

Location Restriction Demonstrations - Implementation Instructions

PURPOSE

This document establishes procedures for reviewing and determining compliance with the location restriction demonstration (LRD) requirements [OAC 3745-27-20(A), (B) and (C), OAC 3745-27-06(C)(1) and (C)(6), and OAC 3745-27-09(I)(2)(f) and (J), and OAC 3745-27-19(B)(2)].

APPLICABILITY

This document applies to LRDs required by OAC 3745-27-20(C).

BACKGROUND

The Code of Federal Regulations Chapter 258 (RCRA Subtitle D Rules) identifies six location restriction demonstrations: airport safety, floodplain, wetlands, fault areas, seismic impact zones, and unstable areas. Ohio's rules identify five location restriction demonstrations: airport safety, regulatory floodplain, Holocene fault, seismic impact zone and unstable area. Ohio does not identify wetlands as a location restriction demonstration, but does address the federal requirements as a prohibition from the construction of or the filling of new units in a location until the Clean Water Act requirements are satisfied for that location.

The following identifies the specific LRD, its rule citation and companion policy:

<u>Demonstration</u>	<u>References</u>
Airport Safety	OAC 3745-27-20(C)(1)
Regulatory Floodplain	OAC 3745-27-20(C)(2) Policy DSIWM 27-20-127
Holocene Fault	OAC 3745-27-20(C)(3) Policy DSIWM 27-20-128
Seismic Impact Zone	OAC 3745-27-20(C)(4) Policy DSIWM 27-20-129

Unstable Area	OAC 3745-27-20(C)(5) Policy DSIWM 27-20-133
Wetlands	OAC 3745-27-20(A)(4)

The purpose of the LRDs is to ensure that proposed new units, new units in authorized fill areas, and continued filling in existing units will not occur if there are inherent geologic or surface water problems that could cause failure of the landfill structures and lead to ground water contamination, or there are air traffic hazards through uncontrolled bird populations attracted to the landfill. Compliance with the LRD can be either by not locating the facility or limits of waste placement in the restricted location or demonstrating that specified measures in the design or operation of the facility will prevent the ground water contamination or air traffic hazard.

PROCEDURE

Existing Units and New Units in Previously Authorized Fill Areas:

All such units should have already complied with the submission requirements.

The owner or operator of an **existing unit** was required to comply with the LRD requirement when the June 1, 1994 rules went into effect. LRDs for airport safety, regulatory floodplains and unstable areas were due in the operating record by July 1, 1994. If the existing unit failed to demonstrate compliance with an LRD, then OAC 3745-27-20(B)(1) requires the receipt of solid waste to cease and closure activities to be completed by October 9, 1996.

The owner or operator of a **new unit in a previously authorized fill areas** was required by OAC 3745-27-20(A)(3) to submit all the LRDs into the operating record prior to placing waste in the unit. If the new unit failed to demonstrate compliance with an LRD, then solid waste could

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not be accepted into the new unit until the failure is rectified.

Inspectors reviewed the operating record during their normal inspections to determine if the LRDs have been placed into the operating record in the required time frame. The engineers evaluated the LRDs for technical adequacy. If the LRD was determined to be technically adequate by the engineer, the inspector sent a notice of concurrence to the owner or operator.

Proposed New Units

The LRDs for new units proposed after June 1, 1994 are included in the permit application per OAC 3745-27-06(C)(6). When the PTI is placed in the operating record, it in effect satisfies the requirement of OAC 3745-27-20(A)(3) to place the LRD of a new unit in the operating record prior to waste placement. Thus a separate submittal is not necessary.

The permit reviewer will evaluate the LRDs for technical adequacy. As with any deficiency discovered during a permit review, any omission of required information or technical inadequacy will be noted in the notice of deficiency (NOD) letter sent to the applicant. A permit application for a proposed new unit cannot be approved by Ohio EPA if an LRD is determined to be inadequate.

Role of LRDs in Other Permit Reviews:

If a permit is pending, all existing LRDs must be determined to have been adequate before a final permit approval can be issued.

DSIWM recommends the applicant place a copy of the concurrence letter in the PTI compliance discussion section OAC 3745-27-06(C)(1). The permit reviewer does not need to review the LRD again since it was previously approved and compliance was achieved. The only outstanding compliance issue is to ensure that the facility complies with any specified measures to be employed as part of the original LRDs.

If the LRD is adequate, but a change in conditions causes a redefinition of the restricted

area (e.g. regulatory floodplain is redesignated, airport runway is extended, etc.) or the specified measure has not been adequate (e.g. landfill floods), DSIWM may request measures be added or employed. DSIWM will make the request according to the following:

- For those permit applications that include a capacity increase, DSIWM may require measures be added or employed before the permit application is recommended for approval in order to comply with OAC 3745-27-02(G)(1). To require measures, the proposed capacity increase must be related to the area of the changed condition and the originally specified measure proves to be inadequate.
- For all other situations, DSIWM may recommend the owner or operator address the changed conditions. See the section below **Updates to Demonstrations**.

Compliance with LRDs

LRDs are a point-in-time snapshot evaluation of a facility location. The rules do not require periodic updating of the LRDs (they are not analyzed in the ten year design demonstration). The fact that the facility provided adequate LRDs initially when the snapshot evaluation was required precludes requirements for further review of the LRDs. The only ongoing compliance issue is to ensure that the facility complies with any specified measures to be employed as part of the original LRD as required by OAC 3745-27-19(B)(2).

Updates to Demonstrations:

If a change in conditions causes a redefinition of the restricted area (e.g. regulatory floodplain is redesignated, airport runway is extended, etc.) or the specified measure has not been adequate (e.g. landfill floods), DSIWM may recommend a voluntary update of an LRD. If an update is recommended, refusal by the operator does not constitute a violation of the rules or necessitate denial of a future permit application due to noncompliance.

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However, if the PTI contains a condition that allows Ohio EPA to issue orders to install additional landfill components if the approved components are inadequate, then orders may be issued to require an update of an LRD.

If an update constitutes a modification, a permit to install is required before undertaking the action. If the update constitutes an alteration, written concurrence is required before undertaking the action.

POINT OF CONTACT

Central Office Processing and Engineering Unit
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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.