

3745-400-01

**Definitions.**

As used in this chapter ~~and Chapter 3745-37 of the Administrative Code:~~

(A)

(1) "Administrative change" means an amendment to an authorizing document that does not constitute a modification or alteration to the processing facility or permit to install for the processing facility. An administrative change is not an action.

(2) "Alteration" means a change other than a modification to a processing facility or an administrative change to a permit to install issued pursuant to Chapter 3714. of the Revised Code for a processing facility.

~~(1)(3)~~ (3) "Applicant" means any person who has applied for a ~~construction and demolition debris facility license~~an authorizing document in accordance with ~~this chapter and~~ Chapter ~~3745-37~~3714. of the ~~Administrative~~Revised Code and the rules adopted thereunder.

(4) "Approved board of health" means a board of health placed on the approved list by the director in accordance with section 3714.09 of the Revised Code.

~~(2)(5)~~ (5) "Aquifer system" means one or more geologic units or formations that are wholly or partially saturated with water and are capable of storing, transmitting, and yielding significant amounts of water to wells or springs.

~~(3)(6)~~ (6) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

(7) "Authorizing document" or "authorization" means a document issued, approved, or concurred with by the director, Ohio EPA, an approved board of health, the Ohio environmental review appeals commission, or a court of competent jurisdiction that describes activities that a person is either required to do, allowed to do, or prohibited from doing, pursuant to and in compliance with applicable rules, statutes, and orders. Authorizing document includes but is not limited to a permit, license, registration, acknowledgment of registration, operator certification, plan, alteration, approval to use an alternate material, and order.

(B) "Board of health" means the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or a representative delegated by the board of health to act on behalf of the board of health.

(C)

(1) "Category 3 wetland" has the same meaning as in section 6111.02 of the Revised Code.

(2) "Certified operator" means an individual that holds a valid construction and demolition debris operator certification in accordance with section 3714.062 of the Revised Code and rule 3745-400-26 of the Administrative Code.

~~(1)~~(3) "Clean hard fill" means construction and demolition debris which consists only of reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, or stone which can be reutilized as construction material. Brick in clean hard fill includes but is not limited to refractory brick and mortar. Clean hard fill does not include materials contaminated with hazardous wastes, solid wastes, or infectious wastes.

~~(2)~~(4) "Construction and demolition debris," ~~or~~ "debris," or "C&DD" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. "Construction and demolition debris" does not include materials identified or listed as solid wastes, infectious wastes, or hazardous wastes pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder; or materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag; or reinforced or nonreinforced concrete, asphalt, building or paving brick, or building or paving stone that is stored for a period of less than two years for recycling into a usable construction material.

For the purpose of this definition, "materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure," are those structural and functional materials comprising the structure and surrounding site improvements, such as brick, concrete and other masonry materials, stone, glass, wall coverings, plaster, drywall, framing and finishing lumber, roofing materials, plumbing fixtures, heating equipment, electrical wiring and components containing no hazardous fluids or refrigerants, insulation, wall-to-wall carpeting, asphaltic substances, metals incidental to any of the above, and weathered railroad ties and utility poles.

"Materials resulting from the alteration, construction, destruction, rehabilitation, or repair" do not include materials whose removal has been required prior to demolition, and materials which are otherwise contained within or exist outside the structure such as solid wastes, yard wastes, furniture, and appliances. Also excluded in all cases are liquids including containerized or bulk liquids, fuel tanks, drums and other closed or filled

containers, tires, and batteries.

~~(3)~~(5) "Construction and demolition debris facility" or "facility" means any site, location, tract of land, installation, or building used for the disposal of construction and demolition debris.

(6) "Construction and demolition debris processing facility" or "processing facility" means a site, location, tract of land, installation, or building that is used or intended to be used for the purpose of processing, transferring, or recycling construction and demolition debris that was generated off the premises of the processing facility. Processing facility does not include a facility that is licensed under section 3734.05 of the Revised Code as a solid waste transfer facility or a solid waste facility and does not include processing within the designated unloading zone at a licensed construction and demolition debris facility.

~~(4) "Construction and demolition debris facility license" or "license" means a license issued by the licensing authority in accordance with Chapter 3714. of the Revised Code and rules adopted thereunder.~~

~~(5) "Construction and demolition debris facility certified operator" or "certified operator" means a person that holds a valid construction and demolition debris operator certification in accordance with section 3714.062 of the Revised Code and rule 3745-400-26 of the Administrative Code.~~

~~(6) "Construction and demolition debris facility operator" or "operator" means the person responsible for the on-site supervision of technical operations and maintenance of a construction and demolition facility, or any parts thereof, which may affect the performance of the facility and its potential environmental impact or any person who has authority to make discretionary decisions concerning the daily operations of the construction and demolition debris facility.~~

(D)

(1) "Developed spring" means any spring ~~which~~that has been ~~permanently~~ modified by the addition of pipes or a collection basin to facilitate the collection and use of the spring water.

(2) "Director" means the director of environmental protection or the director's authorized representative.

(3) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking,

emitting, or placing of any construction and demolition debris into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner.

~~{Comment: Any debris material reused, or processed for recycling or for production or incorporation into a product, is not regulated until it is disposed, at which time its disposal may be regulated under either Chapter 3714. or 3734. of the Revised Code, as appropriate.}~~

(E) ~~[Reserved.]~~ "Establish" or "establishment" means to dispose of construction and demolition debris, process construction and demolition debris, or construct or install any facility components or processing facility components and includes excavation that is related to the construction of a facility or a processing facility or any components thereof. Establish or establishment includes disposing or processing construction and demolition debris at any location not authorized for the disposal or processing of construction and demolition debris in accordance with this chapter. Establish or establishment includes permitting a pre-existing building for use as a construction and demolition debris processing facility. Establish or establishment does not include clearing, grubbing, or installing ground water monitoring wells.

(F) [Reserved.]

(G) "Ground water" means any water below the surface of the earth in a zone of saturation.

(H)

(1) "Hazardous wastes" means waste that is listed specifically as hazardous waste or exhibits one or more characteristics of hazardous waste as defined in Chapter 3745-51 of the Administrative Code.

(2) "Health commissioner" means the individual occupying the office created by sections 3709.11 and 3709.14 of the Revised Code, or the health commissioner's authorized representative.

(3) "Horizontal limits of construction and demolition debris processing" means the horizontal area within the processing facility boundary where any of the following activities occur or will occur: loading, unloading, processing, transferring, recycling, material handling, or storage.

(I)

- (1) "Illegal disposal" means the disposal of construction and demolition debris at any place other than a construction and demolition debris ~~disposal~~ facility operated in accordance with Chapter 3714. of the Revised Code, this chapter, and Chapter ~~3745-37~~ 3745-501 of the Administrative Code; a solid waste disposal facility operated in accordance with Chapter 3745-27 of the Administrative Code; and licensed in accordance with Chapter ~~3745-37~~ 3745-501 of the Administrative Code; or as otherwise authorized by this chapter.
- (2) "Initial license" means the first license issued by the licensing authority for a facility or a processing facility under Chapter 3714. of the Revised Code.
- (3) "Interim operator" means a person designated by the owner or operator of a construction and demolition debris facility or a construction and demolition debris processing facility to ~~replae~~act in place of the certified operator in the event that the certified operator is not on site or reasonably available daily during ~~disposal~~ operations. ~~An interim operator shall have twelve months of work experience pertaining to the day to day operations at either a construction and demolition debris facility, a sanitary landfill facility as defined in Chapter 3745-27 of the Administrative Code, or other experience deemed acceptable by the director.~~

(J) [Reserved.]

(K) [Reserved.]

(L)

- (1) "Leachate" for the purposes of a construction and demolition debris facility, means liquid that has come in contact with or been released from construction and demolition debris.
- (2) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.
- (3) "License" means a license issued by the licensing authority in accordance with Chapter 3714. of the Revised Code and rules adopted thereunder.
- ~~(3)~~(4) "Licensing authority" means ~~a city or general health district as created by or under authority of Chapter 3709. of the Revised Code, which is on the approved list in accordance with section 3714.09 of the Revised Code; or the~~

~~director where the health district is not on the approved list~~the approved board of health or in the absence of an approved board of health, the director.

(4)(5) "Limits of construction and demolition debris placement" means the areal and vertical limits of debris placement within the construction and demolition debris facility and includes the volume of debris placement. The limits of construction and demolition debris placement include the following:

(a) "Construction and demolition debris facility active areas" or "active licensed disposal areas" means all areas within the limits of construction and demolition debris placement designated by the owner or operator in a license application for debris placement during the licensure period.

All areas within the limits of construction and demolition debris placement in which debris has been placed since September 30, 1996, and which have not been capped and dense vegetative cover established.

(b) "Construction and demolition debris facility inactive areas" or "inactive licensed disposal areas" means all remaining areas within the limits of construction and demolition debris placement which are not designated for debris placement during the licensure period, and include but are not limited to the following:

(i) Areas in which no construction and demolition debris has yet been placed.

(ii) Areas within the limits of construction and demolition debris placement in which debris has been placed since September 30, 1996, and which have been capped, dense vegetative cover established, and certification of the completion of these activities submitted to the licensing authority in accordance with rule 3745-400-12 of the Administrative Code.

(iii) Areas within the limits of construction and demolition debris placement in which debris has been placed prior to September 30, 1996, and where no debris placement has occurred after that date.

(M) ~~Reserved.~~

(1) "Mixed construction and demolition debris" or "mixed C&DD" means construction and demolition debris consisting of more than one type of debris

and includes recovered screen material.

(2) "Modify a processing facility" or "modification of a processing facility" means an existing processing facility undergoing any of the following:

(a) A change to the processing facility property line.

(b) A change to the horizontal limits of construction and demolition debris processing.

(c) An increase in the maximum volume of mixed C&DD authorized to be on-site.

(N) "Nuisance" means anything which is injurious to human health or offensive to the senses; interferes with the comfortable enjoyment of life or property; and affects a community, neighborhood, or any considerable number of persons (although the extent of annoyance or damage inflicted upon individual persons may be unequal).

(O) ~~Reserved.~~

(1) "Occupied dwelling" means the following, but does not include a dwelling owned or controlled by the owner or operator of a facility or processing facility to which the siting criteria are being applied:

(a) A building used or intended to be used in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence. For the purposes of this definition, "owner" means a person with the exclusive right to use, control, or possess a building.

(b) A place of worship as defined in section 5104.01 of the Revised Code.

(c) A child day-care center as defined in section 5104.01 of the Revised Code.

(d) A hospital as defined in section 3727.01 of the Revised Code.

(e) A nursing home as defined in section 3721.01 of the Revised Code.

(f) A school.

(g) A restaurant or other eating establishment.

(2) "Operator" means the person responsible for the on-site supervision of technical operations and maintenance of a construction and demolition debris facility or

a construction and demolition debris processing facility, or any parts thereof, which may affect the performance of the facility or processing facility and its potential environmental impact or any person who has authority to make discretionary decisions concerning the daily operations of the facility or processing facility.

(3) "Owner" or "property owner" means the person who holds title to the land on which the facility or processing facility is or will be located.

(P)

(1) "Perennial stream" means a stream as defined by a United States geological survey seven and one-half minute quadrangle map.

(2) "Permit to install" means a permit to install issued by the permitting authority in accordance with Chapter 3714. of the Revised Code and rules adopted thereunder.

(3) "Permitting authority" means the director or the approved board of health, as applicable.

~~(4)~~(4) "Person" includes the state, any political subdivision of the state or other state or local body, the United States and any agency or instrumentality thereof, and any legal entity or organization defined as a person under section 1.59 of the Revised Code.

(5) "Processing" means the receipt or storage of construction and demolition debris, or the movement of construction and demolition debris from vehicles or containers to a working surface, for purposes of separating the debris into individual types of materials as a commodity for use in a beneficial manner that does not constitute disposal.

(6) "Processing facility boundary" means the borderline of the real property utilized or intended to be utilized for a processing facility including the horizontal limits of construction and demolition debris processing, access roads, offices, maintenance buildings or other structures, and any other appurtenances associated with the processing facility.

~~(2) "Property owner" or "owner" means the person who holds title to the property on which the construction and demolition debris disposal facility is located.~~

~~(3)~~(7) "Public water supply well" means any well connected to a public water system as defined by rule 3745-81-01 of the Administrative Code.

~~(4)~~(8) "Public well field" means any system of wells which is connected to a public



water system as defined by rule 3745-81-01 of the Administrative Code.

~~(5)~~(9) "Pulverized debris" means a load of debris that, after demolition has occurred, but prior to acceptance of the load of debris for disposal, has been shredded, crushed, ground, or otherwise rendered to such an extent that the load of debris is unidentifiable as construction and demolition debris. Particles and dust created during demolition activities are defined as C&DD under paragraph ~~(C)(2)~~(C)(4) of this rule.

~~{Comment: The definition of pulverized debris focuses on whether the "load of debris" has been rendered after demolition to such an extent that the load is unidentifiable as C&DD. This determination is specific to the load and involves an assessment of the load beyond the mere presence of some dust and particles or a few items identifiable as C&DD within a load. See the web page <http://epa.ohio.gov/dmwm/Home/CDD.aspx#114185065-pulverized-debris> for information and photos helpful in visually assessing loads.}~~

(Q) "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has at least five years of relevant experience in ground water hydrogeology and related fields ~~to~~ that enable that individual to make sound professional judgments regarding ground water monitoring, contaminant fate and transport, and corrective measures.

(R)

(1) "Recovered screen material" or "RSM" means fine or residual C&DD less than three quarters of an inch in size that is generated at a processing facility as a result of sorting or screening C&DD from which all prohibited materials have been removed.

~~(1)~~(2) "Recycling" means ~~the~~ processing ~~of~~ construction and demolition debris that would otherwise be disposed of and returning the material to commerce as a commodity for use ~~or exchange in a legitimate market or for use~~ in a beneficial manner that does not constitute disposal.

~~(2)~~(3) "Regulatory flood plain" means a watercourse and the areas adjoining a watercourse which have been, or may be, covered by a one-hundred-year flood as depicted on a federal insurance administration flood map.

~~(3)~~(4) "Reuse" means reincorporating a material as part of a structure and does not include reincorporating a material as fill.

(S)

- (1) "Significant zone of saturation" means a part of the earth's crust, excluding the capillary zone, in which all voids are filled with water and ~~which~~that may act as a preferential pathway of migration away from the limits of construction and demolition placement.
- (2) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations as defined in rule 3745-27-01 of the Administrative Code.
- (3) "Storage" means the holding of debris for a temporary period in such a manner that it remains retrievable and substantially unchanged and, at the end of the period, is disposed, reused, or recycled in a beneficial manner.
- (4) "Surface water" means any water on the surface of the earth.

(T) ~~[Reserved.]~~ "Transferring" means the receipt or storage of construction and demolition debris, or the movement of construction and demolition debris from vehicles or containers to a working surface and into other vehicles or containers, for purposes of transporting the debris to a solid waste landfill facility, a construction and demolition debris facility, or a processing facility.

(U) [Reserved.]

(V) [Reserved.]

(W)

- (1) "Water pollution" means ~~the~~ any unpermitted release ~~of sediment from disturbed areas, construction and demolition debris, or leachate~~ to the waters of the state.
- (2) "Waters of the state" ~~means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, which are situated wholly or partly within, or border upon, this state or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters as defined in Chapter 6111. (water pollution control) of the Revised Code~~ has the

same meaning as in section 6111.01 of the Revised Code.

(3) "Working face" means that portion of a construction and demolition debris ~~disposal~~ facility where construction and demolition debris is placed for final deposition.

(4) "Working surface" means the ground at a processing facility where unloading, processing, transferring, or loading occurs.