

**3745-400-12 Final closure of facilities.**

- (A) An owner or operator shall complete closure of a construction and demolition debris facility in a manner that reasonably accomplishes the following:
- (1) Minimizes the need for maintenance at the facility.
  - (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 of a facility 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 for disposal at the facility.
  - (2) A license issued to a facility has expired and a renewal license has not been applied for in the manner prescribed in Chapter 3745-37 of the Administrative Code.
  - (3) All approved limits of debris placement and approved final elevations have been reached.
  - (4) The owner or operator of a facility in operation on September 30, 1996, failed to apply for a license prior to April 1, 1997.
  - (5) An existing facility has submitted an initial license application and the license application has been denied as a final action of the licensing authority.
  - (6) A facility license has expired and another license has been applied for and denied as a final action of the licensing authority.
  - (7) A facility license has been revoked as a final action of the licensing authority.
- (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 not later than ninety days prior to the anticipated date to cease acceptance of debris at a facility 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.
- (D) Timing of final closure. Upon mandatory closure as described in paragraph (B) of this rule, the owner or operator shall cease acceptance of debris for disposal and shall perform final closure activities outlined in

paragraph (E) of this rule.

[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) Final closure activities. The owner or operator shall complete the final closure activities for licensed facilities as follows:

- (1) The owner or operator shall comply with paragraphs (I), (K), and (M) to (S) of rule 3745-400-11 of the Administrative Code during final closure.
- (2) The owner or operator shall comply with the compliance 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, the owner or operator shall permanently cease leachate recirculation if leachate is being recirculated.
- (4) Within seven days of ceasing to accept debris for disposal, the owner or operator shall provide written notification to the licensing authority of the date the facility ceased to accept debris.
- (5) Within seven days of ceasing to accept debris for disposal, the owner or operator shall 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) Within thirty days of ceasing to accept debris for disposal, the owner or operator shall 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) Within sixty days of ceasing to accept debris for disposal, the owner or operator shall 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 required by paragraphs (D) and (E) of rule 3745-400-07 of the Administrative Code.
- (8) Construction of cap system.
  - (a) Within one year of ceasing to accept debris for disposal, the owner or operator shall complete construction of a cap system consistent with the details of the approved final cap design plan and as required by 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. Seeding to establish vegetative cover shall be completed prior to submittal of the final closure certification report.

- (b) If the owner or operator of a construction and demolition debris 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 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 required by paragraphs (D) and (E) of rule 3745-400-07 of the Administrative Code. In order to postpone construction under this rule, all of the following must be the case:
- (i) The owner or operator maintains and will continue to maintain compliance with all applicable financial assurance requirements.
  - (ii) The owner or operator is in compliance with and will continue to comply with all other applicable final closure requirements set forth in this rule.
  - (iii) The construction and demolition debris 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 construction and demolition debris facility to cease acceptance of waste 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 within one hundred eighty days after the entry of the commission's decision affirming the final action.

Not later than ten days after the commission grants a de novo hearing the owner or operator shall provide written notice to the licensing authority and the director stating that the construction of the cap system will be postponed in accordance with this rule. The written notice must be accompanied by an affidavit certifying that all of the conditions required for postponement are satisfied.

Postponement under this rule shall automatically terminate upon the failure of the owner or operator to comply with any part of this rule; or the dismissal of the appeal by the commission; or the issuance of an order by the commission affirming the denial or revocation. The owner or operator shall complete construction of a cap system as required by rule 3745-400-07 of the Administrative Code within one hundred eighty days of the termination of the postponement.

- (9) The owner or operator shall 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) The owner or operator shall record a notation on the deed to the facility property or on another instrument which 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, the owner or operator shall 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 shall be adjusted for inflation. At a minimum, the cost estimates shall be increased for inflation. The adjustment shall be made using an inflation factor derived from the annual implicit price deflator for gross domestic product as published by the United States department of commerce in the most recent February issue of "Survey of Current Business."

[Comment: The text of the incorporated materials is not included in this rule and are hereby made a part of this rule. The "Survey of Current Business" document is available at <http://www.bea.gov> or by writing to the "United States Bureau of Economic Analysis, 1441 L Street NW, Washington, DC 20230."]

(12) The owner or operator shall 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) The owner or operator shall 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.

[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.]

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

(G) 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.

The licensing authority shall make a determination on concurrence within ninety days of receipt of the final closure certification report.

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

(I) Cap requirements for existing facilities for which an initial license application was not submitted. The owner or operator shall construct a cap system meeting the requirements of paragraph (E) of rule 3745-400-07 of the Administrative Code.

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CERTIFIED ELECTRONICALLY

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Certification

06/08/2012

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Date

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