

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Norton Environmental	:	Director's Final
6200 Rockside Woods Blvd.	:	Findings and Orders
Independence, Ohio 44131	:	

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are hereby issued to Norton Environmental pursuant to the authority vested in the Director of Environmental Protection (Director) under sections 3734.02 and 3745.01 of the Ohio Revised Code (ORC).

II. PARTIES

These Orders shall apply to and be binding upon Norton Environmental and its successors in interest liable under Ohio law. No changes in ownership relating to Norton Environmental will, in any way, alter Norton Environmental's responsibilities under these Orders. Norton Environmental's obligations under these Orders may only be altered by the written approval of the Director.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734 and the regulations promulgated thereunder. Unless otherwise stated, all citations of the Ohio Administrative Code (OAC) shall refer to regulations currently effective.

IV. ACTION

Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-05(A)(4), the Director hereby makes the following Findings and issues the following Orders.

V. FINDINGS

1. Norton Environmental (Norton) is the owner, operator, permittee, and licensee of the Royalton Road Sanitary Landfill (Facility). The Facility is located at 3401 East Royalton Road (SR 82) in the City of Broadview Heights in Cuyahoga County, Ohio. The Facility is a sanitary landfill as defined in OAC Rule 3745-27-01. The Facility is currently operating in accordance with permit-to-install (PTI) number 02-3738, effective April 20, 1990, and PTI number 02-9306, effective March 20, 1998.
2. On April 17, 1997, Norton submitted a letter to the Ohio Environmental Protection Agency (Ohio EPA) requesting to use class I compost generated from the Medina County Class I Compost Facility (Compost Material) as daily cover at the Facility.
3. On March 20, 1998, Norton was granted approval to use Compost Material as alternative daily cover material at the Facility for a trial period lasting 180 days.
4. On May 22, 1998, Norton began using Compost Material as alternative daily cover material at the Facility in accordance with the March 20, 1998, approval.
5. On August 5, 1998, Norton submitted a second letter to Ohio EPA requesting to permanently use Compost Material as alternative daily cover material at the Facility.
6. On November 30, 1999, Norton was granted approval, pursuant to ORC Section 3734.02(G), to use Compost Material as alternative daily cover material at the Facility for a second 180-day trial period.
7. On August 15, 2002, Norton was granted approval, pursuant to ORC Section 3734.02(G), to use Compost Material as alternative daily cover material at the Facility for a third 180-day trial period.
8. On December 13, 2002, Norton submitted a certification report in response to Order No. 16 of the August 15, 2002, authorization.
9. OAC Rule 3745-27-19(F)(3) authorizes the director to approve alternative materials for use as daily cover if it can be demonstrated, to the satisfaction of the director, that the material provides protection comparable to conventional soil cover and is protective of human health and the environment.
10. Pursuant to OAC Rules 3745-27-01(B)(43) and (F), the Compost Material is solid

waste. OAC Rule 3745-27-19(F) specifically prohibits the use of solid waste as daily cover material.

11. Pursuant to ORC Section 3734.57(A), the owner or operator of a solid waste disposal facility must collect and remit to the state a fee of \$1.75 per ton for the disposal of solid wastes at the Facility.
12. Pursuant to ORC Section 3734.57(B), the solid waste management policy committee of a single or joint solid waste management district is authorized to levy a tiered disposal fee on solid wastes disposed at solid waste disposal facilities within that district. ORC Section 3734.57(B) further requires the owner or operator of the solid waste disposal facility operating in a solid waste management district where tiered disposal fees have been ratified to collect and remit to the solid waste management district the tiered fees on each ton of solid waste disposed at the facility.
13. Pursuant to ORC Section 3734.573(A), the solid waste management policy committee of a single or joint solid waste management district is authorized to levy a fee on each ton of solid wastes generated within the district.
14. ORC Section 3734.02(G) provides that the director may, by order, exempt any person generating, 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 permit or license or comply with other requirements of ORC Chapter 3734.
15. Because the Compost Material is capable of providing protection comparable to conventional soil cover, and since Norton must comply with the orders specified below, issuance of an exemption from the requirement of OAC Rule 3745-27-19(F), which prohibits the use of solid waste as daily cover, is unlikely to adversely affect the public health or safety of the environment.
16. Granting an exemption from the requirements to collect and remit disposal fees pursuant to ORC Sections 3734.57(A), 3734.57(B), and 3734.573(A) for use of the Compost Material as alternative daily cover material, in accordance with the request and the Orders specified below, is unlikely to adversely affect the public health or safety or the environment.

VI. ORDERS

1. Pursuant to ORC Section 3734.02(G), Norton is hereby exempted from the requirement of OAC Rule 3745-27-19(F), which prohibits the use of solid waste as daily cover, in order to use Compost Material as alternative daily cover material at the Facility, in accordance with all of the following orders.
2. Pursuant to ORC Section 3734.02(G), Norton is hereby exempted from the requirement to collect and remit the state disposal fee and any district tiered disposal fee or generation fee required by ORC Sections 3734.57(A), 3734.57(B), and/or 3734.573 for the Compost Material used as alternative daily cover material at the Facility. This exemption shall not apply to any Compost Material which is disposed of at the Facility working face.
3. Norton may only use Compost Material as defined in Finding No. 2. No other types of compost material or other solid waste may be used as daily cover without prior approval from Ohio EPA.
4. If Norton determines that the Compost Material is not satisfactory in controlling fire hazards, blowing litter, odors, insects, dust, birds or other vectors due to temporary site conditions, Norton shall immediately revert to the daily cover requirements of OAC Rule 3745-27-19(F) until conditions improve such that the Compost Material can perform effectively. Temporary conditions may include, but are not limited to, weather conditions that could adversely affect the performance of the Compost Material. Under such conditions, Norton may apply another alternative daily cover material that has been approved for use at the Facility, provided the alternative daily cover material is able to perform effectively under the inclement conditions.
5. If Norton determines that the Compost Material is ineffective or unsatisfactory under normal operating conditions, Norton shall immediately cease using the Compost Material as alternative daily cover material and revert to using conventional soil cover or another approved alternative daily cover material in accordance with OAC Rule 3745-27-19(F). Under such circumstances, Norton may apply another alternative daily cover material that has been approved for use at the Facility by Ohio EPA. Norton shall verbally notify Ohio EPA, Northeast District Office (NEDO) of this action by the end of the next working day and shall submit written notification to Ohio EPA, NEDO within 14 calendar days. This notification is not necessary if use of the Compost Material ceases on a temporary basis in accordance with Order No. 4.
6. If Ohio EPA determines that the use of Compost Material as alternative daily cover material is ineffective or otherwise unsatisfactory under normal operating conditions, the exemption in Order No. 1 to use Compost Material as alternative daily cover may

be revoked upon written notification of the Director. Immediately upon such revocation, Norton shall cease using the Compost Material as alternative daily cover material at the Facility and shall revert to using conventional soil cover in accordance with OAC Rule 3745-27-19(F). Under such circumstances, Norton may apply another alternative daily cover material that has been approved for use at the Facility.

7. The Compost Material shall be stockpiled on-site only in accordance with the permit alteration issued to Norton for the Facility on July 16, 1999. Any Compost Material disposed at the working face shall be covered with conventional soil daily cover or another alternative daily cover material approved at the Facility by the end of the working day.
8. The Compost Material shall not be used as intermediate or final cover material without prior approval from Ohio EPA. The Compost Material shall not be exposed for more than seven consecutive days. Any solid waste disposal area which remains inactive for a period of seven days and that has Compost Material as alternative daily cover material shall be covered with at least six inches of soil in accordance with OAC Rule 3745-27-19(F) by the end of the seventh day.
9. The Compost Material shall be applied by the end of each working day, or more frequently if necessary, to control fire hazards, blowing litter, odors, dust, insects, birds, and other vectors. Norton shall only use a reasonable thickness of Compost Material as alternative daily cover material. Application of an excessive thickness of Compost Material, beyond that which is reasonably expected to be necessary to fulfill its function as alternative daily cover material, shall constitute disposal and shall be recorded as such in accordance with Order No.14. A "reasonable thickness" of Compost Material is that which is equivalent to the thickness of conventional soil daily cover required to fulfill its intended purpose, unless an alternate thickness can be justified based on the performance of the Compost Material as alternative daily cover material.
10. All Compost Material brought to the Facility shall be applied to the Facility's authorized maximum daily waste receipt (AMDWR), whether used as alternative daily cover material or disposed at the Facility.
11. All water coming into contact with the Compost Material must be directed to a sedimentation basin or the leachate management system. Water and sediments from the sedimentation basin shall be tested and classified appropriately prior to being discharged or removed for disposal.
12. Norton shall comply, at all times, with Ohio EPA, Division of Surface Water regulations

adopted pursuant to ORC Chapter 6111.

13. The use of the Compost Material as alternative daily cover material shall be documented on Form 3 of the required Daily Log of Operations for each day it is used.
14. Norton shall record the following information:
 - a. Total amount of Compost Material brought to the Facility, in tons;
 - b. Total amount of Compost Material used as alternative daily cover material at the Facility, in tons;
 - c. Total amount of Compost Material disposed at the Facility, in tons.

The information specified in a., b., and c. above shall be recorded on a daily basis and shall be made available to Ohio EPA or the Cuyahoga County Health Department upon request. Norton shall include in the annual report prepared and submitted pursuant to OAC Rule 3745-27-19(M) a summary of the monthly totals of the above information and the total amount of Compost Material brought to the Facility, used as alternative daily cover material, and disposed at the Facility, in tons, for the calendar year represented by the annual report.

15. Nothing in these Findings and Orders shall be construed to authorize any waiver from any other requirements of applicable state solid waste laws or regulations except as specified herein. This exemption shall not be interpreted to release Norton from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment. Nothing in these orders shall be construed to indicate that Norton has operated, is operating, or will operate the facility in compliance with applicable laws, regulations, and authorizing documents.

IT IS SO ORDERED

Christopher Jones, Director
Ohio Environmental Protection Agency