

*** DRAFT – NOT FOR FILING ***

3745-520-20 Exemptions.

(A) The director or approved board of health may by order exempt any person disposing or proposing to dispose C&DD in such quantities or under such circumstances that, in the determination of the director or approved board of health, are unlikely to adversely affect public health or safety or the environment, or create a fire hazard, from any provision of Chapter 3714, of the Revised Code or any rules adopted thereunder or any order issued thereunder, except for those circumstances stated in paragraph (B) or (C) of this rule.

(B) The director or approved board of health shall not grant an exemption from either of the following rules:

(1) The sole source aquifer siting criterion in paragraph (C)(1)(b) of rule 3745-520-100 of the Administrative Code.

(2) The requirement to obtain authorizations prior to disposal of asbestos-containing waste materials in paragraph (A)(2) of rule 3745-520-600 of the Administrative Code.

(C) Flood plain exemption criteria. Neither the director nor an approved board of health shall grant an exemption from the one hundred year flood plain siting criterion in paragraph (C)(1)(a) of rule 3745-520-100 of the Administrative Code if the director or the approved board of health determines from the permit to install application that the establishment of a new C&DD facility in the one hundred year flood plain would result in an increase of more than one foot in the elevation of the flood stage of the watercourse upstream or downstream from the proposed facility.

The applicant for a permit to install shall determine the increase in the flood stage resulting from the location of the new facility within the one hundred year flood plain of a watercourse based upon standard methodologies set forth in "Urban Hydrology for Small Watersheds" and "National Engineering Handbook, part 630, Hydrology" as described in rule 3745-500-03 of the Administrative Code.

(D) The director or approved board of health may decline to act on a request for an exemption.

(E) Obtaining comments from the director on an exemption proposed by an approved board of health.

(1) Except in the event of a natural disaster or public health emergency declared by the governor or the director of health, before an approved board of health issues an order that exempts a person disposing or proposing to dispose C&DD, the board shall provide written notice to the director of the board's intention to grant an exemption.

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- (2) The notice shall contain a description of the facts surrounding the proposed exemption and any other information that the director may request.
- (3) Not later than thirty days after receipt of the notice, the director shall provide written comments to the board of health regarding the proposed exemption.
- (4) After receiving written comments from the director, the approved board of health shall consider these comments prior to the board's issuance of an order granting the exemption.
- (F) When issuing an order exempting any person disposing or proposing to dispose C&DD, the director shall act in accordance with Chapters 119., 3714., 3734., and 3745. of the Revised Code, as applicable.
- (G) When issuing an order exempting any person disposing or proposing to dispose C&DD, an approved board of health shall act in accordance with Chapter 3714. and section 3709.20 of the Revised Code.
- (H) The order exempting any person disposing or proposing to dispose C&DD shall contain the following:

 - (1) Identification of the person to whom the exemption is issued.
 - (2) The effective date of the order.
 - (3) The specific location of the activity subject to the exemption.
 - (4) The specific provisions of Chapter 3714. of the Revised Code or rule adopted or order issued thereunder for which the exemption is granted.
 - (5) Any terms or conditions established with the granting of the exemption.
 - (6) Any time frame or expiration date of the order granting the exemption.
 - (7) A summary of the circumstances and basis for the determination that the granting of the exemption is unlikely to adversely affect public health or safety or the environment or to create a fire hazard.
- (I) Upon issuance of an order granting an exemption, copies of the order and any associated information shall be retained and distributed pursuant to rule 3745-500-130 of the Administrative Code.
- (J) The person to whom an exemption is issued under section 3714.04 of the Revised Code and this rule shall comply with all applicable federal, state, and local laws and

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rules and orders except for those requirements that have been expressly exempted in accordance with section 3714.04 of the Revised Code and this rule.