



Ohio Administrative Code Rule 3745-400-12 Final closure of facilities.

Effective: July 4, 2022

(A) The owner or operator shall complete closure in a manner that reasonably accomplishes the following:

- (1) Minimizes the need for maintenance.
- (2) Prevents the failure of final slopes.
- (3) Protects public health and safety and the environment.
- (4) Does not create a nuisance or fire hazard.
- (5) Does not cause or contribute to air or water pollution.
- (6) Minimizes erosion; infiltration of surface water; production of leachate; production of hydrogen sulfide, other gases, and odors; and accumulation and runoff of contaminated surface water.

(B) Mandatory closure. Final closure is mandatory when one or more of the following apply:

- (1) The owner or operator declares in writing to the licensing authority that debris will no longer be accepted.
- (2) The issued license has expired and a renewal license has not been applied for in the manner prescribed in Chapter 3745-501 of the Administrative Code.
- (3) All approved limits of debris placement and approved final elevations have been reached.
- (4) The owner or operator has submitted an initial license application and the license application has been denied as a final action of the licensing authority.



(5) The issued license has expired and another license has been applied for and denied as a final action of the licensing authority.

(6) The issued license has been revoked as a final action of the licensing authority.

(7) For a co-located processing facility, the owner or operator declares in writing to the licensing authority that debris will no longer be accepted for processing. Such notice shall trigger only the closure activities outlined in paragraph (F) of this rule.

(C) Notification of anticipated date to cease acceptance of debris.

The owner or operator shall provide to the licensing authority written notice of the intent and anticipated date of ceasing acceptance of debris at a facility or co-located processing facility not later than ninety days prior to the anticipated date to cease acceptance of debris if final closure is or will be triggered by any of the following occurrences:

(1) Paragraph (B)(1) of this rule.

(2) Paragraph (B)(2) of this rule.

(3) Paragraph (B)(3) of this rule.

(4) Paragraph (B)(7) of this rule.

(D) Timing of final closure. If mandatory closure is triggered in accordance with paragraph (B) of this rule, the owner or operator shall cease acceptance of debris and perform final closure activities outlined in paragraphs (E) and (F) of this rule, as applicable.

[Comment: The licensing authority may utilize authority under section 3714.04 of the Revised Code should a time extension for completion of final closure be determined appropriate.]

[Comment: An owner or operator must maintain a license for an inactive facility not intended to be



closed.]

[Comment: Pursuant to rule 3745-400-13 of the Administrative Code, financial assurance funds will be released in accordance with rule 3745-400-13 of the Administrative Code when construction of an engineered component identified in the final closure cost estimate is certified in accordance with rule 3745-400-08 of the Administrative Code, and is approved by the licensing authority.]

(E) Facility final closure activities. The owner or operator shall complete the final closure activities as follows:

(1) Comply with paragraphs (I), (K), and (M) to (S) of rule 3745-400-11 of the Administrative Code during final closure, as applicable.

(2) Comply with the disclosure requirements in section 3714.052 of the Revised Code when employing a new key employee.

(3) Prior to or on the date that acceptance of material for disposal ceased, but not later than ninety days after final closure becomes mandatory, permanently cease leachate recirculation if leachate is being recirculated.

(4) Not later than seven days after ceasing to accept debris for disposal, provide written notification to the licensing authority of the date the facility ceased to accept debris.

(5) Not later than seven days after ceasing to accept debris for disposal, block, by locked gates, fencing, or other sturdy obstacles, all entrances and access roads to the facility to prevent unauthorized access during the final closure period, unless the facility is to be used for other purposes which are indicated in writing to the licensing authority.

(6) Not later than thirty days after ceasing to accept debris for disposal, post signs, easily visible from all access roads leading onto the facility, stating in letters at least three inches high that the construction and demolition debris facility is closed and no longer accepts construction and demolition debris. The signs shall be maintained in legible condition until final closure of the facility is complete.



(7) Not later than sixty days after ceasing to accept debris for disposal, cover all uncapped disposal areas with at least six inches of recompacted soil and grade this soil to prevent ponding of water. This soil layer may be considered a part of the cap system specified in paragraphs (D) and (E) of rule 3745-400-07 of the Administrative Code.

(8) Construction of cap system.

(a) Not later than one year after ceasing to accept debris for disposal, complete construction of a cap system consistent with the details of the approved final cap design plan and paragraphs (D) and (E) of rule 3745-400-07 of the Administrative Code over all areas of debris placement not previously certified in accordance with rule 3745-400-08 of the Administrative Code with the exception of the attainment of complete and dense vegetative cover specified in paragraph (G)(2)(a)(iii) or (G)(2)(b)(ii) of rule 3745-400-07 of the Administrative Code. The owner or operator shall complete seeding to establish vegetative cover prior to submittal of the final closure certification report.

(b) If the owner or operator of a facility appeals the final denial or final revocation of a construction and demolition debris facility license to the environmental review appeals commission in accordance with section 3745.04 of the Revised Code, and the environmental review appeals commission grants a de novo hearing with respect to the appeal in accordance with section 3745.05 of the Revised Code, the owner or operator may elect to postpone the construction of a cap system if all of the following occur:

(i) The owner or operator maintains compliance with all applicable financial assurance requirements.

(ii) The owner or operator is in compliance with all other applicable final closure requirements specified in this rule.

(iii) The facility is not the subject of an emergency order mandating the capping or placement of cover over the facility issued pursuant to division (B) of section 3714.12 of the Revised Code.

(iv) A court of competent jurisdiction has not ordered the facility to cease acceptance of debris or to commence final closure activities.



(v) Postponement of construction of the cap system will not create a nuisance, fire hazard, or cause or contribute to air or water pollution.

(vi) The owner or operator has undertaken a continuing program of cap construction or has entered into a binding contractual obligation to complete construction of a cap system not later than one hundred eighty days after the entry of the commission's decision affirming the final action.

(c) Not later than ten days after the environmental review appeals commission grants a de novo hearing, the owner or operator shall submit a written notice to the licensing authority and the director that states the construction of the cap system will be postponed and includes an affidavit certifying that the specifications of paragraph (E)(8)(b) of this rule are met.

(d) Postponement of the construction of the cap system in accordance with this rule shall automatically terminate upon the occurrence of any of the following:

(i) Failure of the owner or operator to comply with this rule.

(ii) The dismissal of the appeal by the environmental review appeals commission.

(iii) The issuance of an order by the environmental review appeals commission affirming the denial or revocation of the license.

(e) Not later than one hundred eighty days after postponement of the construction of the cap system is terminated in accordance with paragraph (E)(8)(d) of this rule, the owner or operator shall complete construction of a cap system as specified in rule 3745-400-07 of the Administrative Code.

(9) File with the appropriate county recorder a plat of the facility and information describing the acreage, exact location, depth, volume, and nature of the placed debris.

(10) Record a notation on the deed to the facility property or on another instrument that is examined during title search, alerting in perpetuity any potential purchaser of the property that the land has been used as a construction and demolition debris facility. The notation shall include information



describing the acreage, exact location, depth, volume and nature of the placed debris.

(11) Not later than each anniversary of ceasing to accept debris for disposal, annually submit updated final closure and post-closure care financial assurance documentation prepared in accordance with rules 3745-400-13 and 3745-400-18 of the Administrative Code using forms prescribed by the director. The cost estimates shall be revised to account for any changes at the facility and at a minimum be adjusted for inflation. The adjustment shall be made using the preceding February inflation factor derived from the annual implicit price deflator for gross domestic product as published by the United States department of commerce.

(12) Retain all authorizing documents and completed daily logs of operations at a location acceptable to the licensing authority where the documents are available for inspection by Ohio EPA or the approved board of health during normal business hours.

(13) Maintain all records and reports generated during final closure at a location acceptable to the licensing authority where the documents are available for inspection by Ohio EPA or the approved board of health during normal business hours.

(F) For a co-located processing facility, the owner or operator shall complete final closure activities as follows:

(1) Not later than ninety days after the date final closure is triggered, clean all debris handling equipment, working surfaces, and areas within the co-located processing facility boundary including but not limited to the following:

(a) Removing all construction and demolition debris and prohibited materials from the co-located processing facility and lawfully managing the construction and demolition debris and prohibited materials.

(b) Employing other procedures that reduce or eliminate contaminants that were derived from contact with construction and demolition debris, all areas within the processing facility boundary and appurtenances including but not limited to containers, equipment, machines, floors, and working surfaces.



(2) Not later than thirty days after all construction and demolition debris has been removed from the co-located processing facility, dismantle surface water drainage and sediment control structures associated with the co-located processing facility.

(3) Not later than ten days after completing final closure of the co-located processing facility, submit to the licensing authority a written closure certification report, signed and certified in accordance with rule 3745-500-50 of the Administrative Code, verifying that closure has been completed in accordance with this rule.

[Comment: Records required by paragraphs (E)(12) and (E)(13) of this rule shall be kept throughout the post-closure care period in accordance with rule 3745-400-16 of the Administrative Code.]

(G) Monitoring and reporting. All monitoring and reporting activities the operating life of the facility shall be continued during the final closure period.

(H) Completion. Final closure of the facility shall be deemed complete upon the licensing authority's written concurrence with the final closure certification report, required by paragraph (D) of rule 3745-400-08 of the Administrative Code. If required by rule 3745-400-16 of the Administrative Code, post-closure care of the facility shall begin when final closure has been deemed complete. Final closure of a co-located processing facility shall be deemed complete upon the licensing authority's concurrence with the final closure certification report submitted in accordance with paragraph (F)(3) of this rule. The licensing authority shall make a determination on concurrence not later than ninety days after receipt of the final closure certification report.

(I) Entry for inspection. The licensing authority, or the director, upon proper identification, may enter at reasonable times during the final closure period for the purpose of determining compliance with this rule.

(J) Continuance of co-located processing facility operations.

(1) The owner or operator of a co-located processing facility for which mandatory closure has been triggered in accordance with paragraph (B)(1) or (B)(3) of this rule may request to continue



operating the processing facility by submitting to the licensing authority written notice of intent to continue operating not later than fourteen days after triggering closure.

(2) After submitting the notice in accordance with paragraph (K)(1) of this rule, but not later than one hundred eighty days after triggering mandatory closure in accordance with paragraph (B)(1) or (B)(3) of this rule, the owner or operator shall submit to the permitting authority a permit application in accordance with rule 3745-400-50 of the Administrative Code.

(3) The owner or operator seeking to continue operating pursuant to paragraph (K)(1) of this rule shall comply with rule 3745-400-11 of the Administrative Code until one of the following occurs:

(a) A processing facility permit to install is issued by the permitting authority.

(b) Final closure of the co-located processing facility is completed in accordance with this rule.

(4) The owner or operator shall commence and complete closure of a co-located processing facility in accordance with this rule if the permit application required by paragraph (K)(2) of this rule is not timely submitted or is denied as a final action of the permitting authority.