

---

## Applicability of Landfill Facility Construction Rule

---

### PURPOSE

This internal operating procedure outlines when the landfill facility construction rule is applicable.

### APPLICABLE RULES/STATUTES

MSW: OAC 3745-27-08  
ISW: OAC 3745-29-08  
RSW: OAC 3745-30-07  
ST: OAC 3745-27-72

### DETAILED DISCUSSION

The authorizing document is facility specific. In general, the authorizing document, once issued, takes precedence over standards established in rule. However, the construction rule still has a role to play with operating landfills. This internal operating procedure outlines those situations where the construction rule is to be followed.

The construction rule applies to alteration and modification requests. The operational criteria rule also states that the construction certification report is to be prepared in accordance with the construction rule. The construction rule specifies the report's content, inclusion of a notarized statement from the owner or operator, and a PE's seal. With the exceptions covered by this internal operating procedure, compliance with the reporting requirement does not include compliance with any other design or construction aspect contained in the construction rule. For example, if the authorizing document requires the leachate collection system drainage layer to have a minimum permeability of  $1 \times 10^{-3}$  cm/s and the rule requirement is  $1 \times 10^{-2}$  cm/s, the construction

can still be concurred with.<sup>1</sup>

For operating landfills, the application of the construction rule differs between programs. The municipal solid waste (MSW) and industrial solid waste (ISW) rules have similar applicability language, and will be addressed together.

### MSW and ISW Programs

OAC 3745-27-08 and OAC 3745-29-08 state that the construction requirements for a landfill facility specified by that rule are applicable to the facility or PTI application as specified by -06 (PTI application), -07 (PTI approval criteria), -11 (final closure), -19 (operational criteria), and -20 (prohibitions and closure - applies only to MSW landfills). Thus, the construction rule is not applicable unless one of these rules refers to it.

For operating facilities, the operational rule requires compliance with the PTI [-19(B)(2)] and compliance with applicable design, construction and testing specifications in the construction rule [-19(B)(6)(a)]. The following address circumstances where the rules could supersede specifications established in the permit.

Transitional Cover: Instructions for placement of transitional cover (formally known as interim final cover) are provided in -19(H)(2) with design and construction standards established in -08(D)(19). All landfills opting to apply transitional cover are to follow the instructions in -08 and their authorizing documents. However, if the

---

<sup>1</sup> In such situations where it is known that the design does not meet current standards, the reviewer can recommend the owner or operator obtain an alteration to upgrade the facility prior to the scheduled 10-year design demonstration. If in the judgement of the reviewer, the design constitutes a substantial threat to public health or safety or is causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination, the reviewer can also recommend that the director issues orders pursuant to ORC 3734.05(A)(5).

# Applicability of Landfill Facility Construction Rule

specifications in the authorizing document conflict with a rule requirement, the rule takes precedence unless the director has issued a variance or exemption. For example, if the authorizing document included time frames that exceed those established in the construction rule, the rule takes precedence.

**Surface Water Management:** -19(J) states that the owner or operator shall ensure that surface water control structures are designed in accordance with the construction rule. All landfills are to comply with these instructions. If the design in the authorizing document does not meet these standards, the design is no longer adequate and the owner or operator will need to redesign the surface water management system to comply with the rule. Compliance may require an alteration to the existing design and changes to existing structures, as well as authorization through the Division of Surface Water pursuant to ORC 6111.45.

**Interim Composite Liner:** The interim composite liner applies only to MSW facilities that were accepting waste after June 1, 1994. Both -19 and -20 provide specific instructions for facilities to self-implement an interim composite liner in order to meet the requirements of RCRA Subtitle D. The rules instruct facility owners and operators to construct an interim composite liner/leachate collection system in accordance with -08, and to not comply with the design in their permit or authorizing document if it is less protective than the interim composite liner/leachate collection system in -08.

**Cap Construction:** Instructions are given in -11(G) as to whether the cap design in the final closure/post-closure care plan or the cap design in -08 is to be followed.

**All Other -08 Requirements:** The construction rule establishes what engineering components are necessary, their performance and design standards, testing requirements, construction methods, and reporting requirements. Except for the circumstances listed above, none of these other requirements established in -08 apply to landfills once the permit application is reviewed and issued. The permit is followed. Even if the

permit application does not address a requirement in -08, for example, the new requirement for interface shear testing, -08 still would not apply. However, if the permit application refers to -08, for example stating compliance with test pad construction requirements, then the version of -08 in effect at the time the permit was issued is to be followed. [Reference to the rules in the permit essentially incorporates the rule requirement into the document.]

## MSW and ISW Programs

design/construction	follow rule	follow PTI
is in -08 and referenced by -11, -19, or -20	✓ follow current rule unless variance/exemption issued or PTI more stringent	
is addressed in PTI		✓
is referenced in PTI to -08	✓ rule in affect at the time of issuance	
is not addressed in PTI	requirement is not applied to the facility <sup>1</sup>	

## Scrap Tire (ST) Program

OAC 3745-27-72 is not limited in its applicability. In addition, the operational criteria rule -75(E)(20)(a) states that the owner or operator of a scrap tire monofill shall comply with the applicable construction specifications in -72 (which is not limited in any way), and more specifically, -75(H) states the design of the final cap system shall comply with -72(C)(9) and -75(J)(1) states the design of surface water control structures shall comply with -72(C)(6). In short, the construction rule applies throughout the life of the facility.

If the permit application does not address a requirement in -72, then the version of -72 currently in effect is to be followed.

All landfills are to comply with the construction requirements, final cap system, and surface water control structure design, in the rules and with the specifications in the authorizing document [-75(C)]. If the specifications in the

# Applicability of Landfill Facility Construction Rule

authorizing document conflict with a rule requirement, the rule takes precedence unless the director has issued a variance or exemption. With respect to surface water control structure designs, it is important to note that authorization to make a change may also need to be issued through the Division of Surface Water pursuant to ORC 6111.45.

## Scrap Tire (ST) Program

design/construction	follow rule	follow PTI
is addressed in PTI	✓ follow current rule unless variance/exemption issued or PTI more stringent	
in -72 is referenced through the PTI	✓ follow current rule	
is not addressed in PTI	✓	

## Residual Solid Waste (RSW) Program

Paragraphs (A), (B), (C)(4), (D), (E), (F), (G), and (H) of -07 apply to operating facilities.

OAC 3745-30-14(B)(6)(a) requires compliance with the applicable design, construction and testing specifications in -07. However, OAC 3745-30-07(C) limits the applicability of the design and construction requirements of the specific landfill components to the review of PTI applications, with the exception of (C)(4). This is because surface water management, addressed in -14(J), specifically requires compliance with -07. It is important to note that authorization to make a change to the surface water management system may also need to be issued through the Division of Surface Water pursuant to ORC 6111.45.

If the permit application references a requirement in -07(C), the version of -07 in effect at the time the permit was issued is to be followed, with the exception of (C)(4). [Reference to the rules in the permit essentially incorporates the rule requirement into the document.]

If the permit application addresses a requirement that is not an -07(C) item, in order to be in strict compliance with the authorizing document [-14(B)(2)], the owner or operator shall, in addition to complying with the rule, also comply with the added specifications. If the specifications in the authorizing document conflict with a rule requirement, the rule takes precedence unless the director has issued a variance or exemption.

## Residual Solid Waste (RSW) Program

design/construction	follow rule	follow PTI
is addressed in PTI and is an -07(C) item		✓ follow permit except for surface water management
is referenced in PTI to comply with -07(C)	✓ follow rule in effect at time of issuance	
is an item that is not an -07(C) item	✓ follow current rule unless variance/exemption issued or PTI more stringent	
is -07(C) requirement not addressed in PTI		requirement is not applied to the facility <sup>1</sup>

## POINT OF CONTACT

Central Office Processing and Engineering Unit  
(614) 644-2621

## DISCLAIMER

The procedures set out in this document are intended solely for guidance of government personnel. The procedures are not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party against Ohio EPA. While this guidance document is not legally binding, all statutes and rules referenced herein are binding and enforceable. Ohio EPA reserves the right to vary this guidance or to change it at any time without public notice and also reserves the right to deviate from this guidance on a case-by-case basis.