

Issuance Date: 7/1/2020
Effective Date: 7/1/2020

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF

Ohio Department of Rehabilitation	:	<u>Director's Final</u>
and Correction	:	<u>Findings and Orders</u>
770 W. Broad St.	:	
Columbus, Ohio 43222	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Ohio Department of Rehabilitation and Correction ("ODRC") ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Section 3734.02(G) of the Ohio Revised Code ("ORC") and Rule 3745-500-220 of the Ohio Administrative Code ("OAC").

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent. No change in ownership of the Property as defined herein shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA ("Director") has determined the following findings:

1. The State of Ohio owns property identified by the Madison County Auditor as Parcel Number 29-00762.000, located at 1580 State Route 56 SW, London, Madison County, Ohio, 43140 (the "Property"), whereon Respondent ODRC operates the London Correctional Institution (LoCI).
2. Respondent is a person as that term is defined in ORC Section 3734.01(G) and OAC Rule 3745-500-02(P)(4).

3. OAC Rule 3745-560-200(B) states: "No person shall operate a class II composting facility without first having obtained a solid waste license pursuant to Chapter 3745-501 of the Administrative Code."
4. OAC Rule 3745-501-20(E) states "License fees. For solid waste facilities, the licensing authority shall collect the required license fees, including any applicable late fees, and manage those funds in accordance with the applicable sections of Chapter 3734. of the Revised Code and rules adopted thereunder."
5. ORC Section 3734.06(B) states in part: "The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (A)(1), (2), (3), and (4) of this section or the entire amount of any such fee that is less than two thousand five hundred dollars."
6. Respondent has operated a licensed Class II composting facility on the Property, as defined in OAC Rule 3745-500-02(C)(1) and OAC Rule 3745-560-02(C)(2), since August 28, 2015.
7. Respondent amended the registration for the Class II composting facility at the Property on October 7, 2019, reflecting a change of location within the parcel, and an increase in size and capacity of waste materials. The increase resulted in a license fee exceeding \$2,500.
8. ORC Section 3734.02(G) and OAC Rule 3745-500-220(B), provide in relevant part: "the Director may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license... or other requirements of ORC Chapter 3734." "or any rules adopted thereunder." "Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the 'Resource Conservation and Recovery Act of 1976,' 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter."
9. Ohio EPA has determined that extending the exemption relieving Respondent ODRC from the requirements of OAC Rule 3745-501-10(C) and ORC Section 3734.06(A) for payment of the remaining licensing fee to Ohio EPA for the ODRC-LoCI class II composting facility located on the Property, is unlikely to adversely affect the public health or safety or the environment.

V. ORDERS

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-500-220(B), Respondent is hereby granted an exemption from the requirements of OAC Rule from the requirements of OAC Rule 3745-501-10(C) and ORC Section 3734.06(A) to pay Ohio EPA the annual license fee amount in excess of the \$2,500 retained by the board of health pursuant to ORC Section 3734.06(B), for Respondent's class II composting facility located on the property identified as Parcel Number 29-00762.000, located at 1580 State Route 56 SW, London, Madison County, Ohio, 43140, provided that Respondent performs the activities in accordance with these Orders.
2. This exemption is issued solely to Respondent ODRC for the LoCI class II composting facility located at 1580 State Route 56 SW, London, Ohio. This exemption is not transferrable upon change of ownership of the Property. This exemption is not transferrable to any other person. This exemption is not transferrable to Respondent's establishment or operation of a composting facility located on any other property owned or operated by Respondent ODRC, other than the Property specified herein.
3. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. These Orders shall not be interpreted to release Respondent from responsibility under ORC Chapters 3704, 3714, 3734, and 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act.
4. Other than as specified herein, these Orders shall not be construed to release Respondent from any other obligation under ORC Chapter 3734 and OAC Rule 3745-560 applicable to the owner or operator of a class II composting facility, including the requirement to conduct closure in accordance with OAC Rule 3745-560-235.
5. The Director of Ohio EPA may revoke these Orders for any reason, including but not limited to Respondent's failure to comply with any of these Orders or a determination by the Director that the activities performed pursuant to these Orders threaten or adversely affect public health or safety or the environment.
6. Except as provided in Order Number 5, this exemption shall expire upon termination of the registration for the ODRC-LoCI Class II composting facility located on the Property in accordance with OAC Rule 3745-560-201(B).

VI. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability of any other statutes or regulations.

VII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations that may occur at the Property.

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Laurie A. Stevenson
Director