SUMMARY

This guidance describes:

1. what an Ohio Administrative Code (OAC) 3745-27-13 authorization is,
2. when an OAC 3745-27-13 authorization is required, and
3. how the OAC 3745-27-13 authorization process fits into ODOT’s PDP Process.

WHAT IS AN OAC 3745-27-13 AUTHORIZATION?

An OAC 3745-27-13 authorization, otherwise known as a 27-13 authorization or a Section 13 authorization, is issued by the Director of the Ohio Environmental Protection Agency (OEPA) and authorizes the applicant to engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated. Hazardous and Solid Waste facilities are also known as landfills. OEPA was given oversight of these activities pursuant to Ohio laws and regulations.

WHEN IS AN OAC 3745-27-13 AUTHORIZATION REQUIRED?

An OAC 3745-27-13 authorization, or 27-13 authorization, is required for projects to fill, grade, excavate, build, drill, or mine on land where a hazardous waste or solid waste facility is or was operated. Specific definitions for many of the requirements that ODOT must meet are explained later in this guidance.

1. What ODOT projects does this apply to?

All projects performed and/or funded by ODOT that could impact land where a hazardous or solid waste facility is or was operated. Examples of projects include any type of project that includes any amount of excavation below ground surface, resurfacing, guardrail post repair/replacement, sign installation, any project that places fill within the facility, and all geotechnical borings. This includes 100% state funded projects. ODOT is responsible for obtaining the permit prior to construction.

For Local-Let projects, the locals will be responsible for obtaining the 27-13 authorization. Documentation of receipt of the 27-13 authorization must be uploaded into Environet and must be received prior to project commencement. Receipt of the 27-13 authorization should be received prior to plan filing if possible.

2. What is hazardous waste?
Hazardous waste is waste that meets any of the criteria in OAC 3745-51-03.\footnote{http://codes.ohio.gov/oac/3745-51-03v1} Please refer to this list as it is very expansive and will not be discussed in this guidance document.

3. What is solid waste?

Solid waste is waste that meets the criteria of OAC 3745-27-01(S)(23).\footnote{http://codes.ohio.gov/oac/3745-27-01v1} Please refer to this list as it is very expansive and will not be discussed in this guidance document.

What is a “facility”?

A facility, as defined in OAC 3745-27-13, is the limits of solid waste placement, solid waste handling area, or area of hazardous waste treatment, storage, or removal. It also includes those areas within three hundred (300) horizontal feet of the limits of a solid waste placement or area of hazardous waste treatment, storage or disposal if the filling, grading, excavating, building, drilling, or mining activities in these areas are likely to impact the integrity of the waste placement or any ancillary structures. Additionally, if the project impacts the integrity of the solid waste placement or hazardous waste treatment, storage or disposal area(s), and any ancillary structures related thereto, includes any activity resulting in damage to leachate tanks or lines or causing waste, leachate, and/or gas to be moved from the limits of waste placement, e.g., by causing slope failure, the project will impact the facility. These sites can include solid waste facility, historic landfill, abandoned landfill, or Voluntary Action Plan (VAP) site.

4. When should ODOT/Consultants/Locals begin the process of obtaining a 27-13 authorization?

Upon completion of the Regulated Materials Review (RMR) which shows the presence of a solid or hazardous waste facility, historic landfill, abandoned landfill, or VAP site within 300 feet of a proposed project. If an RMR was not performed for the project, due to the project not acquiring additional permanent right of way or having excavations greater than six feet, the process for obtaining the 27-13 authorization should begin when it is discovered that there is a solid waste facility, historic landfill, abandoned landfill, or VAP site in or around the project area. Please note that the 27-13 may be obtained after the NEPA document is approved. If this is the case, an Environmental Commitment must be added to the project as follows:

“(ODOT/LPA) will obtain the appropriate OAC 3745-27-13 Authorization prior to any excavation occurring at the site”

5. How long does obtaining a 27-13 authorization take?

The testing authorization, as described below, is a relatively quick process, typically requiring less than a month. The other activities may take up to 6 months, depending on the complexity of the submission and the Ohio EPA review time. These timelines should be considered in the overall Project Development Process (PDP) process.
The testing authorization application must be submitted at least seven days prior to commencement. The 27-13 authorization should be received prior to plan filing if possible.

All other authorization applications must be submitted at least 30 days prior to commencement. The 27-13 authorization should be received prior to plan filing if possible.

6. Who should be submitting the 27-13 authorization once it is complete?

Districts are responsible for submitting the 27-13 authorization to their respective OEPA District Office. Use the following link to determine what OEPA Office oversees the 27-13 for the county in which the project is located.

http://www.epa.state.oh.us/districts.aspx

7. When it is determined that a 27-13 authorization is needed, contact ODOT’s Office of Environmental Services - Regulated Materials Review (OES-RMR) Unit for assistance.

OAC 3745-27-13 Category (C) Activities

There are a few types of actions that are categorically excluded from requiring a 27-13 authorization. These actions are known as “C-Listed Activities”. Note: this is not related to ODOT NEPA Document classifications. They are as follows:

- Category (C)(1) (Site based) - Activities include filling, grading, excavating, building, drilling, or mining at any of the following sites:
  - (a) Facilities where waste was not disposed in the ground or where waste no longer remains, including:
    - A solid waste landfill facility licensed or permitted or formerly licensed or permitted under OAC 3745-37 for which the owner or operator has closed the solid waste landfill facility by removal and decontamination pursuant to an administrative or judicial authorization.
    - A solid waste composting facility.
    - A solid waste incinerator.
    - A solid waste transfer facility.
    - A hazardous waste treatment, storage, or disposal facility for which the owner or operator has closed the hazardous waste management unit by removal and decontamination pursuant to OAC rules 3745-55-10 to 3745-55-15, and/or OAC 3745-66-10 to 3745-66-15 or pursuant to an administrative or judicial authorization, if that closure was based upon either residential or industrial land use exposure assumptions.
  - (b) Those facilities exempted from regulation under OAC 3745-27 and 3745-37 or by OAC rule 3745-27-03.
    - These facilities include:
• Solid wastes generated within a single-family residence, and disposed of on the premises where generated in a manner that does not create a nuisance or health hazard.

• The temporary storage of solid wastes, including sites with less than 100 scrap tires, prior to collection for disposal or transfer. Temporary is defined as seven days or less. If there are fewer than 100 scrap tires, the site is also exempt.

• Incinerators or energy recovery facilities that incinerate wastes generated on one or more premises owned by the person who owns the incinerator or energy recovery facility. This does not include any such facility which treats infectious waste pursuant to Chapter 3734 of the Ohio Revised Code (ORC).

• Legitimate recycling facilities, other than scrap tire recovery facilities and premises where scrap tires are beneficially used. ³

• Any “junk yard,” or “scrap metal processing facility,” licensed pursuant to ORC 4737 or motor vehicle salvage business licensed pursuant to ORC 4738. This exemption shall not be construed to include sites where open dumping or open burning has occurred. This exemption does not apply to the management of scrap tires or other use, collection, storage, recovery, disposal, or beneficial use of scrap tires at a junk yard, or scrap metal processing facility, or motor vehicle salvage business.

• Facilities used for the transfer of solid wastes, other than scrap tires, that consist solely of portable containers and that have an aggregate volume of fifty cubic yards or less. The waste must not be placed on the ground or waste handling floor.

• Category (C)(2) (Activity based) - Does not apply to filling, grading, excavating, building, drilling, or mining in conjunction with one of the following activities:
  o Filling, grading, excavating, building, drilling, or mining at facilities where the activities are already authorized through a final action of the OEPA Director, including:
    ▪ 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 ORC 3734 and an effective solid waste disposal license in accordance with the requirements of OAC 3745-37, 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.
    ▪ 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 ORC 3734 or with the requirements of the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C. 6921, as amended, and ³ http://codes.ohio.gov/oac/3745-27-03 (A)(6) for more details about what is a legitimate recycling facility.
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.

- Filling, grading, excavating, building, drilling, or mining at facilities where a hazardous waste generator has conducted treatment, storage, or closure in accordance with OAC3745-52.
- Filling, grading, excavating, building, drilling, or mining at sites 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 ORC 3734, 3746, or 6111.
- Routine maintenance of final cover or ancillary structures at a facility.
- Routine agricultural, horticultural, recreational, or maintenance activities conducted by occupants of single-family homes on their own premises.

**OAC 3745-27-13 Category (D) Activities**

The OEPA classifies sites and actions in three categories for purposes of applying for a 27-13 authorization. These categories are based on the waste disposal facility type and period of operation.

**D1 Activities** are filling, grading, excavating, building, drilling, or mining activities occurring in or within 300 feet of the following waste disposal facilities:

- An active or inactive licensed solid waste landfill.
- An unlicensed or unpermitted solid waste landfill that accepted solid waste after July 29, 1976.
- An unlicensed or unpermitted solid waste transfer facility or solid waste incinerator that accepted solid waste after May 31, 1991.
- An unregistered, unlicensed, or unpermitted solid waste compost facility that accepted solid waste after June 1, 1992.
- An unregistered, unlicensed, or unpermitted scrap tire monofill facility that accepted scrap tires after March 1, 1996.
- A Class I, II, or III residual waste landfill presently or formerly licensed or permitted under Chapter 3734.
- A hazardous waste treatment, storage, or disposal facility (TSD).
- A solid or hazardous waste facility that received a covenant not to sue under VAP.

**D2 Activities** are filling, grading, excavating, building, drilling, or mining activities occurring in or within 300 feet of the following waste disposal facilities:

- An unlicensed or unpermitted solid waste landfill that ceased acceptance of waste prior to July 29, 1976.
- An unlicensed or unpermitted solid waste incinerator that ceased acceptance of waste prior to May 31, 1991.
• An unregistered, unlicensed, or unpermitted solid waste compost facility that ceased acceptance of waste prior to June 1, 1992.
• An unregistered, unlicensed, or unpermitted scrap tire facility that ceased acceptance of waste prior to March 1, 1996.
• A Class IV residual waste landfill licensed or permitted or formerly licensed or permitted under Chapter 3745-30 of the OAC.
• A hazardous waste treatment, storage, or disposal facility operating pursuant to a hazardous waste facility installation and operation permit, permit renewal, or a closure plan or a post-closure plan for any hazardous waste management unit approved in accordance with Rules 3745-55-18 or 3745-66-18 of the OAC.
• A solid or hazardous waste facility that received a covenant not to sue pursuant to Chapter 3746 of the Ohio Revised Code and does not have an Operation and Maintenance Agreement pursuant to that covenant.
• Any other solid or hazardous waste facility not otherwise exempted from this rule.

D3 Activities are filling, grading, excavating, building, drilling, or mining for the purpose of conducting sampling, testing, and/or delineating the limits of waste on a facility. D3 Activities are known as the Testing Authorization.

Authorization Submission Packet Requirements for projects impacting Category (D) sites:

Submission Packet Requirements for Category D1 Projects (See Attachment 1 for template):

• Submission timeline: Must be submitted and approved before ANY work commences.
• The location of the proposed work area specified on a 7-1/2 minute United States Geological Service topographical map with a maximum scale of one inch equals two hundred feet, legal description, type of facility, demonstration of current property ownership, and demonstration of current facility ownership.
• The specific activities and their intended purposes for which 27-13 authorization is requested.
• Discussion of all previous and existing permits, licenses, approvals, and orders pertaining to past and ongoing waste treatment, storage, or disposal activities issued under local, state, and federal environmental regulations for lands upon which 27-13 authorization under this rule is requested.
• Letters of acknowledgment from the owners of all parcels of land to which the 27-13 authorization pertains. These are standard ODOT Real Estate form letters and can be requested from the OES-RMR Section.
• Copies of certified mail receipts and a statement certifying that letters of notice stating that authorization under this rule is being requested for the affected site have been sent to the following entities: These statements can be requested from the OES-RMR Section.
  • The board of health of the health district wherein the site is located.
  • The governments of the general purpose political subdivisions where the site is located, i.e., county commissioner, legislative authority of a municipal corporation, and/or the board of township trustees.
- The local zoning authority having jurisdiction over the geographical area where the site is located, if any.
- If the site is a solid waste facility, the single county or joint county solid waste management district.
- The local fire department for the geographical area where the site is located.

- A discussion of the site's present or known prior use of hazardous waste or solid waste treatment, storage or disposal, including a summary and discussion of all available documentation pertaining to the dates of operation, types and quantities of waste handled at the site, and ownership.
- A detailed discussion of the closure and/or post-closure activities, if any, performed at the facility and an evaluation of the present condition of the closed facility.
- A detailed description of the manner by which the proposed filling, grading, excavating, building, drilling, or mining will be accomplished.
- A detailed description of the manner in which the integrity of the waste placement or the ancillary structures will be preserved where the filling, grading, excavating, building, drilling, or mining activities will occur in areas within 300 feet of the limits of waste placement.
- A detailed plan describing the manner by which the proposed filling, grading, excavating, building, drilling, or mining will be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including but not limited to control of air emissions, control of leachate, surface water run-on and run-off, explosive and toxic gas migration, and protection of ground water.
- If waste will still remain on the property, a detailed description of a notation or update to any prior recorded notation to be placed on the deed to the property to notify in perpetuity any potential purchaser of the property that the land has been used as a hazardous waste facility or solid waste facility. The notation shall describe the impacted acreage, including the known location, depth, volume, and nature of waste disturbed at the site.
- Other such information as Ohio EPA deems necessary to determine that these activities will be in compliance with all applicable laws and regulations administered by the director. If OEPA requests additional information, please contact OES for additional guidance.
- A signature of a duly authorized employee. This will be the District Deputy Director. If the District Deputy Director is not available, please contact OES for guidance.

Timing/Submission/Other Requirements for Category D1 Projects:

- No filling, grading, excavating, building, drilling, or mining activities shall occur until the director issues an authorization for that activity.
- Activities must be completed within three years of Director's Authorization.

Post Project Responsibilities for Category D1 Projects:

ODOT shall provide Ohio EPA a certification report within sixty days of completion of the filling, grading, excavating, building, drilling, or mining activities containing the following information:
• A verification to Ohio EPA that the following activities have been completed:
  o The owner or operator has filed with the board of health having jurisdiction and with Ohio EPA, a plat or revised existing plat for the unit(s) of the solid waste facility or hazardous waste facility and information describing the acreage, exact location, depth, volume, and nature of the waste deposited in the unit(s) of the solid waste facility or hazardous waste facility that was impacted by the filling, grading, excavating, building, drilling, or mining activities.
  o If waste still remains on the property, the owner shall update any prior recorded notation on the deed to the property, in accordance with state law, to notify any potential purchaser of the property that the land has been used as a hazardous waste facility or solid waste facility and that its use is restricted. The notation shall describe the acreage impacted by the filling, grading, excavating, building, drilling, or mining activities; and the exact location, depth, volume, and nature of waste disposed of at the site.
• A notarized statement that if a protective layer, engineered cap, or surface soil on the site was disturbed, to the best of the owners or operators knowledge, the protective layer, engineered cap, or surface soil has been restored to a condition more protective than or equivalent to the condition prior to the activities being performed on the site.

Submission Packet Requirements for Category D2 Projects:

• Name of the facility, if any, and type of facility.
• Address of the site.
• County and township in which the site is located.
• Name, address, and telephone number of person to contact for additional information regarding the activities at the site.
• Size of site in acres, square feet, or other amount as necessary.
• Identification of type and amount of waste present at the site, including a description of the process that created the waste and the time period of waste disposal.
• Description of activities proposed at the site.
• Description of any institutional control that applies to the site.
• Description of the manner in which the control of air emissions, control of leachate, surface water run-on and runoff, explosive and toxic gas migration, and protection of ground water will be performed.
• Letters of acknowledgment from the owners of all parcels of land to which the authorization pertains. (See Attachment 2 for template)
• A statement that the requirements contained in paragraph (H)(2) to (6) of this rule will be followed.
• A statement that the applicable requirements contained in Chapter 3734 of the Ohio Revised Code will be followed by the applicant.
• An affidavit affirming that the assertions made in this application are true. (See Attachment 4 for template)
• A signature of a duly authorized employee. This will be the District Deputy Director. If the District Deputy Director is not available, please contact OES for guidance.

Timing/Submission/Other Requirements for Category D2 Projects:
• Filling, grading, excavating, building, drilling, or mining may occur thirty-one days after submitting a request for authorization to the director unless the applicant is notified otherwise.

• Activities must be completed within three years of Director’s Authorization

Post Project Responsibilities for Category D2 Projects:

ODOT shall provide Ohio EPA a certification report within sixty days of completion of the filling, grading, excavating, building, drilling, or mining activities containing the following information:

• A verification to Ohio EPA that the following activities have been completed:
  o The owner or operator has filed with the board of health having jurisdiction and with Ohio EPA, a plat or revised existing plat for the unit(s) of the solid waste facility or hazardous waste facility and information describing the acreage, exact location, depth, volume, and nature of the waste deposited in the unit(s) of the solid waste facility or hazardous waste facility that was impacted by the filling, grading, excavating, building, drilling, or mining activities.
  o If waste still remains on the property, the owner shall update any prior recorded notation on the deed to the property, in accordance with state law, to notify any potential purchaser of the property that the land has been used as a hazardous waste facility or solid waste facility and that its use is restricted. The notation shall describe the acreage impacted by the filling, grading, excavating, building, drilling, or mining activities; and the exact location, depth, volume, and nature of waste disposed of at the site.

• A notarized statement that if a protective layer, engineered cap, or surface soil on the site was disturbed, to the best of the owners or operators knowledge, the protective layer, engineered cap, or surface soil has been restored to a condition more protective than or equivalent to the condition prior to the activities being performed on the site.

Submission Packet Requirements for Category D3 Projects:

• A certified letter identifying information necessary for Ohio EPA to make a determination that the activity will be performed in a manner that will comply with the requirements of Chapters 3704, 3734, and 6111 of the Ohio Revised Code, will not create a nuisance, and is unlikely to adversely affect the public safety or health or the environment. Applications for authorization to engage in filling, excavating, or drilling for the purpose of sampling material, shall include, at a minimum:
  o Name of the facility, if any, and type of facility.
  o Address of the site.
  o County and township in which the site is located.
  o Name, address, and telephone number of a person to contact for additional information regarding the activities at the site.
  o A statement of the date(s) the sampling activity will occur.
  o A statement that the applicable requirements contained in paragraph (H) of this rule will be followed.
A statement that the applicable requirements contained in Chapter 3734 of the Ohio Revised Code will be followed by the applicant.

A signature as described in paragraph (I) of this rule.

The letter required in this rule shall be received by Ohio EPA at least seven days prior to filling, excavating, or drilling for the purpose of sampling material.

Timing/Submission/Other Requirements for Category D3 Projects:

- Filling, grading, excavating, building, drilling, or mining for the purpose of conducting sampling must be conducted in accordance with the following:
  - No more than five cubic feet per acre of material shall be disturbed.
  - No material shall be disturbed below ten feet of the surface.
  - All solid waste or hazardous waste removed during filling, grading, excavating, building, drilling, or mining shall be stored in accordance with Chapter 3734 of the Revised Code until such time as these materials are properly characterized and treated or disposed. Any liquid wastes released during filling, grading, excavating, building, drilling, or mining activities shall be stored in accordance with Chapter 3734 of the Ohio Revised Code until such time as these wastes are properly characterized and treated or disposed.
  - Each excavation or bore hole shall be backfilled within forty-eight hours of its creation.
  - Any excavation or bore hole may be backfilled with the material excavated, or may be backfilled with soils, asphalt concrete, concrete, or bentonite. All backfilling must be completed in a manner so as not to compromise the integrity of the facility.
  - Within thirty days of completion of the activities, a certification report containing a report of the location of sampling where wastes were encountered, a written explanation of what was done with any sampled material, and a written confirmation that any excavation or borehole has been backfilled in accordance with this paragraph shall be submitted to Ohio EPA.

- Filling, grading, excavating, building, drilling, or mining may occur eight days after submitting a request for authorization to the director unless the applicant is notified otherwise.

- Activities must be completed within eighteen months of OEPA Director’s Authorization.
1.0 Introduction
The Ohio Department of Transportation (ODOT) District 2 is seeking authorization to begin construction of the planned improvements to Interstate 75 within and near the boundaries of the former Toledo Municipal Landfill located at or around 324 and 354 South Avenue, Toledo, Ohio, in Lucas County. The improvements are further discussed in Section 2.5.

Specific details on the construction activities and background of the landfill site are found in later sections of this application.

1.1 Background
The Ohio Department of Transportation (ODOT) proposes to improve 3.24 miles of Interstate Route (IR) 75 in the southwest metropolitan portion of the City of Toledo, Ohio, in Wood and Lucas Counties, from the Glenwood Road overpass to the South Avenue interchange.

Existing IR 75 is a six-lane freeway in a suburban (Wood County) and urban environment (Toledo and Lucas County) that serves as a direct route through the City of Toledo. The existing interchanges along IR 75 within the proposed project area provide access to residential, business, commercial, and industrial areas. The Miami Street (State Route 65) interchange provides immediate access to Hollywood Casino Toledo and grain elevators to the east along the south side of the Maumee River. The South Avenue interchange provides access to the Port of Toledo grain elevators on the north side of the Maumee River.

The planned improvements for Site 10 include resurfacing and widening the surrounding roadways and ramp, which will involve excavation.

ODOT engaged URS to prepare a Phase 1 Environmental Site Assessment for the project, which was submitted to ODOT on August 19, 2015. The Phase 1 Environmental Site Assessment identified Site 10 as potentially being located within or near the historic Toledo Municipal Landfill. No historical or regulatory records regarding landfill operations exist.

ODOT then engaged URS to prepare a Phase 2 Environmental Site Assessment for the project for sites that include Site 10. The Phase 2 Environmental Site Assessment was submitted to ODOT on July 7, 2017.

1.2 Phase 2 Environmental Site Assessment Results for Site 10
This site currently consists of vacant, vegetated and wooded land. The site historically consisted of vacant land from 1895 through the 1930s. From the 1940s through the 1960s, the site was partially within the footprint of the historic Toledo Municipal Landfill. Subsequent historical and regulatory records reviews did not indicate any additional information or records associated with former landfill operations at this site.

As of the publication of this report, no site tenant or owner was available for interview. URS did not observe any chemical storage or other environmentally significant operations or conditions on the site. Planned work on this site includes resurfacing and widening of the surrounding roadways and ramp.

Four soil borings at 10 feet bgs were installed on the site. Three of the soil borings were installed along the eastern boundary adjacent to South Avenue. The other boring was installed on the west-central portion of the site. Seventeen VOCs were detected in one or more of the four soil samples submitted from Site 10. The VOCs were detected at concentrations ranging from 0.26 micrograms per kilogram (ug/kg) to 610 ug/kg. All other VOC results were below the laboratory detection limits. No VOC or TPH detections exceeded the VAP standards for residential or commercial/industrial land use.
Twenty-four SVOCs were detected in one or more of the four soil samples submitted from Site 10. The SVOCs were detected at concentrations ranging from 33 \( \mu g/kg \) to 52,000 \( \mu g/kg \). All other SVOC results were below the laboratory detection limits. The benzo(a)pyrene concentration detected in soil sample SB09-0810 (3,100 \( \mu g/kg \)) exceeded the VAP standard for residential land use. No other SVOC detections exceeded VAP standards for residential or commercial/industrial land use.

TPH GRO and TPH DRO were detected in all four soil samples submitted from Site 10. TPH GRO was detected at concentrations ranging from milligrams per kilograms (mg/kg) to 1,200 mg/kg. TPH DRO was detected at concentrations ranging from 300 mg/kg to 1,700 mg/kg.

Eight RCRA metals were detected in one or more of the four soil samples submitted from Site 10. The metals were detected at concentrations ranging from 0.14 mg/kg to 2,700 mg/kg. All other metals results were below the laboratory detection limits. Lead concentrations detected in soil samples SB06-0810 (750 mg/kg), SB08-0408 (1,000 mg/kg), and SB09-0810 (2,700 mg/kg) exceeded the VAP standards for residential and commercial/industrial land use. Chromium concentrations detected in soils samples SB06-0810 (24 mg/kg), SB07-0810 (49 mg/kg), and SB08-0408 (26 mg/kg) exceeded the VAP standard for residential land use.

The soils encountered at Site 10 consisted primarily of fill material, with some silt, clay, fine sand, and gravel. On the southern portion of the site, silt and sandy silt was underlain by fill consisting of sand, gravel, glass, asphalitic paper, and brick fragments. On the northern portion of the site, silt was underlain by fill consisting of sand, gravel, glass, plastic, brick, and wood fragments. Bedrock was not encountered in the soil borings, which were advanced to 10 feet bgs.

Groundwater was encountered in boring SB-06 at a depth of approximately 10 feet bgs. Groundwater was encountered in boring SB-08 at a depth of approximately 8 feet bgs. Moist soils were observed in other soil borings; however, measurable groundwater was not encountered. Localized groundwater flow across Site 10 is likely influenced by natural features, urban development, and underground utilities. The general flow direction at Site 10 is to the south, towards the Maumee River.

2.0 Response to Specific Regulatory Criteria

2.1 OAC 3745-27-13(F)(1) Name of Facility, if any, and type of facility
OAC 3745-27-13(F)(2) Address of the Site
OAC 3745-27-13(F)(3) County and Township in which the Site is located

Site 10 is located just east of Interstate 75 and consists of Parcel Nos. 0401791, 0402071, and 1872837. According to the Sanborn Maps, this site was depicted as vacant land from 1895 through 1904 and is indicated to be partially within the footprint of a retention pond from 1936 through 1951. In the aerial photographs from 1949 through 1962, the site appears to consist of disturbed land, which was reportedly a portion of the historic Toledo Municipal Landfill.

Currently, Parcels 0401791 and 0402071 are owned by Frazier Reams Jr. and are zoned industrial. Parcel 1872837 is owned by the City of Toledo and is zoned industrial.

The Site addresses are 324 (0401791) South Avenue and 354 South Avenue (0402071), Toledo, Ohio.

When the Phase 2 ESA report was published, no site tenant or owner was available for interview. ODOT did not observe any chemical storage or other environmentally significant operations or conditions on the site. Planned work on this site includes resurfacing and widening of the surrounding roadways and ramp.

A portion of the 7.5 minute U.S. Geological Survey (USGS) Topographical Map entitled Toledo Quadrangle is attached as Exhibit A.
The Lucas County Auditor’s Office information including the legal description, tax maps, and parcel information is attached as Exhibit B.

2.2 OAC 3745-27-13(F)(4) Name, address, and telephone number of person to contact for additional information regarding activities at the site.

Stacy Schimmoeller
District 2 Environmental Coordinator
ODOT District 2
317 East Poe Road, Bowling Green, Ohio 43402
(419) 373-4319

2.3 OAC 3745-27-13(F)(5) Size of Site

Site 10 encompasses approximately 5 acres. The exact area of the landfill is unknown.

2.4 OAC 3745-27-13(F)(6) Identification of the type and amount of waste present at the site, including a description of the process that created the waste and the time period of waste disposal.

From the 1940s through the 1960s, the site was partially within the footprint of a portion of the historic Toledo Municipal Landfill. Subsequent historical and regulatory records reviews did not indicate any additional information or records associated with former landfill operations at this site.

2.5 OAC 3745-27-13(F)(7) Description of activities proposed at the site

Planned work on this site includes resurfacing and widening of the surrounding roadways and ramp. In order to complete work, the existing slope must be cut to accept and compact a new slope. New soil will be added to the area.

Excavation Quantities for the project are attached as Exhibit C to this application.

Plan drawings and cross-sections showing ODOT’s proposed activities within Site 10 are attached as Exhibit D.

Methods of construction are not known at this time, and the Ohio EPA is reminded that ODOT must advertise bids from contractors to complete the work. Therefore, a conservative approach was taken in calculating the potential quantities of soil/waste that could be excavated. The excavation quantities for this project include excavation and drainage. An estimated 10,855 cubic yards (cy) of soil will be removed within the property limits during the project, as indicated in Exhibit C.

Materials excavated as part of the construction will be directly loaded onto transport trucks and delivered to the approved landfill.

The groundwater from the site is regulated and must be containerized, sampled and transported off site for disposal. Groundwater will be handled per OAC 3745-27-13 (H)(6) and per ORC 3734.

Excavation at the property boundary will be performed according to ODOT Standard Specifications. The Contractor will be responsible for disposing of all soil excavated. The soil may not be reused for any purpose and must be disposed of a landfill selected by the Contractor and approved by the Engineer. If excavations within the aforementioned limits require dewatering for construction purposes, the Contractor shall dewater, containerize, test and dispose of the water by methods approved by the Engineer. The Contractor shall obtain all necessary permits and/or authorizations needed to store, transport and dispose of the water in accordance with applicable local, state or federal regulations. Depending upon the test results, the Engineer will classify the water as regulated or non-regulated water. The Contractor shall be responsible for disposal of regulated water with a method approved by
the Engineer. Work involved with this Item Special includes complying with the handling, storage, and disposal of regulated and non-regulated water. All water collected from this project will be assumed hazardous until laboratory analytical proves otherwise. Disposal of any water or liquid waste encountered during construction will be managed in accordance with OAC 3745-27-13 (H)(6).

All applicable regulated waste requirements will be followed, as stipulated in ODOT 2013 CMS 107.19. Any stockpiled materials will be tarped with plastic or other water-repelling devices to limit the contact of excavated materials with precipitation and any consequent leachate generation.

2.6 OAC 3745-27-13(F)(8) Description of any institutional controls that apply to the Site

Currently there are no institutional controls that apply to Site 10.

2.7 OAC 3745-27-13(F)(9) Description of the manner in which the control of air emissions, control of leachate, surface water run-on and runoff, explosive and toxic gas migration, and protection of groundwater will be performed.

The excavation and grading will comply with all current and applicable local, state (ODOT) and federal safety codes, regulations and practices, including OSHA. The following steps will be taken for the control of air emissions, control of leachate, surface water run-on and runoff, explosive and toxic gas migration, and protection of groundwater:

Air Emissions

Proposed activities are not expected to generate dust emissions above the 10 pound per day de minimis threshold outlined in OAC 3745-15-5. Precautions will be taken in accordance with ODOT 2013 CMS 107.19 to control the dust emissions from excavation and grading. Therefore, dust emissions are not anticipated to be subject to Ohio EPA air emissions regulations.

Leachate Generation

There is no evidence to suggest that the Property is currently generating leachate. Phase II ESA soil borings installed in and February 2016 did not show signs of leachate. Should leachate be encountered, the contractor will be responsible for containerizing the liquid into temporary storage tanks (or drums), and characterized for the presence of regulated constituents. The liquid will be sampled and analyzed. The water will be containerized and transported off-site for proper disposal according to local, state and federal regulations.

Surface Water Run-On and Run Off

Currently, surface water runs-off the Property with virtually every precipitation event. The proposed project is not expected to increase surface run-on or run off. Roadside ditches and catch basins will collect surface water and route to the combined sanitary sewer. The potential runoff of silt during construction will be addressed through industry standard storm water pollution prevention measures described in ODOT Supplemental Specification 832, Temporary Sediment and Erosion Control.

All stockpiled materials will be tarped with plastic or other water-repelling devices to limit the contact of excavated materials with precipitation and any consequent leachate generation or surface water run-on/runoff. Once the construction has been completed, disturbed areas will be seeded and mulched in accordance with ODOT Construction Material Specification 659, Seeding and Mulching.

Explosive and Toxic Gas Migration

The activities associated with this authorization request consist of excavation in waste material and the construction of a freeway and associated drainage. Monitoring for explosive gases will be performed during the demolition and construction activities, in accordance with a Site Specific Health
and Safety Plan (SSHSP) to be prepared by the subcontractor. Should levels exceeding 10% of the lower explosive limit (LEL) be detected during the activities, then work will stop and not resume in affected area until levels return to below 1 % of the LEL.

Phase II ESA activities were performed in February 2016. Each bore hole was continuously monitored for explosive gases. No readings were observed during the installation of other borings.

Groundwater

Phase II ESA activities were performed in February 2016 and measurable Groundwater was not encountered.

For all waste materials, including any groundwater that may be encountered during construction, removed from the site, the analytical results from previous Phase II ESA sampling events will be used to select a suitable treatment or disposal facility. A certification report will be submitted to the OEPA for approval after the removal of applicable waste from the site. Waste materials removed from the site will be collected and disposed of in accordance with all applicable state and federal laws and regulations pertaining to environmental protection, including Chapter 3734 of the ORC.

2.8 OAC 3745-27-13(F)(10) Letter of Acknowledgement from the Property Owner(s)

Information obtained from the Lucas County Auditor’s Office indicates that Frazier Reams, Jr. and the City of Toledo own the parcels presented in Exhibit B.

As to Parcels owned by Frazier Reams, Jr., ODOT has filed an appropriation pursuant to Ohio Revised Code Title 55 and Chapter 163 on February 22, 2018. ODOT will provide OEPA the disposition of the appropriation not less than 30 days prior to commencing the proposed work. A copy of the petition to appropriate is attached as Exhibit E.

As to Parcels owned by the City of Toledo, ODOT has a perpetual Highway/Right of Way Easement covering the parcel allowing public highway and road purposes, which would include the proposed work. A copy of the Easement is attached as Exhibit F.

2.9 OAC 3745-27-13(F)(11) A Statement that the requirements contained in paragraphs OAC 3745-27-13 (H)(2)-(H)(6) will be followed.

OAC 3745-27-13(H)(1) - This provision is not applicable to this site or project.

OAC 3745-27-13(H)(2) - All construction contemplated as part of this request for authorization will not be initiated until April 2019. If funding becomes available earlier, ODOT will notify the OEPA. This date is beyond the thirty-one (31) day notification period referenced in OAC 3745-27-13(H)(2). Construction will not occur before thirty one days or prior to receiving authorization, whichever may arrive first.

OAC 3745-27-13(H)(3) - This provision is not applicable to this project.

OAC 3745-27-13(H)(4) - The activities contemplated under this request for authorization will include the removal of excess materials from the site. ODOT will rely upon the selected contractor to select facilities for disposal of excess materials that are in compliance with local, state and federal regulations based on sampling.

Using the results of the previous Phase II ESA investigations as In-situ characterization, approvals will be sought from the appropriate disposal facility depending on waste characterization. Copies of the analytical results and the identification of the intended disposal facility (including an acceptance letter from the intended disposal facility) will be submitted to the Ohio EPA in a certification report after removal. All excess materials will be disposed of in accordance with all applicable state and federal laws and regulations including ORC Chapter 3734.
The following steps will be taken for the control of air emissions, control of leachate, surface water run-on and runoff, explosive and toxic gas migration, and protection of groundwater:

**Groundwater**

If groundwater is encountered during construction activities at the sites, then the provisions outlined for management of leachate will be implemented.

**Air Emissions**

Proposed activities are not expected to generate dust emissions above the 10 pound per day de minimis threshold outlined in OAC 37 45-15-5. Precautions will be taken in accordance with ODOT 2013 CMS 107. 19 to control the dust emissions from excavation and grading. Therefore, dust emissions are not anticipated to be subject to Ohio EPA air emissions regulations.

**Leachate**

There is no evidence to suggest that the Property is currently generating leachate. Phase II ESA soil borings installed in February 2016 did not show signs of leachate. Should leachate be encountered, the contractor will be responsible for containerizing the liquid into temporary storage tanks (or drums), and characterized for the presence of regulated constituents. The liquid will be sampled and analyzed. The water will be containerized and transported off-site for proper disposal according to local, state and federal regulations.

**Surface Water Run-On/Runoff**

Currently, surface water runs-off the Property with virtually every precipitation event. The proposed project is not expected to increase surface run-on or run off. Roadside ditches and catch basins will collect surface water and route to the combined sanitary sewer. The potential runoff of silt during construction will be addressed through industry standard storm water pollution prevention measures described in ODOT Supplemental Specification 832, Temporary Sediment and Erosion Control.

All stockpiled materials will be tarped with plastic or other water-repelling devices to limit the contact of excavated materials with precipitation and any consequent leachate generation or surface water run-on/runoff.

Once the construction has been completed, disturbed areas will be seeded and mulched in accordance with ODOT Construction Material Specification 659, Seeding and Mulching.

Excavation and dewatering will be in compliance with ORC 3704, 3734 and 6111 and all applicable local, state and federal laws pertaining to environmental protection. Information regarding groundwater, air emissions, leachate and surface water can be found in section 2.7 Groundwater of this application.

OAC 3745-27-13(H)(6) - This section of the OAC states that “No excavation of waste shall occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of a licensed, permitted treatment or disposal facility in accordance with Chapter 3734, of the ORC and the regulations thereunder”. Any liquid removed from the excavation will be containerized and analyzed. The water will be transported off-site for proper disposal according to ORC Chapter 3734, OAC 3745-27-13 (H)(6), local, state and federal regulations.

For all waste materials to be removed from the site, the analytical results from previous Phase II ESA sampling events will be used to select a suitable treatment or disposal facility. A certification report will be submitted to the OEPA for approval after the removal of applicable waste from the site. Waste materials removed from the site will be collected and disposed of in accordance with all applicable
state and federal laws and regulations pertaining to environmental protection, including Chapter 3734 of the ORC.

The handling of groundwater, if encountered is discussed in section 2.7 Groundwater of this application.

OAC 3745-27-13(H)(7) - Materials excavated from the limits of the landfill will not be used as backfill for areas outside of the landfill limits or limits of waste.

OAC 3745-27-13(H)(8) - Should leachate be encountered, the contractor will be responsible for containerizing the liquid into temporary storage tanks, and characterized for the presence of regulated constituents. The liquid will also be sampled and analyzed. The water will be containerized and transported off-site for proper disposal according to local, state and federal regulations. If the liquid does not meet discharge requirements it will be managed in accordance with 3745-27-13 (H)(6). Further information regarding groundwater, air emissions, leachate, explosive and toxic gas migration and surface water can be found in section 2 of this application.

OAC 3745-27-13(H)(9) - Any fill that is acting as a “cap” will be replaced and restored to original or better condition in accordance with ORC 3734.

OAC 3745-27-13(H)(10) - A certification report consisting of the items found in OAC 3745-27-13 (H)(10)(a) and (b) shall be submitted within 60 days of completing the excavation activities.

2.10 OAC 3745-27-13(F)(12) A Statement that the applicable requirements contained in Chapter 3734 of the Ohio Revised Code will be followed by the applicant.

Applicable requirements contained in Chapter 3734 of the Ohio Revised Code will be followed by the applicant during the performance of the activities described in this request for authorization.

2.11 OAC 3745-27-13(F)(13) An affidavit affirming that the assertions in this application are true

An affidavit, executed by the ODOT District 2 Deputy Director is included as Exhibit G to this application. The affidavit asserts that the statements made in this application are true, complete, and accurate to the best of his knowledge.

2.12 OAC 3745-27-13(F)(14) and OAC 3745-27-13(I) Signature

An affidavit, executed by the ODOT District 2 Deputy Director is included as Exhibit G to this application.

Attachments:

Exhibit A - 7.5 minute U.S. Geological Survey (USGS) Topographical Map
Exhibit B - Lucas County Auditor’s Office Information
Exhibit C - Excavation Quantities
Exhibit D - Project Plan Drawings and Cross-Sections
Exhibit E - Appropriation Petition
Exhibit F - Copy of Highway/Right of Way Easement
Exhibit G - Affirmation Affidavit