



Ohio Revised Code

Section 3714.02 Rules governing construction and demolition debris facilities.

Effective: December 22, 2005

Legislation: House Bill 397 - 126th General Assembly

The director of environmental protection shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing construction and demolition debris facilities and the inspection of and issuance of permits to install and licenses for those facilities. The rules shall ensure that the facilities will not create a nuisance, fire hazard, or health hazard or cause or contribute to air or water pollution. The rules shall establish all of the following:

(A) Standards and procedures for the issuance of permits to install under section 3714.051 of the Revised Code that shall include all of the following:

- (1) Information that must be included in the designs and plans required to be submitted with the application for a permit to install under section 3714.051 of the Revised Code and criteria for approving, disapproving, or requiring modification of the designs and plans;
- (2) Information that must be included with an application for a permit to install in addition to the information required under section 3714.051 of the Revised Code;
- (3) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install;
- (4) Grounds for the denial, modification, suspension, or revocation of permits to install;
- (5) A requirement that a person that is required to obtain both a permit to install under section 3714.051 of the Revised Code and a license under section 3714.06 of the Revised Code obtain both the permit and license prior to operation;
- (6) Criteria for establishing time periods after which a permit to install expires;
- (7) Any other requirements that the director determines necessary in order to establish the program



for the issuance of permits to install under section 3714.051 of the Revised Code.

(B) Standards for the design and construction of facilities. The standards may include, without limitation, requirements for diking around the areas where debris is buried to prevent runoff of surface water onto adjacent property.

(C) Standards for control over access to facilities and for the operation of facilities, including, without limitation, standards for the compaction and covering of debris disposed of and standards regarding equipment used for the operation of facilities;

(D) Criteria and procedures for granting authorization to the owner or operator of a facility to dispose of asbestos or asbestos-containing materials or products at the owner's or operator's facility;

(E) Requirements for the installation of ground water monitoring wells and the monitoring of ground water quality at any facility where the operation of the facility threatens to contaminate ground water. The rules shall require that ground water monitoring be capable of determining impacts resulting from the operation of construction and demolition debris facilities. The rules also shall include provisions for ground water assessment and corrective actions for impacts to ground water. Further, the rules shall require that the owner or operator of a construction and demolition debris facility submit a monitoring report to the director or a board of health, as applicable, that has been prepared by a qualified ground water scientist and that includes all of the following:

(1) A determination of any impacts to ground water from the migration of contaminants from the construction and demolition debris facility;

(2) A list of the contaminants from the facility that may be causing contamination of ground water;

(3) Recommendations for actions, if any are necessary, that should be taken to investigate or remediate the source of any ground water contamination.

(F) Requirements for the monitoring and sampling of leachate. The rules adopted under division (F) of this section shall include all of the following:



- (1) A requirement that the owner or operator of a construction and demolition debris facility provide for sampling of leachate at least annually. However, the rules shall require that if leachate is recirculated through a facility, the leachate be sampled at least every calendar quarter.
- (2) A requirement that the owner or operator of a facility sample for at least seventy-seven parameters that the director shall establish in the rules, which shall include arsenic, copper, and chromium;
- (3) Requirements governing facilities that do not have a system for sampling leachate. The rules shall require that the owner or operator of such a facility monitor ground water in accordance with the rules adopted under division (E) of this section for the parameters established in the rules adopted under division (F)(2) of this section.
- (4) A requirement that a facility that monitors ground water and leachate add to the parameters monitored by the ground water monitoring system any parameter that is detected through the monitoring of leachate;
- (5) Requirements governing the reporting of leachate sampling data. The rules shall require that reports be submitted to the director and the applicable board of health.
- (G) Requirements respecting written, narrative plans for the operation of facilities. The rules shall require the owner or operator of a facility to use best management practices. In addition, the rules shall require as a part of the plan of operation of a facility the inclusion of the contingency plans required in rules adopted under division (H) of this section.
- (H) Requirements respecting contingency plans for effective action in response to fire or explosion at a facility or to hydrogen sulfide or other gases created by the operation of a facility that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment;
- (I) Financial assurance requirements for the closure and post-closure care of facilities as follows:
 - (1) The rules establishing the financial assurance requirements for the closure of facilities shall require that the owner or operator of a facility, before being issued an initial license for the facility



under section 3714.06 of the Revised Code, submit a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount determined by the director or the appropriate board of health, as applicable. The rules shall include a list of the activities for which financial assurance may be required. The rules shall allow the director or board of health, as applicable, to adjust the amount of a surety bond, a letter of credit, or other acceptable financial assurance in conjunction with the issuance of an annual license. However, the rules shall require that the amount of a surety bond, letter of credit, or other acceptable financial assurance for the closure of a facility be not less than thirteen thousand dollars per acre of land that has been or is being used for the disposal of construction and demolition debris. The rules shall require an explanation of the rationale for financial assurance amounts exceeding thirteen thousand dollars per acre.

(2) The rules establishing the financial assurance requirements for the post-closure care of facilities shall address the maintenance of the facility, continuation of any required monitoring systems, and performance and maintenance of any specific requirements established in rules adopted under division (K) of this section or through a permit, license, or order of the director. The rules also shall allow the director or board of health, as applicable, to determine the amount of a surety bond, a letter of credit, or other acceptable financial assurance for the post-closure care of a facility based on a required cost estimate for the post-closure care of the facility. The rules shall require that the owner or operator of a facility provide post-closure financial assurance for a period of five years after the closure of a facility. However, the rules shall stipulate that post-closure care financial assurance may be extended beyond the five-year period if the extension of the post-closure care period is required under rules adopted under division (K) of this section.

(J) Requirements for the closure of facilities. The requirements shall include minimum requirements for the closure of facilities and such additional requirements as are reasonably related to the location of the facility and the type and quantity of materials disposed of in the facility. The rules shall require that an owner or operator of a facility, upon the closure of the facility, file in the office of the county recorder of the county in which the facility is located a notice that the property was previously used as a construction and demolition debris facility. The rules shall require that the notice be filed in the same manner as a deed to the property. The rules shall require that the notice include an engineering drawing attachment showing the physical locations of debris placement, an indication of the volumes of debris, and an indication of the depth of the final cover material.



(K) Requirements for the post-closure care of facilities for a period of five years after the closure of a facility. However, the rules shall require that the post-closure care period may be extended by order of the applicable board of health, the director, or a court of competent jurisdiction if conditions at a facility are impacting public health or safety or the environment or if ground water assessment and corrective measures are required to be conducted at the facility under rules adopted under division (E) of this section. This division does not limit the authority of the director, a board of health, or a court of competent jurisdiction to issue an order under any other applicable chapter of the Revised Code.

The rules adopted under this division shall specify both of the following:

(1) With respect to a facility that permanently ceases acceptance of construction and demolition debris in calendar year 2006, the post-closure care and post-closure care financial assurance requirements do not apply, provided that the owner or operator of the facility gives written notice of the date of the cessation to the applicable board of health or the director, the owner or operator of the facility does not submit a subsequent application for a license renewal for the facility after that cessation, and no order was issued by the applicable board of health, the director, or a court of competent jurisdiction governing the post-closure care of and post-closure financial assurance for that facility prior to the date specified in the written notice.

(2) With respect to a facility that permanently ceases acceptance of construction and demolition debris in calendar year 2007, the required period of time for post-closure care and post-closure care financial assurance shall be one year after the closure of the facility, provided that the owner or operator of the facility gives written notice of the date of the cessation to the applicable board of health or the director, the owner or operator does not submit a subsequent application for a license renewal for the facility after that cessation, and no order was issued by the applicable board of health, the director, or a court of competent jurisdiction governing the post-closure care of and post-closure financial assurance for that facility prior to the date specified in the written notice.

(L) Standards and procedures governing the modification of operation licenses issued under section 3714.06 of the Revised Code;



(M) Procedures and requirements governing the certification of construction and demolition debris by transfer facilities as required under section 3714.082 of the Revised Code;

(N) Requirements governing the provision of notification under section 3714.083 of the Revised Code by owners and operators of construction and demolition debris facilities of rejected loads and by transporters and shippers of the final disposition of rejected loads;

(O) Requirements governing the certification and training of operators of construction and demolition debris facilities as required under section 3714.062 of the Revised Code;

(P) Definitions of "owner" and "operator" for purposes of this chapter.

The rules adopted under this section shall not prohibit the open burning of construction debris on a construction site in compliance with division (C)(1) of section 3704.11 of the Revised Code.

Rules adopted under divisions (E) and (F) of this section apply to all new construction and demolition debris facilities for which a permit to install is required under section 3714.051 of the Revised Code on and after the effective date of this amendment. With respect to a facility that is licensed under section 3714.06 of the Revised Code and operating on the effective date of this amendment: if the facility does not have a ground water monitoring or leachate monitoring system, the facility is not required to comply with rules adopted under division (E) or (F) of this section; if the facility has a ground water monitoring system, but not a leachate monitoring system, the facility shall comply only with rules adopted under divisions (E) and (F)(3) of this section; and if the facility has a leachate monitoring system, but not a ground water monitoring system, the facility shall comply only with rules adopted under division (F) of this section.