



Ohio Administrative Code

Rule 3745-525-102 Location restriction demonstration - wetlands, 40 C.F.R. 257.61.

Effective: October 1, 2026

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- (A) New CCR landfills, existing and new CCR surface impoundments, and all lateral expansions of CCR units shall not be located in wetlands, as defined in 40 C.F.R. 230.41, unless the owner or operator demonstrates by the dates specified in paragraph (C) of this rule that the CCR unit meets the requirements of paragraphs (A)(1) to (A)(5) of this rule.
- (1) Where applicable under Section 404 of the Clean Water Act, 33 U.S.C. 1344, or applicable state wetlands laws, a clear and objective rebuttal of the presumption that an alternative to the CCR unit is reasonably available that does not involve wetlands.
- (2) The construction and operation of the CCR unit will not cause or contribute to any of the following:
- (a) A violation of any applicable state or federal water quality standard.
 - (b) A violation of any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act, 33 U.S.C. 1317.
 - (c) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531.
 - (d) A violation of any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972, 86 Stat. 1052, 33 U.S.C. 1401, for the protection of a marine sanctuary.
- (3) The CCR unit will not cause or contribute to significant degradation of wetlands by addressing all of the following factors:
- (a) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the CCR unit.
 - (b) Erosion, stability, and migration potential of dredged and fill materials used to support the CCR unit.
 - (c) The volume and chemical nature of the CCR.
 - (d) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of CCR.
 - (e) The potential effects of catastrophic release of CCR to the wetland and the resulting impacts on the environment.



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- (f) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.
- (4) To the extent required under Section 404 of the Clean Water Act, 33 U.S.C. 1344, or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent reasonable as required by paragraphs (A)(1) to (A)(3) of this rule, then minimizing unavoidable impacts to the maximum extent reasonable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and reasonable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands).
- (5) Sufficient information is available to make a reasoned determination with respect to the demonstrations in paragraphs (A)(1) to (A)(4) of this rule.
- (B) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the demonstration meets the requirements of paragraph (A) of this rule.
- (C) The owner or operator of the CCR unit shall complete the demonstrations required by paragraph (A) of this rule by the date specified in either paragraph (C)(1) or (C)(2) of this rule.
- (1) For an existing CCR surface impoundment, the owner or operator shall complete the demonstration not later than October 17, 2018.
- (2) For a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit, the owner or operator shall complete the demonstration not later than the date of initial receipt of CCR in the CCR unit.
- (3) The owner or operator has completed the demonstration required by paragraph (A) of this rule when the demonstration is placed in the facility's operating record as required by paragraph (E) of rule 3745-525-50 of the Administrative Code.
- (4) An owner or operator of an existing CCR surface impoundment who fails to demonstrate compliance with the requirements of paragraph (A) of this rule by the date specified in paragraph (C)(1) of this rule is subject to the requirements of paragraph (B)(1) of rule 3745-525-710 of the Administrative Code.
- (5) An owner or operator of a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit who fails to make the demonstrations showing compliance with the requirements of paragraph (A) of this rule is prohibited from placing CCR in the CCR unit.



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- (D) The owner or operator shall comply with the recordkeeping requirements specified in paragraph (E) of rule 3745-525-50 of the Administrative Code, the notification requirements specified in paragraph (E) of rule 3745-525-60 of the Administrative Code, and the internet requirements specified in paragraph (E) of rule 3745-525-70 of the Administrative Code.