



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

Mr. Richard Barr
Apex Sanitary Landfill
P.O. Box 157
Amsterdam, Ohio 43903

**Re: Apex Sanitary Landfill, Jefferson County
Alternative Daily Cover Material Temporary Approval**

Dear Mr. Barr:

On March 31, 2008, the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM), Southeast District Office (SEDO), received your written request to use alternative daily cover material in accordance with Ohio Administrative Code (OAC) Rule 3745-27-19(F)(3) at Apex Sanitary Landfill (Facility). Specifically, you requested to use ProGuard II B Plus Cover System (ProGuard®) as alternative daily cover.

OAC Rule 3745-27-19(F)(3)(b) states, "The director may approve alternative materials, other than solid waste, and/or other thicknesses for daily cover if the owner or operator can demonstrate to the satisfaction of the director that the proposed alternative material and/or thickness provides protection that is comparable to six inches of soil and is protective of human health and the environment."

Ohio EPA recognizes that ProGuard® has the potential to provide protection comparable to six (6) inches of soil as required by OAC Rule 3745-27-19(F). Therefore, pursuant to OAC Rule 3745-27-19(F)(3)(b), I hereby authorize the owner or operator of Apex Sanitary Landfill to use ProGuard® as an alternative to six (6) inches of soil for daily cover at the Facility for a trial period of one hundred eighty (180) days from the effective date of this authorization.

As part of this temporary approval, the owner or operator is subject to the following conditions:

CONDITIONS

1. This authorization is limited to the use of ProGuard® only at the Facility. The owner or operator shall provide written notification to the Jefferson County District Board of Health and Ohio EPA, SEDO of the date of the first application of ProGuard®. No other alternative daily cover may be used at the Facility without prior authorization from Ohio EPA.
2. The owner or operator shall place ProGuard® over exposed waste materials at the end of the working day, or more frequently if necessary, to control fire hazards, blowing litter, odors, dust, insects, and rodents. The alternative daily cover shall be applied from different directions and at a rate such that all waste materials are completely covered. Prior to placing the next layer of waste, ProGuard® shall be removed or otherwise prepared as necessary so as not to impede the flow of leachate to the leachate management system.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

3. If inclement weather conditions render the placement or use of ProGuard® ineffective or otherwise unsatisfactory, the owner or operator shall temporarily revert to using conventional soil cover in accordance with OAC Rule 3745-27-19(F) until such conditions cease to exist. Under such circumstances, the owner or operator may apply another alternative daily cover material that has been approved for use at the Facility, provided that the alternative daily cover material is able to perform effectively under the inclement conditions.
4. If the owner or operator determines that ProGuard® is ineffective under normal operating conditions, the owner or operator shall immediately revert to using conventional soil cover in accordance with OAC Rule 3745-27-19(F). Under such circumstances, the owner or operator may apply another alternative daily cover material that has been approved for use by Ohio EPA at the Facility. The owner or operator shall verbally notify Ohio EPA, SEDO and the Jefferson County District Board of Health of this action by the end of the next working day and shall submit written notification to Ohio EPA and the Jefferson County District Board of Health not later than fourteen (14) calendar days after the action has been taken. This notification is not necessary if the use of the ProGuard® ceases on a temporary basis in accordance with Condition Number 3, above.
5. If Ohio EPA or the Jefferson County District Board of Health determines that the use of ProGuard® is ineffective or otherwise unsatisfactory under normal operating conditions, then permission to use ProGuard® may be revoked upon written notification from the Director of Ohio EPA (Director). Immediately upon such revocation, the owner or operator shall cease using ProGuard® and shall revert to using conventional soil cover in accordance with OAC Rule 3745-27-19(F). Under such circumstances, the owner or operator may apply another alternative daily cover material that has been authorized for use by Ohio EPA at the Facility.
6. Not later than 120 days after the effective date of this authorization, the owner or operator shall submit a report to Ohio EPA, SEDO comparing the effectiveness of ProGuard® to conventional soil cover and other alternative daily covers that are currently in use at the Facility. The report shall contain a discussion of the following items:
 - a. the number of days the material was used,
 - b. weather conditions at the time placement of the material was evaluated for effectiveness as daily cover,
 - c. number of days odors were detected,
 - d. presence of vectors, rodents, and insects,
 - e. any increase in blowing litter and leachate, and
 - f. method(s) for controlling fire during use of alternative daily cover material.
7. The use of ProGuard® shall be documented on the required Municipal Solid Waste Landfill Daily Log of Operations, Form 3 each day it is used as alternative daily cover material.

8. This authorization to use ProGuard® shall expire 180 days after its effective date. The owner or operator shall not continue to use the ProGuard® after this date unless the report submitted as required by Condition Number 6 is submitted and authorization for continued use of the material is received.
9. ProGuard® shall not be used as intermediate or final cover. Any solid waste disposal area that remains inactive for a period of 7 days and that has been covered with ProGuard® shall be covered with at least six (6) inches of soil in accordance with OAC Rule 3745-27-19(F) by the end of the seventh day.
10. Photographs from at least two opposing sides of the working face shall be taken of the working face each day that the ProGuard® has been applied. At least four such series of photographs shall be included in the report required by Condition Number 6, above, for ProGuard® used during the trial period. If ProGuard® was used for fewer than four days during the trial period, the owner or operator shall include the photographs, for each day ProGuard® was used, in the report required by Condition Number 6, above.
11. Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations. This approval shall not be interpreted to release the owner or operator from responsibility under Ohio Revised Code Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215

In the event that the owner or operator finds the use of ProGuard® to be acceptable and wishes to continue using the material as alternative daily cover at the Facility, authorization for on-going use beyond the 180 day trial period is required. To avoid having to temporarily discontinue the use of this material, Ohio EPA recommends that you submit a request for continued use at least 45 days prior to

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the end of the 180 day trial period. If you have any questions regarding this authorization, please contact Peter C. Thompson of Ohio EPA, SEDO at (740) 380-5219.

Sincerely,

Chris Korleski
Director

cc: Peter Thompson, DSIWM SEDO
Steven Rine, DSIWM SEDO
Scott Hester, DSIWM CO
Marc Maragos, Jefferson County District Board of Health
CK/PT/jg