

*** DRAFT – NOT FOR FILING ***

3745-512-55 Failed tests and alterations.

(A) Upon detection by the owner or operator or upon notification by the concurring authority that a failed test or an alteration which was not previously concurred with by the concurring authority has occurred in any engineered component or portion of a facility, the owner or operator shall comply with the procedures contained in this rule.

[Comment: Alternatives are not alterations. Use of an alternative material requires prior approval in accordance with rule 3745-512-17 of the Administrative Code.]

(B) Failed test. For the purposes of this rule, a failed test occurs when a test performed on an engineered component of the facility yields a result that does not meet the specifications established in the applicable authorizing document and in the rules. If, prior to submission of the construction certification report for the engineered component or portion of the facility, the owner or operator determines that there is a failed test, the owner or operator shall either comply with paragraph (C) of this rule or perform the following:

(1) Assess the engineered component or portion of the facility to determine if construction is in compliance with the applicable authorizing document and rules.

(2) Implement measures to attain compliance with the applicable authorizing document and rules. An area with a verified failure shall be reconstructed or, in the case of in situ foundation, have nonconforming material removed and replaced with structural fill or added geologic material. Reconstructed areas shall be retested at a frequency sufficient to demonstrate to the concurring authority that compliance was attained.

(C) Alteration. If, prior to submission of the construction certification report for the constructed engineered component or portion of the facility, the owner or operator determines that there is an alteration which was not previously concurred with by the concurring authority, the owner or operator shall include the information required by paragraph (G) of this rule in the construction certification report in accordance with rule 3745-512-50 of the Administrative Code.

(D) If, after submission of the construction certification report, the owner or operator determines that the construction certification report is in error because a failed test or an alteration which was not concurred with by the concurring authority was detected, the owner or operator shall do the following:

(1) Notify the concurring authority of the noncompliance verbally not later than twenty-four hours after detection and in writing not later than seven days after detection.

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(2) Not later than fourteen days after submitting the written notification required by paragraph (D)(1) of this rule, do either of the following:

(a) For a failed test, follow the applicable steps outlined in paragraph (B) of this rule and amend the construction certification report in accordance with paragraph (F) of this rule.

(b) For an alteration which was not previously concurred with by the concurring authority, submit the information required by paragraph (G) of this rule.

[Comment: Compliance with paragraph (D) of this rule does not relieve the owner or operator from liability for failure to construct or operate the facility in compliance with the applicable authorizing document, other requirements of this chapter, or failure to submit a certification report that is true, accurate, and complete as required by the construction certification requirements.]

(E) If the owner or operator is notified by the concurring authority that there is a failed test or an alteration which was not previously concurred with by the concurring authority, the owner or operator shall do the following:

(1) For a failed test detected prior to submission of the construction certification report, implement measures to attain compliance with the applicable authorizing document and rules. An area with a verified failure shall be reconstructed. Reconstructed areas shall be retested at a frequency sufficient to demonstrate to the concurring authority that compliance was attained.

(2) For an alteration detected prior to submission of the construction certification report, submit the information required by paragraph (G) of this rule in accordance with rule 3745-512-50 of the Administrative Code.

(3) For a failed test or an alteration detected after submission of the construction certification report, do either of the following not later than twenty-one days after receiving notice from the concurring authority:

(a) For a failed test, follow the applicable steps outlined in paragraph (B) of this rule and amend the construction certification report in accordance with paragraph (F) of this rule.

(b) For an alteration which was not previously concurred with by the concurring authority, submit the information required by paragraph (G) of this rule to the concurring authority.

(F) Amendments. The owner or operator amending the construction certification report shall submit the amendment to the concurring authority. The amendment shall contain the following:

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- (1) Identification of the engineered component and portion of the facility affected.
 - (2) Explanation of the circumstances of the failed test and how compliance was attained.
 - (3) Testing results from reconstructed areas.
 - (4) The signature and seal of a professional engineer.
- (G) Alterations. The owner or operator requesting an alteration shall provide the following information to the concurring authority:
- (1) Identification of the engineered component and portion of the facility affected and an explanation of the alteration.
 - (2) A demonstration that the alteration is at least equivalent to the requirements in the applicable authorizing document and rules.
 - (3) Supporting documentation including applicable testing results.
 - (4) If the failed test is a test required by rule 3745-512-10 of the Administrative Code, the alteration request shall include a revised geotechnical and stability analysis in accordance with rules 3745-511-20 to 3745-511-72 of the Administrative Code, as appropriate.
 - (5) If the alteration is requested after the construction certification report is submitted, the alteration request shall be signed and sealed by a professional engineer.