

**3745-400-25 Five year transition for final closure and post-closure care financial assurance for construction and demolition debris facilities.**

[Comment: This rule provides the owner or operator of a construction and demolition debris facility a choice to be subject to the five year transition for funding a portion of final closure and post-closure care financial assurance in lieu of full funding required by paragraph (A)(2) of rule 3745-400-13 and paragraph (A)(2) of rule 3745-400-18 of the Administrative Code. This rule establishes the eligibility, notice, and requirements of the five year transition for funding financial assurance.]

- (A) An owner or operator that holds a construction and demolition debris facility license for the license year 2012 may utilize the five year transition period for funding financial assurance as described in this rule by submitting to the licensing authority and the director a written notice in accordance with the following:
- (1) The notice shall be submitted not later than the date of submittal of the renewal license application for license year 2013.
  - (2) The notice shall be signed in accordance with paragraph (F) of this rule.
  - (3) The notice shall contain the following:
    - (a) An affirmative statement signed by the owner or operator declaring the owner or operator's intention to utilize the five year transition period described this rule and to adhere to this rule.
    - (b) A demonstration that there is sufficient licensed disposal area to maintain operation throughout the five year transition.
    - (c) The calculations and the amount of the final closure transition amount and the post-closure transition amount applicable to the year for which the license is sought.
- (B) An owner or operator who is ineligible or fails to maintain eligibility to utilize the five year transition period described in this rule shall comply with paragraph (A)(2) of rules 3745-400-13 and 3745-400-18 of the Administrative Code. To maintain eligibility to utilize the five year transition period, an owner or operator shall do the following:
- (1) Continue to provide notification with each license application in accordance with paragraph (A)(3) this rule.
  - (2) Maintain a construction and demolition debris facility license for the current license year.
  - (3) Maintain compliance with this rule. Failure to fund final closure and post-closure care financial assurance according to this rule are grounds for license revocation and proposed denial of any pending license application.
- (C) Transition period final closure cost estimate and final closure transition amount. As used in this rule:
- (1) "Transition period final closure cost estimate" means the final closure cost estimate calculated in accordance with paragraph (A)(1) of rule 3745-400-13 of the Administrative Code for the base ALDA acreage.
  - (2) "Base ALDA acreage" means the amount of acreage identified as active licensed disposal area in the construction and demolition debris facility license for year 2013.
  - (3) "Reference final closure financial assurance" is the dollar amount of financial assurance required in the

construction and demolition debris facility license for year 2012.

(4) "Final closure transition amount" is calculated by multiplying the difference between the transition period final closure cost estimate and the reference final closure financial assurance by the appropriate transition year percentage as follows:

(a) Twenty per cent for the first year of the transition period.

(b) Forty per cent for the second year of the transition period.

(c) Sixty per cent for the third year of the transition period.

(d) Eighty per cent for the fourth year of the transition period.

(e) One hundred per cent for the fifth year of the transition period.

(D) Transition period post-closure cost estimate and post-closure transition amount. As used in this rule:

(1) "Transition period post-closure care cost estimate" is the post-closure care cost estimate calculated in accordance with paragraph (A)(1) of rule 3745-400-18 of the Administrative Code for the amount of acreage identified as active licensed disposal areas plus the acreage identified as inactive licensed disposal areas containing debris in the construction and demolition debris facility license for year 2013.

(2) "Post-closure transition amount" is calculated by multiplying the transition period post-closure cost estimate by the appropriate transition year percentage as follows:

(a) Twenty per cent for the first year of the transition period.

(b) Forty per cent for the second year of the transition period.

(c) Sixty per cent for the third year of the transition period.

(d) Eighty per cent for the fourth year of the transition period.

(e) One hundred per cent for the fifth year of the transition period.

(E) Amount and funding of final closure and post-closure financial assurance. The owner or operator shall annually fund final closure and post-closure financial assurance for each year of the five year transition in accordance with the following:

(1) The owner or operator shall maintain financial assurance in an amount equal to the previous year's financial assurance for the facility, including the amount of the final closure transition amount plus the amount of the post-closure transition amount required for the previous year.

(2) In addition to the financial assurance amount maintained in accordance with paragraph (E)(1) of this rule, the owner or operator shall fund financial assurance in an amount not less than the final closure transition amount plus the post-closure transition amount, less the amount of final closure transition amount and post-closure transition amount funded the previous year and maintained in accordance with paragraph (E)(1) of this rule. The owner or operator shall fund this additional amount not later than the expiration date of the license.

(3) If the license authorizes an increase in active licensed disposal area such that the active licensed disposal area is greater than the base ALDA acreage, the owner or operator shall establish and fund one hundred per cent of the portion of the final closure cost estimate necessary to close the increased acreage. The

owner or operator shall establish and fund the amount required by this paragraph not later than the date of submittal of the construction certification report for the portion of the active licensed disposal area that constitutes an increase. The owner or operator shall use any single or combination of financial assurance instruments as specified in paragraphs (B) to (F) of rule 3745-400-13 of the Administrative Code.

(4) If the license authorizes an increase in the amount of active licensed disposal area such that the sum of the acreage identified as inactive licensed disposal areas containing debris and the acreage of the active licensed disposal area is greater than the acreage identified in the construction and demolition debris facility license for year 2013, the owner or operator shall establish and fund one hundred per cent of the portion of the post-closure cost estimate necessary to conduct post-closure activities for the increased acreage. The owner or operator shall establish and fund the amount required by this paragraph not later than the date of submittal of the construction certification report for that area. The owner or operator shall use any single or combination of financial assurance instruments as specified in paragraphs (B) to (F) of rule 3745-400-18 of the Administrative Code.

(F) Notification. Notification submitted in accordance with paragraph (A)(2) or (B)(1) of this rule shall be signed by the owner or operator of the construction and demolition debris facility consistent with paragraph (B) of rule 3745-37-02 of the Administrative Code. The signatures on the notification shall constitute personal affirmation that all statements or assertions of fact made in the notification are true and complete, comply fully with the eligibility requirements in paragraph (A) of this rule, and shall subject the owner or operator to liability under applicable state laws concerning the submittal of false or misleading statements. The signatures shall represent that the owner or operator shall assume responsibility for compliance with this rule, Chapter 3714. of the Revised Code, this chapter, and Chapter 3745-37 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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