

3745-513-01 Procedure to engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated - applicability.

- (A) This chapter is the multi-program chapter for any person proposing to engage in chapter 513 activities.
- (B) Unless otherwise excluded by rule 3745-513-05 of the Administrative Code or authorized pursuant to this chapter, no person shall engage in chapter 513 activities.
- (C) In addition to the multi-program rules made applicable by reference in this chapter, the following multi-program rules apply to this chapter:
- (1) Rule 3745-500-35 of the Administrative Code regarding certain relationships among program chapters, multi-program chapters, and other rules.
 - (2) Rule 3745-500-210 of the Administrative Code for requesting a variance from this chapter.
 - (3) Rule 3745-500-220 of the Administrative Code for requesting an exemption from this chapter.
- (D) Rule 3745-513-300 of the Administrative Code applies to any person proposing to engage in chapter 513 activities at a modern or historic facility.
- (E) In lieu of rule 3745-513-300 of the Administrative Code, rule 3745-513-400 of the Administrative Code applies to any person proposing to engage in chapter 513 activities solely for the purpose of conducting sampling or testing or for delineating the limits of waste placement at a solid waste or hazardous waste facility.
- (F) Compliance with this chapter, or authorizations issued hereunder, does not relieve any person of obligations under state or federal laws and rules.

[Comment: Depending on the scope of the project, additional authorizations may be required from other divisions of Ohio EPA or other regulatory entities.]

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3745-513-02 Definitions.

If a term used in this chapter is defined in rule 3745-500-02 of the Administrative Code, the definition in rule 3745-500-02 of the Administrative Code is applicable to this chapter unless the term is defined in this rule. As used in this chapter:

- (A) "Ancillary structure" means any engineered structure that is necessary to ensure protection of human health, safety, and the environment including but not limited to the following:
 - (1) An explosive gas extraction and control system.
 - (2) An explosive gas monitoring system.
 - (3) A ground water monitoring system.
 - (4) A leachate management system.
 - (5) A surface water management system.
 - (6) Any other engineered structure that is necessary to ensure protection of human health, safety, and the environment.
- (B) [Reserved.]
- (C) "Chapter 3745-513 of the Administrative Code activities" or "chapter 513 activities" means engaging in filling, grading, excavating, building, drilling, or mining on land where a solid waste facility or hazardous waste facility was operated.
- (D) [Reserved.]
- (E) [Reserved.]
- (F) "Facility" means the site where chapter 513 activities are occurring or are proposed to occur and includes the following:
 - (1) The limits of solid waste placement, solid waste handling area, or area of hazardous waste treatment, storage, or disposal.
 - (2) Those areas within three hundred feet of the limits of solid waste placement or area of hazardous waste treatment, storage or disposal if the chapter 513 activities in these areas are likely to adversely impact the integrity of the emplaced waste, any ancillary structures, or the public health or safety or the environment.

[Comment: Impacting the integrity of the solid waste placement or hazardous waste treatment, storage or disposal area, and any ancillary structures related thereto, includes any activity resulting in damage to leachate tanks or lines or causing waste, leachate, or gas to be moved from the limits of waste placement, such as slope failure.]
- (G) [Reserved.]
- (H) "Historic facility" means a site where chapter 513 activities are being conducted or are proposed to be conducted and includes the following:
 - (1) A solid waste landfill never licensed or permitted pursuant to rules adopted under Chapter 3734. of the

Revised Code that ceased waste acceptance prior to July 29, 1976.

- (2) A solid waste composting facility never licensed, permitted, or registered pursuant to rules adopted under Chapter 3734. of the Revised Code that ceased waste acceptance prior to June 1, 1992.
- (3) A scrap tire monofill facility never licensed, permitted, or registered pursuant to rules adopted under Chapter 3734. of the Revised Code that ceased waste acceptance prior to March 1, 1996.
- (4) A solid waste facility or hazardous waste facility that received a covenant not to sue pursuant to Chapter 3746. of the Revised Code and does not have an operation and maintenance agreement pursuant to that covenant.
- (5) Any other solid waste facility or hazardous waste facility that has ceased waste acceptance and is not otherwise excluded from the requirements of this chapter.

(I) [Reserved.]

(J) [Reserved.]

(K) [Reserved.]

(L) [Reserved.]

(M) "Modern facility" means a site where chapter 513 activities are being conducted or are proposed to be conducted and includes the following:

- (1) A solid waste landfill formerly licensed or permitted pursuant to rules adopted under Chapter 3734. of the Revised Code.

[Comment: For operating facilities, the use of a permit alteration or modification is recommended to authorize filling, grading, excavating, building, drilling, or mining activities.]

- (2) A solid waste landfill never licensed or permitted pursuant to rules adopted under Chapter 3734. of the Revised Code that accepted solid waste after July 29, 1976.
- (3) A solid waste composting facility never licensed, permitted, or registered pursuant to rules adopted under Chapter 3734. of the Revised Code that accepted solid waste after June 1, 1992.
- (4) A scrap tire monofill facility never licensed, permitted, or registered pursuant to rules adopted under Chapter 3734. of the Revised Code that accepted scrap tires after March 1, 1996.
- (5) A hazardous waste treatment, storage, or disposal facility that has not obtained a hazardous waste facility installation and operation permit, a permit renewal, or an approved closure or post-closure plan, and that has not completed closure and post-closure care of any hazardous waste management unit pursuant to rules 3745-55-10 to 3745-55-20 of the Administrative Code or rules 3745-66-10 to 3745-66-20 of the Administrative Code.
- (6) A hazardous waste treatment, storage, or disposal facility that has completed post-closure of any hazardous waste management unit as required by rules 3745-55-10 to 3745-55-20 of the Administrative Code or rules 3745-66-10 to 3745-66-20 of the Administrative Code, or pursuant to an administrative or judicial order.
- (7) A solid or hazardous waste facility that received a covenant not to sue under Chapter 3746. of the Revised Code and has an operation and maintenance agreement pursuant to that covenant that does not already

authorize the proposed chapter 513 activities.

[Comment: Rule 3745-300-02 of the Administrative Code specifies properties that are eligible to pursue a covenant not to sue under Chapter 3746. of the Revised Code.]

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3745-513-05 Exclusions.

(A) This chapter does not apply to the following facilities:

- (1) A solid waste facility where waste was not disposed in the ground or where waste no longer remains, including the following:
 - (a) A landfill for which the owner or operator has closed the solid waste landfill facility by removing all emplaced solid waste and decontaminating the site pursuant to an administrative or judicial authorization.
 - (b) A composting facility.
 - (c) An incinerator.
 - (d) A transfer facility.
 - (e) A scrap tire facility other than a scrap tire monofill that meets the criteria specified in paragraph (H)(3) of rule 3745-513-02 of the Administrative Code.
 - (f) A facility excluded from regulation under Chapters 3745-27, 3745-29, 3745-30, 3745-37, and 3745-501 of the Administrative Code.

(2) A hazardous waste facility that conforms to the following:

- (a) A treatment, storage, or disposal facility for which the owner or operator has closed the hazardous waste management unit by removing all emplaced hazardous waste and decontaminating the site pursuant to rules 3745-55-10 to 3745-55-15 of the Administrative Code or rules 3745-66-10 to 3745-66-15 of the Administrative Code, or pursuant to an administrative or judicial authorization if that closure was based upon either residential or industrial land use exposure assumptions.
- (b) A facility where the generator has conducted treatment, storage, or closure in accordance with Chapter 3745-52 of the Administrative Code.

(3) At a site subject to either a written agreement entered into by the director with the federal government or a final order issued by the director and under which a person will perform corrective or remedial investigation or action, ground water investigation, maintenance action to protect a remedy, or other investigation or action to abate air or water pollution or soil contamination, or to protect public health and safety under Chapter 3734., 3746., or 6111. of the Revised Code. A final order issued by the director that consists of or contains an operation and maintenance agreement does not relieve any person from the requirement to obtain an authorization under this chapter unless that operation and maintenance agreement contains explicit authorization to conduct particular chapter 513 activities.

(B) This chapter does not apply to the following activities:

- (1) Chapter 513 activities authorized through a final action of the director or judicial order, including the following:
 - (a) A solid waste facility for which the owner or operator obtained a permit to install, plan approval, or other authorization for the facility in accordance with the requirements of Chapter 3734. of the Revised Code and an effective solid waste disposal license in accordance with rules adopted under

Chapter 3734. of the Revised Code, and the filling, grading, excavating, building, drilling, or mining is in accordance with the development, operating, maintenance, or monitoring practices authorized at the facility by the permit, license, plan approval, judicial order or other authorization from the director.

- (b) A hazardous waste treatment, storage, or disposal facility for which the owner or operator has obtained a permit, plan approval, or other authorization for the facility in accordance with the requirements of Chapter 3734. of the Revised Code or with the requirements of the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C. 6921, and the filling, grading, excavating, building, drilling, or mining is in accordance with the development, operating, maintenance, or monitoring practices authorized at the facility by the permit, plan approval, or other authorization.
- (2) Routine maintenance or emergency repair by a public utility, as defined in section 4905.02 of the Revised Code, on land where a public utility has main or distribution lines above or below the surface located on an easement or right-of-way where a solid waste facility or hazardous waste facility was operated. Public utilities may engage in any such activity within the easement or right-of-way without prior authorization from the director for the purposes of performing emergency repair or emergency replacement of the lines, poles, towers, foundations, or other structures supporting or sustaining any such lines or of the appurtenances to those structures necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structures, located on or above the land surface on any such easement or right-of-way. Not later than twenty-four hours after commencing the activities, the public utility shall notify Ohio EPA and provide any information regarding the activities as requested by Ohio EPA. Upon completion of the emergency repair or replacement or maintenance activities, the public utility shall restore any land of the solid waste or hazardous waste facility disturbed by the activities to the condition existing prior to the commencement of the activities.
 - (3) Routine maintenance of the cap system or ancillary structures at a facility.
 - (4) Routine agricultural, horticultural, recreational, or maintenance activities conducted by occupants of single-family homes on their own premises.

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3745-513-20 Issuance, denial, termination, and revocation of an authorization to engage in chapter 513 activities.

(A) Chapter 513 activities may be initiated only as follows:

- (1) For a modern facility, upon authorization from the director.
- (2) For a historic facility, thirty-one days after submitting an application to the director pursuant to rule 3745-513-300 of the Administrative Code unless the applicant is notified otherwise.
- (3) For sites where sampling, testing, or delineating the limits of waste placement of material is proposed, fifteen days after submitting an application to the director pursuant to rule 3745-513-400 of the Administrative Code unless the applicant is notified otherwise.

(B) Issuance.

- (1) The director shall not approve an application to engage in chapter 513 activities unless the director determines that the proposed activities will not result in violation of applicable laws and regulations administered by the director, will not create a nuisance, and will not adversely affect the public health or safety or the environment.
- (2) An application, notwithstanding any deficiency, may be considered and acted upon if sufficient information is contained in the plans, specifications, and information for the director to determine whether the criteria set forth in this rule are satisfied.
- (3) The director may request additional information or condition an authorization to include terms and conditions necessary to ensure protection of human health, safety, and the environment.
- (4) The director may deem it necessary to incorporate any of the systems, designs, or components identified in rule 3745-513-300 of the Administrative Code into the application to ensure compliance with all applicable laws and regulations, to guard against the creation of a nuisance, and to ensure the chapter 513 activities are unlikely to adversely affect the public health or safety or the environment.

(C) Denial. The director may deny an authorization if the director determines that any applicable rules or laws have been or are likely to be violated or that issuance of the authorization may pose a threat to public health or safety or the environment.

(D) Termination. Unless otherwise specified in the authorization, an authorization issued pursuant to this chapter shall terminate if the person to whom the authorization was granted has not initiated the activities described therein. An authorization shall terminate in accordance with the following:

- (1) For an authorization issued in accordance with rule 3745-513-300 of the Administrative Code, three years after the issuance date of the authorization.
- (2) For an authorization issued in accordance with rule 3745-513-400 of the Administrative Code, eighteen months after the submission date for the authorization.

(E) Revocation. The director may revoke an authorization if the director concludes that any applicable laws have been or are likely to be violated or if the director determines that continued implementation of the authorization may pose a threat to public health or safety or the environment.

- (F) When issuing, denying, or revoking an authorization to engage in chapter 513 activities on land where a hazardous waste facility or solid waste facility was operated, the director shall act in accordance with Chapters 119., 3734., and 3745. of the Revised Code and Chapter 3745-49 of the Administrative Code.

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3745-513-300 Application procedures for modern and historic facilities.

- (A) Any person proposing to engage in chapter 513 activities at a modern or historic facility shall submit an application to Ohio EPA to demonstrate that the proposed chapter 513 activities will not result in violation of applicable laws and regulations administered by the director, will not create a nuisance, and will not adversely affect the public health or safety or the environment. At a minimum, the application shall include the following:
- (1) The name of the facility, if applicable.
 - (2) The address or physical location of the facility, including the municipal corporation or township and the county.
 - (3) A description of the site's present or known prior use of hazardous waste or solid waste treatment, storage, or disposal, including a summary of all available documentation pertaining to the dates of operation and the types and quantities of waste handled.
 - (4) The known or estimated size of the facility.
 - (5) A demonstration of ownership of the facility and property or letters of acknowledgment from the owners of all parcels of land to which the authorization request pertains.
 - (6) A description of the specific activities and their intended purposes for which authorization is requested, including the manner by which the proposed chapter 513 activities will be accomplished.
 - (7) The location of the proposed activities specified on a USGS 7.5-minute topographical map with a scale of one inch equals no greater than two hundred feet.
 - (8) A description of the manner in which the integrity of the waste placement and the ancillary structures will be preserved where the chapter 513 activities will occur in areas within three hundred feet of the limits of waste placement.
 - (9) A description of the manner in which air emissions, leachate, surface water run-on and runoff, and explosive and toxic gas migration will be controlled, and how ground water will be protected.
 - (10) A description of all institutional controls that apply to the facility.
 - (11) Certification that the proposed chapter 513 activities will be conducted in compliance with all applicable state and federal rules and laws.
 - (12) Copies of mail receipts and a statement certifying that letters of intent to obtain an authorization pursuant to this chapter have been sent to the following entities:
 - (a) The local board of health.
 - (b) The local governments of the general purpose or political subdivisions where the site is located, including the county commissioners and the legislative authority of a municipal corporation or the board of township trustees, as applicable.
 - (c) The local zoning authority having jurisdiction over the geographical area where the site is located, if any.
 - (d) If the site is a solid waste facility, the single or joint county solid waste management district.

- (e) The local fire department.
 - (13) The name, address, and telephone number of the person to contact for additional information regarding the chapter 513 activities at the facility.
 - (14) A signature in accordance with rule 3745-500-50 of the Administrative Code.
 - (15) The seal of the professional engineer responsible for preparation of the plans, specifications, and information submitted as part of the application if the scope of the chapter 513 activities proposed in the application constitutes the practice of engineering pursuant to Chapter 4733. of the Revised Code.
 - (16) An explanation of how the applicant will maintain the integrity of facility components and ancillary structures, or repair or replace facility components and ancillary structures that may be adversely affected by the chapter 513 activities proposed in the application.
 - (17) If proposed to be incorporated into the facility design as part of the chapter 513 activities, a description of the following:
 - (a) The explosive gas monitoring system.
 - (b) The settlement and slope stability analysis.
 - (c) The enhanced final cap system.
 - (d) The spray-applied membrane.
 - (e) Surface water management.
 - (f) Leachate management.
 - (g) Vector controls.
 - (h) Odor controls.
 - (i) Facility access roads.
 - (j) Any other system, design, or component proposed to be included, upgraded, or updated as part of the chapter 513 activities.
 - (18) Information regarding any financial assurance or environmental covenants for the facility, if applicable.
 - (19) Any additional information required by the director.
- (B) Additional criteria for modern facilities. In addition to the information required by paragraph (A) of this rule, any person proposing to engage in chapter 513 activities at a modern facility shall include the following in the application for authorization:
- (1) A description of all previous and existing permits, licenses, approvals, and orders issued.
 - (2) A description of any closure or post-closure care activities performed at the facility and the present condition of the closed facility.
 - (3) If waste will still remain on the property, a sample of a notation or an updated recorded notation on the deed to the property in accordance with rule 3745-513-370 of the Administrative Code if the chapter 513 activities will impact the facility such that the existing notation will no longer be accurate.

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3745-513-350 Implementation requirements for modern and historic facilities.

Any person engaging in Chapter 513 activities shall comply with the following:

- (A) Perform Chapter 513 activities in accordance with Chapters 3704., 3734., and 6111. of the Revised Code and the rules adopted thereunder.
- (B) Perform Chapter 513 activities in a manner that prevents migration of leachate, explosive gas, or toxic gas from the facility.
- (C) Excavation of waste.
 - (1) Excavation of waste shall not occur unless the waste is managed in accordance with any of the following:
 - (a) The waste is replaced within previously existing horizontal limits of waste placement.
 - (b) The waste is treated at a licensed or permitted treatment facility in accordance with Chapter 3734. of the Revised Code.
 - (c) The waste is disposed of at a licensed or permitted disposal facility in accordance with Chapter 3734. of the Revised Code.
 - (2) Solid waste or hazardous waste removed during the chapter 513 activities shall be stored in accordance with Chapters 3734. and 6111. of the Revised Code until such time as these materials are properly evaluated and treated or disposed in accordance with Chapters 3734. and 6111. of the Revised Code and the rules adopted thereunder.
 - (3) Liquid waste released during the chapter 513 activities shall be stored in accordance with Chapters 3734. and 6111. of the Revised Code until such time as the waste is properly evaluated and treated or disposed in accordance with Chapters 3734. and 6111. of the Revised Code and the rules adopted thereunder.
 - (4) If excavation occurs outside the limits of waste placement at the site, the material used to backfill the excavated areas shall not consist of solid or hazardous waste.
- (D) If solid waste or hazardous waste are to be removed from the facility, an evaluation of the material shall be performed and submitted to Ohio EPA prior to removal of the waste. The evaluation may include sample analysis results and shall include the following:
 - (1) The selected treatment or disposal method.
 - (2) A copy of a letter of acceptance from a treatment or disposal facility.
- (E) Upon completion of the chapter 513 activities, restore the facility cap to the condition specified in the provisions of Chapter 3734. of the Revised Code and the rules adopted thereunder as they were applicable at the time the owner or operator of the facility originally submitted certification of closure. If certification was never submitted, the facility cap shall be restored to the condition specified in the provisions of Chapter 3734. of the Revised Code and the rules adopted thereunder as effective at the time the facility was required to close, unless otherwise specified in the application or required by the director.

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3745-513-370 Certification report for modern and historic facilities.

An applicant who engaged in chapter 513 activities pursuant to rule 3745-513-300 of the Administrative Code shall submit a certification report to Ohio EPA not later than sixty days after completion of the chapter 513 activities. At a minimum, the certification report shall contain the following:

- (A) Verification that the following have been completed and submitted by the applicant to the approved board of health and Ohio EPA:
 - (1) A plat if one is not on file, or a revised existing plat if the chapter 513 activities have impacted the facility such that the existing plat is no longer accurate. The plat shall be filed by the owner for the impacted unit of the facility.
 - (2) Information describing the following for the impacted unit of the facility:
 - (a) The acreage impacted by the chapter 513 activities.
 - (b) The following, if known:
 - (i) The location of the waste.
 - (ii) The depth of the waste.
 - (iii) The volume of the waste.
 - (iv) The nature of the waste.
 - (3) Deed notation to notify any potential purchaser that the land has been used as a hazardous waste facility or solid waste facility and that use of the property is restricted. If waste remains on the property, the applicant shall include a sample of a notation, or an updated recorded notation on the deed to the property if the chapter 513 activities have impacted the facility such that the existing notation is no longer accurate. The notation shall include the following information:
 - (a) The acreage impacted by the chapter 513 activities.
 - (b) The following, if known:
 - (i) The location of the waste.
 - (ii) The depth of the waste.
 - (iii) The volume of the waste.
 - (iv) The nature of waste.
- (B) If a protective layer, engineered cap, surface soil, or any other engineered component or ancillary structure on the site was disturbed, a notarized statement by the applicant that the protective layer, engineered cap, surface soil, or any other engineered component or ancillary structure has been restored to a condition more protective than or equivalent to the condition prior to initiation of the chapter 513 activities, or as specified in the application or required by the director.

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3745-513-400 Application procedures for sampling, testing, or delineating the limits of waste placement.

- (A) Any person proposing to engage in chapter 513 activities pursuant to paragraph (E) of rule 3745-513-01 of the Administrative Code shall submit an application to Ohio EPA to demonstrate that the proposed chapter 513 activities will not result in violation of applicable laws and regulations administered by the director, will not create a nuisance, and will not adversely affect the public health or safety or the environment. The application shall be submitted not later than fifteen days prior to the anticipated commencement of the proposed activities, and shall include at a minimum the following:
- (1) The name of the facility, if applicable.
 - (2) The address or physical location of the facility, including the municipal corporation or township and the county.
 - (3) The dates that the proposed activities will occur.
 - (4) A description of the equipment and methods to be used.
 - (5) Certification that the chapter 513 activities will be conducted in accordance with rule 3745-513-450 of the Administrative Code and in compliance with all applicable state and federal rules and laws.
 - (6) The name, address, and telephone number of a person to contact for additional information regarding the activities at the facility.
 - (7) A signature in accordance with rule 3745-500-50 of the Administrative Code.
 - (8) An explanation of how the applicant will maintain the integrity of facility components and ancillary structures or repair or replace facility components and ancillary structures that may be adversely affected by the activities proposed in the application.
 - (9) Any additional information deemed necessary by Ohio EPA.
- (B) Chapter 513 activities conducted pursuant to this rule may begin upon receipt of an acknowledgment letter from Ohio EPA or on the fifteenth day after submittal of the application, whichever occurs first, unless the applicant is otherwise notified by Ohio EPA.

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3745-513-450 Implementation requirements for sampling, testing, or delineating the limits of waste placement.

Any person engaging in chapter 513 activities for sampling, testing, or delineating the limits of waste placement shall comply with the following:

- (A) Limit disturbance of material to no greater than two cubic yards per sample location.
- (B) Limit disturbance of material to no greater than ten feet below the surface unless direct push sampling or rotary drilling methods are employed.
- (C) Construct any borehole or well that extends through waste and below the vertical limits of waste placement in a manner so as not to allow the vertical migration of liquid through the borehole, well, or the annular space between the borehole and the well to the underlying ground water zones.
- (D) Store all solid waste or hazardous waste removed during the chapter 513 activities in accordance with Chapters 3734. and 6111. of the Revised Code until such time as these materials are properly evaluated and treated or disposed in accordance with Chapters 3734. and 6111. of the Revised Code and the rules adopted thereunder.
- (E) Store liquid waste released during the chapter 513 activities in accordance with Chapters 3734. and 6111. of the Revised Code until such time as the waste is properly evaluated and treated or disposed in accordance with Chapters 3734. and 6111. of the Revised Code and the rules adopted thereunder.
- (F) Backfill or develop each excavation or borehole into a sampling point not later than forty-eight hours after creation.
- (G) Backfill any excavation or borehole that does not extend through the base of waste in the landfill. Backfilling shall be accomplished in a manner so as not to compromise the integrity of the facility, using materials not otherwise prohibited for disposal. Acceptable backfilling materials include the following:
 - (1) The material excavated.
 - (2) Soils.
 - (3) Asphalt concrete.
 - (4) Concrete.
 - (5) Bentonite.
- (H) Backfill any borehole or seal any well that extends through waste and below the vertical limits of waste placement using a cement or bentonite-based grout material to prevent the vertical migration of liquid through the borehole or well. Backfilling and sealing shall occur in the portion of the borehole or well that extends below the vertical limits of waste placement.

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3745-513-470 Certification report for sampling, testing, or delineating the limits of waste placement.

A person who engaged in chapter 513 activities pursuant to rule 3745-513-400 of the Administrative Code shall submit a certification report to Ohio EPA not later than thirty days after completion of the sampling, testing, or delineating of the limits of waste placement activities. At a minimum, the certification report shall contain the following:

- (A) The locations where waste was encountered.
- (B) A written explanation of how the material was handled after sampling was completed.
- (C) Written confirmation that any excavation, borehole, or well has been backfilled or sealed in accordance with this rule and rules adopted under Chapters 3734. and 6111. of the Revised Code.

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