6) Authorized fill area contiguous or noncontiguous to a proposed lateral expansion.

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

[Comment: For a permit to install applicationproposing a lateral expansion of the facility that is not contiguous to thecurrent authorized fill area, all siting criteria would apply to the lateralexpansion and no siting criteria would apply to the authorized fill area. Seediagram 2 in appendix A to this rule.]

(b) Contiguous authorized fill area. When evaluating a permit toinstall application that includes a proposed contiguous new unit without avertical expansion above or below some or all of the authorized fill areas,paragraphs (H)(1) and (H)(2) of this rule apply to the authorized fill area contiguous with the new unit.

(c) Contiguous lateral expansion, authorized fill area, andvertical expansion. For a permit to install application that includes aproposed contiguous lateral expansion and a vertical expansion above or belowsome or all of the authorized fill area, the following apply:

(i) For the vertical expansion component of the permit to install application, paragraph (G)(4) of this rule.

(ii) For the proposed lateral expansion component of the permit to install application and the authorized fill area, paragraph (G)(6)(b) of this rule.

[Comment: See diagram 3 in appendix A to thisrule. If the vertical expansion component does not meet the criteria specifiedin paragraph (G)(4) of this rule, then the applicant may consider revising theapplication to meet the requirements specified in paragraph (G)(6)(b) of thisrule. A final denial decision on this voluntary permit does not alter thefilling approved in the authorized fill area.]

(H) Siting criteria. The director will consider a permit to install application for an industrial landfill or residual landfill facility in accordance with paragraph (G) of this rule as follows:

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

(a) The limits of solid waste placement are not locatedwithin one thousand feet of or within any of the following areas, in existenceon the date of receipt of the permit to install application by Ohio EPA:

(i) National park or recreation area.

(ii) Candidate area for potential inclusion in the national park system.

(iii) State park or established state park purchase area.

(iv) Any property that lies within the boundaries of a national park or national recreation area but that has not been acquired or is not administered by the secretary of the United States department of the interior.

(b) .The one-thousand-foot setback from the limits of solidwaste placement does not apply if the applicant obtains a written authorizationprior to the issuance date of the permit to install from the owner and thedesignated authority of the areas identified in paragraph (H)(1) of this ruleto locate the limits of solid waste placement within one thousandfeet.

[Comment: Pursuant to division (M) of section3734.02 of the Revised Code, the limits of solid waste placement cannot belocated within the areas identified in paragraph (H)(1) of this rule.]

(c) Paragraph (H)(1)(a) of this rule is not applicable toan industrial or residual landfill facility located within a park or recreationarea that exclusively disposes of wastes generated within the park or recreation area.

(2) Ground water aquifer system protection.

(a) Sand or gravel pit. The limits of solid waste placement of anindustrial landfill or residual landfill facility and any subsurface leachatestorage structure or leachate lift station are not located in a sand or gravelpit where the sand or gravel deposit has not been completely removed. For thepurposes of this paragraph, a sand or gravel pit is an excavation resultingfrom a mining operation where the removal of sand or gravel is undertaken foruse in another location or for commercial sale. This term does not includeexcavations of sand or gravel resulting from the construction of the industrial landfill or residual landfill facility.

(b) Limestone or sandstone quarry. The limits of waste placementof an industrial landfill or residual landfill facility and any subsurfaceleachate storage structure or leachate lift station are not located in alimestone quarry or sandstone quarry. For the purposes of this paragraph, alimestone or sandstone quarry is an excavation resulting from a miningoperation where limestone or sandstone is the principal material excavated foruse in another location or for commercial sale. This term does not includeexcavations of limestone resulting from the construction of the industriallandfill or residual landfill facility.

(c) Sole source aquifer. The limits of solid waste placement ofthe industrial landfill or residual landfill facility and any subsurfaceleachate storage structure are not located above an aquifer

declared by thefederal government under the Safe Drinking Water Act, 42 U.S.C 300f et. seq.,to be a sole source aquifer prior to the date of receipt of the permit toinstall application by Ohio EPA.

(d) One hundred gallons per minute (gpm) aquifer system. Thelimits of solid waste placement of the industrial landfill or residual landfillfacility and any subsurface leachate storage structure or leachate lift stationare not located above an unconsolidated aquifer system capable of sustaining ayield of one hundred gallons per minute for a twenty-four-hour period withinone thousand feet of the limits of IMW placement or any subsurface leachatestorage structure or leachate lift station.

(e) Isolation distance. The isolation distance between theuppermost aquifer system and the basal elevation of any liner system and thebasal elevation of any subsurface leachate storage structure shall conform tothe following:

(i) For a residual landfill, be less than five feet, without accounting for compression or consolidation, of in-situ geologic material, or added geologic material constructed in accordance with rule 3745-30-07 of the Administrative Code.

(ii) For an industrial landfill, be less than fifteen feet, without accounting for compression or consolidation, of in-situ geologic material or added geologic material constructed in accordance with rule 3745-30-07 of the Administrative Code.

(3) Ground water setbacks.

(a) Drinking water source protection area for a public watersupply using ground water. The limits of solid waste placement of an industriallandfill or residual landfill facility and any in-ground leachate storagestructures are not located within a drinking water source protection area for apublic water supply using ground water.

(b) Underground mine. The limits of solid waste placement of theindustrial or residual landfill facility and any above-ground leachate storagestructure are not located within an area of potential subsidence due to anunderground mine. The area of potential subsidence due to an underground mineis the area defined by the angle of draw, to be no less than fifteen degrees,extending from the underground mine to where the angle of draw intercepts theground surface.

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

(c) One thousand feet from water supply well. The limits of solidwaste placement and any subsurface leachate storage structure are not locatedwithin one thousand feet of a water supply well or a developed spring inexistence on the date the permit to install application was received by Ohio EPA. For the purposes of this paragraph, a developed spring is any spring thathas been permanently modified by the addition of pipes or a collection basin tofacilitate the collection and use of the spring water. This paragraph is notapplicable if one or more of the following conditions are met:

(i) The water supply well or developed spring is controlled by the applicant 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 an approved permit or as a source of nonpotable water used in a manufacturing process.

(b) No other reasonable alternative 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 not less than five hundred feet hydrogeologically upgradient of the limits of IMW placement and the applicant demonstrates that the potential for migration of landfill gas to that well or developed spring is minimized.

[Comment: Constructing a landfill with a 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 IMW placement by a naturally occurring hydrogeologic barrier.

(iv) The water supply well or developed spring was constructed and is used solely for monitoring ground water quality.

(4) General setbacks.

(a) One thousand feet from natural areas. The limits of solidwaste placement are not located within one thousand feet of the following, thatare in existence on the date of receipt of the permit to install application byOhio 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 history connection 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 a state resource water, a coldwater habitat, or an exceptional warmwater habitat.

[Comments: 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 solidwaste placement and any leachate pond are not located within three hundred feetof the industrial landfill or residual landfill facility's propertyline.

(c) One thousand feet from domicile. For an industrial landfillor a residual landfill facility that dispose of IMW as identified in paragraph(I)(1)(c) of rule 3745-30-01 of the Administrative Code

but which are not ownedby a generator who disposes exclusively of IMW generated on one or more premises owned by the generator, the limits of solid waste placement are notlocated within one thousand feet of a domicile, whose owner has not consentedin writing to the location of the industrial landfill or residual landfillfacility, 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 solidwaste placement and any subsurface leachate storage structure are not locatedwithin two hundred feet of areas determined by Ohio EPA or the United Statesarmy corps of engineers to be a stream, lake, or wetland.

(5) The limits of solid waste placement and the leachate management system of the industrial landfill or residual landfill facility are not located in a flood plain.

[Comment: Pursuant to division (A) or (G) of section 3734.02 of the Revised Code or rule 3745-30-15 of the Administrative Code, an applicant may request an exemption or variance 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 landfill or residual landfill facility, or an expansion of an existing industrial landfill or residual landfill facility, within the boundaries of the areas indicated in paragraph (H)(1) of this rule.]