

3745-28-01

**Infectious waste host fee - definitions.**

Terms are defined as follows:

(A) [Reserved.]

(B) [Reserved.]

(C) "Clerk" means the clerk of the township.

(D) [Reserved.]

(E) [Reserved.]

(F) ~~"Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.~~ [Reserved.]

(G) [Reserved.]

(H) [Reserved.]

(I)

(1) ~~"Incinerator" means any equipment, machine, device, article, contrivance, structure, or part of a structure used to burn solid or infectious wastes to ash~~ has the same meaning as in rule 3745-500-02 of the Administrative Code.

(2) "Infectious waste host fee" means a fee levied by a municipal corporation or township in accordance with section 3734.024 of the Revised Code.

(3) ~~"Infectious wastes" means any wastes or combination of wastes that includes cultures and stocks of infectious agents and associated biologicals, human blood and blood products, and substances that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent, including all of the following:~~ has the same meaning as in section 3734.01 of the Revised Code.

~~(a) Laboratory wastes;~~

- ~~(b) Pathological wastes, including human and animal tissues, organs, body parts, and body fluids and excreta that are contaminated with or are likely to be contaminated with infectious agents or zoonotic agents;~~
- ~~(c) Animal blood and blood products;~~
- ~~(d) Animal carcasses and parts;~~
- ~~(e) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Also included are waste materials from the rooms of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the "Centers for Disease Control" in the public health service of the United States department of health and human services, if specific wastes generated under the universal precautions system have been identified as infectious wastes by rules referred to in paragraph (I)(3)(g) of this rule.~~
- ~~(f) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals;~~
- ~~(g) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals, that the public health council created in section 3701.33 of the Revised Code, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents; and~~
- ~~(h) Any other waste materials the generator designates as infectious waste.~~

(J) [Reserved.]

(K) [Reserved.]

(L) [Reserved.]

(M) [Reserved.]

(N) [Reserved.]

(O)

- (1) "Off-site infectious waste treatment facility" means any infectious waste treatment facility, as defined in rule 3745-500-02 of the Administrative Code, for which a license is required under division (B) of section 3734.05 of the Revised Code or any solid waste ~~incineration~~ incinerator facility, as defined in rule 3745-500-02 of the Administrative Code, with a license issued under division (A) of section 3734.05 of the Revised Code ~~which~~ that includes a notation authorizing the treatment of infectious wastes.
- (2) "Operator" or "facility operator" ~~means the person responsible for the on-site supervision of technical operations and maintenance of a solid waste, construction and demolition debris, infectious waste, or industrial facility, or any parts thereof, which may affect the performance of the facility and its potential health or environmental impact or any person who has authority to make discretionary decisions concerning the daily operation of the solid waste, construction and demolition debris, infectious waste, or industrial facility.~~ "Operator" or "facility operator" also means the person responsible for the supervision of technical operations of a scrap tire transportation business has the same meaning as in rule 3745-500-02 of the Administrative Code.
- (3) "Owner" ~~means the person who holds title to the land on which the solid waste facility, industrial facility, construction and demolition debris facility, infectious waste treatment facility, or scrap tire transportation business is located or the person who owns a majority controlling interest in the facility~~ has the same meaning as in rule 3745-500-02 of the Administrative Code.

(P) [Reserved.]

(Q) [Reserved.]

(R) [Reserved.]

(S) [Reserved.]

(T) "Treasurer" means the treasurer of a municipal corporation.

~~(U)~~ [Reserved.]

~~(V)~~ [Reserved.]

~~(W)~~ [Reserved.]

~~(X)~~ [Reserved.]

~~(Y)~~ [Reserved.]

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~~(Z)~~ [Reserved.]

Effective:

Five Year Review (FYR) Dates: 10/17/2024

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 3734.026  
Rule Amplifies: 3734.024, 3734.025  
Prior Effective Dates: 11/17/1988 (Emer.), 03/09/1989 (Emer.), 06/12/1989,  
03/10/1993, 03/09/2009, 03/01/2013

3745-28-07

**Infectious waste host fees.**

- (A) A municipal corporation or township ~~in which an off-site infectious waste treatment facility or an off-site solid waste incinerator which also treats infectious wastes is located~~ may levy an infectious waste host fee of not more than five dollars per ton on the treatment of infectious ~~wastes~~waste at an off-site infectious waste treatment facility ~~or an off-site solid waste incinerator which also treats infectious wastes~~ located within the boundaries of the municipal corporation or township regardless of where the ~~wastes were~~waste was generated. The legislative authority of a municipal corporation or township may levy infectious waste host fees under this paragraph by enacting an ordinance or adopting a resolution establishing the amount of infectious waste host fees. ~~Upon so doing~~enactation of an ordinance or adoption of a resolution, the legislative authority shall mail a copy of the ordinance or resolution by certified mail or any other form of mail accompanied by a receipt to the director, the board of health of the health district having jurisdiction within the municipal corporation or township, and the owner or operator of each off-site infectious waste treatment facility located in the municipal corporation or township.
- (B) If a township or municipal corporation has enacted an ordinance or adopted a resolution levying infectious waste host fees on the off-site treatment of infectious ~~wastes~~waste as authorized by section 3734.024 of the Revised Code, ~~then~~ the owner or operator of the off-site infectious waste treatment facility ~~or off-site solid waste incinerator which also treats infectious wastes~~ shall, as a trustee of the township or municipal corporation, commence collection of the infectious waste host fee on the sixtieth day after the effective date of the ordinance or adoption of the resolution.
- (C) The owner or operator of ~~an~~the off-site infectious waste treatment facility ~~or an off-site solid waste incinerator which also treats infectious wastes~~ shall prepare ~~and file~~ monthly infectious waste host fee returns ~~with the treasurer or with the clerk. These infectious waste host fee returns shall indicate, using forms prescribed by the municipal corporation or township that at a minimum; report the total tonnage of infectious wastes~~waste treated at ~~a~~the off-site infectious waste treatment facility and the total amount of infectious waste host fees collected under section 3734.024 of the Revised Code. ~~Monthly infectious waste host fee returns shall be filed on a form prescribed by the municipal corporation or township.~~ Not later than sixty days after the end of the month to which such a return applies, the owner or operator of the off-site infectious waste treatment facility shall remit to the treasurer or to the clerk the return for that month together with the infectious waste host fees that were ~~required~~ to be levied on all infectious waste treated during the month as ~~indicated~~reported on the infectious waste host fee return. ~~All infectious waste host fee returns shall be notarized.~~

If the infectious waste host fee return and infectious waste host fees are not remitted within sixty days of the last day of the month to which the return applies, the owner or operator of the off-site infectious waste treatment facility shall pay an additional fifty ~~percent~~per cent of the amount of the infectious waste host fees for each month or fraction thereof that the fees were late. The late fee shall continue to accrue each month until the infectious waste host fees are remitted. The late fee shall be calculated using the following formula: total late fee due = (amount of infectious waste host fees that are late) x (.5) x (number of months that the infectious waste host fees are late, expressed as a whole number or fraction).

- (D) ~~Moneys received by the~~ The treasurer of a municipal corporation shall ~~be paid~~deposit moneys received into the general fund of the municipal corporation. ~~Moneys received by the~~ The clerk of a township shall ~~be paid~~deposit moneys received into the general fund of the township. The treasurer or the clerk, as appropriate, shall maintain separate records of the moneys received from the infectious waste host fees levied under this rule.
- (E) ~~Moneys collected under this rule~~ The township or municipal corporation shall ~~be used~~use money collected pursuant to this rule exclusively for the following purposes:
- (1) Providing financial assistance to the board of health of the health district having jurisdiction within the municipal corporation or township for the enforcement of the infectious waste provisions of Chapter 3734. of the Revised Code and rules, orders, and terms and conditions of permits and licenses adopted or issued thereunder.
  - (2) Providing local emergency response services in connection with ~~such an off-site~~ infectious waste treatment facility and the transportation of infectious wastes to ~~such an off-site~~ infectious waste treatment facility.
  - (3) Providing funding to a municipal corporation or township for conducting environmental monitoring programs in connection with off-site infectious waste treatment facilities located within the municipal corporation or township.
- (F) If an off-site infectious waste treatment facility is located in more than one township or municipal corporation, each may adopt an infectious waste host fee equal to the fraction of the land area of the infectious waste treatment facility located within the township or municipal corporation multiplied by five dollars per ton of infectious waste treated by the infectious waste treatment facility.

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3745-500-01

**General administration - applicability.**

(A) The rules in this multi-program chapter apply when referenced in either of the following:

- (1) A rule in a program chapter.
- (2) A rule in another multi-program chapter that was made applicable by a rule in a program chapter.

Program chapters are Chapters 3745-27, 3745-30, 3745-37, 3745-400, and 3745-520 to 3745-599 of the Administrative Code.

(B) Notwithstanding paragraph (A) of this rule, no person shall conduct, permit, or allow open dumping of solid waste. In the event that open dumping is occurring or has occurred at a property, the person responsible for the open dumping, the owner of the property, or the person who allows or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code; and ~~shall~~ submit verification that the solid waste has been properly managed.

[Comment: Prompt removal and disposal of solid waste does not relieve any obligations under state or federal environmental statutes. This may include environmental clean-up of the site or remediation of ground water contamination resulting from the open dumping.]

(C) Notwithstanding paragraph (A) of this rule, no person shall conduct, permit, or allow open dumping of infectious waste. In the event that open dumping is occurring or has occurred at a property, the person responsible for the open dumping, the owner of the property, or the person who allows or allowed open dumping to occur, shall promptly manage the infectious waste in accordance with Chapter 3734. of the Revised Code and submit verification that the infectious waste has been properly managed.

~~(C)~~(D) Notwithstanding paragraph (A) of this rule, disposal of solid waste under Chapter 3734. of the Revised Code by means of open burning, as defined in Chapter 3745-19 of the Administrative Code, is permitted only as provided therein.

(E) Notwithstanding paragraph (A) of this rule, no person shall dispose of treated or untreated infectious waste by open burning.

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Certification

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Date

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Prior Effective Dates: 04/02/2012, 04/18/2022

3745-500-02

**General administration- definitions.**

As used in this chapter and any chapter making these definitions applicable, terms in this rule are defined as follows:

(A)

- (1) "Administrative change" means an amendment to an authorizing document that does not constitute a modification or alteration to the facility or permit to install for the facility. An administrative change is not an action.
- (2) "Advanced recycling" has the same meaning as in section 3734.01 of the Revised Code.
- (3) "Advanced recycling facility" has the same meaning as in section 3734.01 of the Revised Code.
- (4) "Alteration" means a change to a facility from the requirements specified in the facility's authorizing document that is at least equivalent to rule requirements. An alteration is not a modification.
- (5) "Applicant" means any person who has applied for authorization in accordance with rules adopted under Chapter 3714. or 3734. of the Revised Code.
- (6) "Approved board of health" means a board of health of a health district placed on the approved list by the director in accordance with section 3714.09 or 3734.08 of the Revised Code, as applicable.
- (7) "Approved health district" means a health district placed on the approved list by the director in accordance with section 3714.09 or 3734.08 of the Revised Code, as applicable.
- (8) "Asbestos-containing waste materials" has the same meaning as in rule 3745-20-01 of the Administrative Code.

[Comment: Asbestos-containing waste materials includes asbestos-containing materials regulated under NESHAP, 40 C.F.R. Part 61, Subpart M (1984).]

- (9) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular person.
- (10) "Authorizing document" means a document issued, approved, or concurred with by the director, Ohio EPA, an approved board of health, the Ohio environmental review appeals commission, or a court of competent jurisdiction that describes activities that a person is either required to do, allowed to do, or prohibited

from doing, pursuant to and in compliance with applicable rules, statutes, and orders. Authorizing document includes but is not limited to a permit, license, registration, acknowledgment of registration, plan, alteration, approval to use an alternative material, and order.

- (11) "Authorized maximum daily waste receipt" or "AMDWR" means the maximum amount of solid waste a solid waste disposal facility may receive at the gate in any calendar day.

(B)

- (1) "Biomass fuels" are those fuels from any plant derived organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, forestry residues and sawdust, aquatic plants, and refuse derived fuel consisting of waste paper, cardboard, wood wastes and yard wastes, and animal wastes.
- (2) "Board of health" means the board of health of a city or general health district, the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or a representative delegated by the board of health to act on behalf of the board of health.

(C)

- (1) "Commingled yard waste" means yard waste that has been commingled with other solid wastes. Commingled yard waste does include containerized source-separated yard waste including but not limited to yard waste in paper or plastic bags where such bags are commingled with other solid wastes.
- (2) "Composting facility" means a site, location, tract of land, installation, or building used for composting of solid waste in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder. The composting facility includes the area of materials placement and any leachate management system structures.
- (3) "Constituent" means a compound or element suspended in, dissolved in, mixed in, or comprising of a liquid, gas, or solid.
- (4) "Construct" means to build, reconstruct, or repair when such activity affects any engineered component of a facility. Construct does not include routine maintenance activities.
- (5) "Construction and demolition debris" or "C&DD" has the same meaning as in rule 3745-400-01 of the Administrative Code.

- (6) "Construction and demolition debris co-located processing facility" or "co-located processing facility" means a processing facility that is located wholly within the facility boundary of a licensed construction and demolition debris facility, as that boundary is identified in the effective construction and demolition debris facility license.
- (7) "Construction and demolition debris facility" means any site, location, tract of land, installation, or building used for the disposal of construction and demolition debris.
- (8) "Construction and demolition debris processing facility" or "processing facility" means a site, location, tract of land, installation, or building that is used or intended to be used for the purpose of processing, transferring, or recycling construction and demolition debris that was generated off the premises of the processing facility. Construction and demolition debris processing facility does not include a facility that is licensed under section 3734.05 of the Revised Code as a solid waste transfer facility or a solid waste facility and does not include a licensed construction and demolition debris facility where processing of mixed C&DD occurs wholly within the designated unloading zone.
- (9) "Convert" means to alter the physical or chemical nature or properties.
- (10) "Cultures" and "stocks" mean materials derived from the management of agents infectious to humans and associated biologicals including but not limited to nutrient agars, gels, broths, human and primate cell lines, and impure animal cell lines. Cultures and stocks include discarded live or attenuated vaccines, toxins, culture dishes, and devices used to transfer, inoculate, or mix cultures. For the purposes of this definition, "toxin" means toxic biological material, whatever its origin and method of production, from animals or microorganisms including but not limited to bacteria, viruses, fungi, rickettsia, or protozoa; infectious substances; or a recombinant or synthesized molecule. A toxin includes any poisonous substance or biological product that may be engineered as a result of biotechnology, produced by a living organism, and any poisonous isomer or biological product, homolog, or derivative of such a substance.

(D)

- (1) "Developed spring" means any spring that has been modified by the addition of pipes or a collection basin to facilitate the collection and use of the spring water.
- (2) "Director" means the director of environmental protection or the director's authorized representative.

- (3) "Disposal" has the same meaning as in section 3714.01 or 3734.01 of the Revised Code, as appropriate.
- (4) "Disposal limits" means the horizontal and vertical boundaries within a solid waste facility where solid waste has been disposed, is being disposed, or will be disposed within those boundaries.

## (E)

- (1) "Establish" or "establishment" of a facility means to treat or dispose of waste or construct or install any facility components and includes excavation that is related to the construction of a facility or any components thereof. Establish or establishment includes conducting such activities at any location not authorized to treat or dispose of waste. Establish or establishment includes permitting a pre-existing building for use as a solid waste transfer facility or an infectious waste treatment facility. Establish or establishment does not include clearing, grubbing, or installing ground water monitoring wells.
- (2) "Execute" means to complete and sign a document acceptable to the director for the purpose of establishing a financial assurance instrument.
- (3) "Exemption" means a discretionary action of the director or the approved board of health, as applicable, that relieves the applicant from a requirement of Chapter 3714. or Chapter 3734. of the Revised Code or any rule adopted thereunder.

## (F)

- (1) "Feedstock" means a solid waste that will readily decompose during the composting process including but not limited to yard waste, agricultural waste, animal waste, food scraps, animal carcasses, raw rendering material, and mixed solid waste.
- (2) "Floodway" means the portion of the flood plain that conveys the flood flow.
- (3) "Food scraps" means unprocessed and processed vegetables, fruits, grains, dairy products, meats, and other residuals from food intended for human or animal consumption, and any compostable containers or compostable serveware that are commingled with the food scraps.
- (4) "Functionally equivalent," means when a practice, method, technique, procedure, design, material, or component performs the same function and provides the same or improved utility as is being required through the rule.

- (G) "Ground water" means any water below the surface of the earth in a zone of saturation.

## (H)

- (1) "Hazardous waste" means hazardous waste as defined in Chapter 3734. of the Revised Code and includes waste that is listed specifically as hazardous waste or exhibits one or more characteristics of hazardous waste as defined in Chapter 3745-51 of the Administrative Code.
- (2) "Health commissioner" means the individual occupying the office created by section 3709.11 or 3709.14 of the Revised Code or the health commissioner's authorized representative.
- (3) "Health district" means a city or general health district created by or under the authority of Chapter 3709. of the Revised Code.

## (I)

- (1) "Incinerator" means any equipment, machine, device, article, contrivance, structure, or part of a structure used to burn solid waste or infectious waste to ash.
- (2) "Independently audited" means reviewed by an independent certified public accountant in accordance with generally accepted accounting standards, or for a publicly-owned facility, an equivalent comprehensive audit performed by the auditor of the state of Ohio pursuant to Chapter 117. of the Revised Code.
- (3) "Infectious waste" has the same meaning as in section 3734.01 of the Revised Code.
- (4) "Infectious waste generator" or "generator" means a person who produces infectious waste or designates a waste as an infectious waste.
- ~~(4)~~(5) "Infectious waste handling area" means any area where infectious wastes are stored, loaded, unloaded, prepared for treatment, or treated. Infectious waste handling areas also include areas where vehicles or containers are decontaminated, areas where transportation of infectious wastes within the facility premises occurs, and areas where treated infectious wastes are unloaded, stored, and loaded.
- ~~(5)~~(6) "Infectious waste treatment facility" or "treatment facility" means a premises used for the treatment of infectious wastes and includes the following:
  - (a) A treatment facility that holds a license issued under division (B) of section 3745.05 of the Revised Code.

- (b) A solid waste facility that holds a license issued under division (A) of section 3734.05 of the Revised Code that includes a license notation that the facility also treats infectious wastes by the same method, technique, or process required to obtain a license under division (B) of this section 3734.05 of the Revised Code.
- (c) A premises owned or operated by a large generator of infectious waste where only infectious waste generated by the large generator are treated.

(J) [Reserved.]

(K) [Reserved.]

(L)

- (1) "Leachate" means liquid that has come in contact with or been released from solid waste.
- (2) "Legitimate recycling" has the same meaning as in section 3734.01 of the Revised Code.
- (3) "Legitimate recycling facility" has the same meaning as in section 3734.01 of the Revised Code.

[Comment: For the purposes of this definition, records include logs detailing the incoming and outgoing materials for the legitimate recycling facility.]

- (4) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other persons in the future as a result of past transactions or events.
- (5) "Licensing authority" means the approved board of health or in the absence of an approved board of health, the director.

(M) [Reserved.]

(N)

- (1) "Natural area" means any of the following:
  - (a) Areas designated by the director of natural resources as a state nature preserve, including all lands dedicated under the Ohio natural areas law, a state wildlife area, or a state wild, scenic, or recreational river.



- (b) Areas designated, owned, and managed by the Ohio history connection as a nature preserve.
  - (c) Areas designated by the United States department of the interior as a national wildlife refuge or a national wild, scenic, or recreational river.
  - (d) Areas designated by the United States forest service as either a special interest area or a research natural area in the Wayne national forest.
  - (e) Stream segments designated by Ohio EPA as a state resource water, a coldwater habitat, or an exceptional warmwater habitat.
- (2) "Nuisance" means anything that is injurious to human health or offensive to the senses; interferes with the comfortable enjoyment of life or property; and affects a community, neighborhood, or any considerable number of persons, although the extent of annoyance or damage inflicted upon individual persons may be unequal.

(O)

- (1) "Occupied dwelling" means the following, but does not include a dwelling owned or controlled by the owner or operator of a facility to which the siting criteria are being applied:
- (a) A building used or intended to be used in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence. For the purposes of this definition, "owner" means a person with the right to exclusive use, control, or possess a building.
  - (b) A place of worship as defined in section 5104.01 of the Revised Code.
  - (c) A child day-care center as defined in section 5104.01 of the Revised Code.
  - (d) A hospital as defined in section 3727.01 of the Revised Code.
  - (e) A nursing home as defined in section 3721.01 of the Revised Code.
  - (f) A school.
  - (g) A restaurant or other eating establishment.

- (2) "Occupied structure" means an enclosed structure where one or more human beings may be present, but does not include structures that are open to natural free air circulation such that the explosive gas hazard is minimized.
- (3) "Ohio EPA" means Ohio environmental protection agency.
- (4) "One hundred year floodplain" means any land area which is subject to a one per cent or greater chance of flooding in any given year from any source.
- (5) "Open burning" ~~means one of the following:~~ has the same meaning as in section 3734.01 of the Revised Code.
- ~~(a) The burning of solid wastes in an open area.~~
- ~~(b) The burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted by the director under section 3734.73 of the Revised Code.~~
- (6) "Open dumping" means the following:
- (a) The deposition of solid wastes, other than scrap tires, into waters of the state, and also means the final deposition of solid wastes on or into the ground at any place other than the following facilities operated in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder:
- (i) A solid waste facility.
- (ii) A legitimate recycling facility.
- (iii) An advanced recycling facility.
- (b) The deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder.

- (c) The deposition of solid wastes that consist of scrap tires in buildings, trailers, or other vehicles, unless for fewer than fourteen days at a scrap tire transporter's registered business location, a licensed scrap tire facility, or an unregistered scrap tire facility operating in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder.
  - (d) The deposition of untreated or treated infectious wastes into waters of the state, the deposition of untreated infectious wastes on or into the ground, and ~~also means~~ the final deposition of ~~untreated or~~ treated infectious wastes on or into the ground at any place other than a licensed solid waste facility operated in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder.
- (7) "Operator" or "facility operator" means either of the following:
- (a) Any person who has supervisory authority or the authority to make discretionary decisions concerning the construction, operation, maintenance, or monitoring of a solid waste facility, infectious waste treatment facility, or scrap tire transportation business.
  - (b) The same meaning as in rule 3745-400-01 of the Administrative Code.
- (8) "Owner" means the person who holds title to the land on which the solid waste facility, construction and demolition debris facility, construction and demolition debris processing facility, infectious waste treatment facility, or scrap tire transportation business is located.
- (P)
- (1) "Parameter" means a measurable factor of a liquid, gas, or solid such as temperature, pH, length, or elevation, and includes constituents of the liquid, gas, or solid.
  - (2) "Park" means any of the following:
    - (a) A state park established or dedicated under Chapter 1541. of the Revised Code.
    - (b) A state park purchase area established under section 1546.06 of the Revised Code.
    - (c) A unit of the national park system, or any property located in Ohio that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United

States department of the interior, or any candidate area located in Ohio and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as current on the date Ohio EPA received the permit to install application.

~~(3)~~ (3) "Pathological waste" includes but is not limited to any of the following that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent:

(a) Human and animal tissues, organs, and body parts, including those removed or obtained during surgery or autopsy or for diagnostic evaluation.

(b) Gross anatomical wastes such as human or animal limbs, sections containing bone, or animal carcasses, except small sections of tissue that are only several cells wide used for microscopic evaluation.

~~(3)~~(4) "Permitting authority" means the director or the approved board of health, as applicable.

~~(4)~~(5) "Person" includes the state, any political subdivision of the state or other state or local body, the United States and any agency or instrumentality thereof, and any legal entity or organization defined as a person under section 1.59 of the Revised Code, or other entity.

~~(5)~~(6) "Portable solid waste container" or "portable container" means a container used for solid waste transfer that is not part of the permanent structure of a transport vehicle, can be removed from the transporting vehicle without compromising the container's or the transporting vehicle's structural integrity, and can be removed from the transporting vehicle without utilizing destructive measures. Portable containers include trailers used to store and transport solid wastes.

~~(6)~~(7) "Premises" means either of the following:

(a) Geographically contiguous property owned by the same person.

(b) Noncontiguous property that is owned by the same person and connected by a right-of-way that the person controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by one or more public or private right-of-way are a single premises.

~~(7)~~(8) "Processed tire" or "processed scrap tire" means a scrap tire that has been altered through a mechanical, chemical, thermal, or controlled combustion process so that the resulting material is a marketable product or is suitable for storage or disposal in a scrap tire monocell or monofill facility. Processed tires include but is not limited to cut, split, and shredded tires. Baled tires are considered processed tires only for the purpose of disposal at a scrap tire monocell or monofill facility. For the purposes of disposal, processed tires are classified in accordance with the following:

- (a) Processed tires that are readily identifiable as scrap tires or pieces of scrap tires by visual inspection are considered scrap tires.
- (b) Processed tires that are not readily identifiable as scrap tires or pieces of scrap tires by visual inspection when disposed are considered solid waste rather than scrap tires, including but not limited to crumb rubber.
- (c) Items manufactured from processed tires and scrap tire material that is a by-product of a manufacturing process when disposed are considered solid waste.

~~(8)~~(9) "Professional engineer" means an individual authorized to practice the profession of engineering pursuant to Chapter 4733. of the Revised Code.

~~(9)~~(10) "Professional surveyor" means an individual authorized to practice the profession of surveying pursuant to Chapter 4733. of the Revised Code.

~~(10)~~(11) "Public water supply well" means any well connected to a public water system as defined by division (A) of section 6109.01 of the Revised Code.

(Q) [Reserved.]

(R)

(1) "Recycling" means converting solid waste that would otherwise be disposed and returning the converted material to commerce as a commodity for use or exchange in an established and legitimate market. Recycling is not reuse, storage, disposal, or transfer.

(2) "Registrant" means any person to whom a registration has been issued.

(3) "Regulatory floodplain" means an area covered by a one hundred year flood as depicted on a flood insurance rate map published by the federal emergency management agency.

- (4) "Reuse" means taking a solid waste that would otherwise be disposed and using it for its original purpose or a similar purpose, without converting the material. Reuse does not include using solid waste as fill. Reuse is not recycling, storage, transfer, or disposal.

(S)

- (1) "Scrap tire" has the same meaning as in section 3734.01 of the Revised Code.
- (2) "Scrap tire facility" includes but is not limited to a scrap tire collection facility, scrap tire storage facility, scrap tire recovery facility, scrap tire monofill facility, and scrap tire monocell facility.
- (3) "Scrap tire recovery facility" means any site, location, tract of land, installation, or building that is used or intended to be used for the processing of scrap tires for the purpose of extracting or producing usable products or materials, or energy from the scrap tires. Methods of processing include controlled combustion processes, mechanical processes, thermal processes, or chemical processes that uses whole, split, or shredded scrap tires as a raw material. A scrap tire recovery facility includes the following:
- (a) "Class I scrap tire recovery facility" means a scrap tire recovery facility with a permitted daily design input capacity of two hundred tons of scrap tires or greater.
- (b) "Class II scrap tire recovery facility" means a scrap tire recovery facility with a registered daily design input capacity of less than two hundred tons of scrap tires.
- (c) "Mobile scrap tire recovery facility" means a type of scrap tire recovery facility consisting of portable equipment that is designed by the manufacturer for regular movement from one site to another and is used for processing tires into a usable product, and specifically includes any tire cutting, baling, or shredding equipment. Mobile equipment used to process scrap tires into a usable product by the owner or operator of a licensed class I or class II scrap tire recovery facility in Ohio is not required to become a licensed and registered mobile scrap tire recovery facility. Mobile equipment used to reduce the size of scrap tires for load consolidation is not considered a mobile scrap tire recovery facility.
- (4) "Solid waste" has the same meaning as in section 3734.01 of the Revised Code.

- (5) "Solid waste disposal facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other approved methods of disposal of solid wastes.
- (6) "Solid waste energy recovery facility" means any site, location, tract of land, installation, or building where mixed solid waste or select solid waste streams, including scrap tires, is used as or intends to be used a fuel to produce energy, heat, or steam. A solid waste energy recovery facility includes the waste handling area, and the energy recovery unit and associated equipment.
- (7) "Solid waste facility" means a site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for collection, storage, or processing of the solid wastes; or for the transfer of solid wastes.
- (8) "Solid waste incinerator facility" means any site, location, tract of land, installation, or building where incineration of solid waste occurs. A solid waste incinerator facility includes the waste handling area, and the incinerator and associated equipment.
- (9) "Solid waste landfill" means an engineered facility where the final deposition of solid waste on or into the ground is practiced in accordance with Chapter 3745-27 or 3745-30 as appropriate and 3745-37 of the Administrative Code and includes the units within the limits of waste placement; all ground water monitoring and control system structures; buildings; explosive gas monitoring, control, and extraction system structures; surface water run-on and runoff control structures; sedimentation ponds; liner systems; and leachate management system structures. The solid waste landfill includes all portions of the facility described above and those areas within three hundred feet of the limits of waste placement unless an alternate setback is deemed acceptable by the director. If the owner or operator has not obtained approval of a permit to install, which delineates the setback from the limits of waste placement, submitted in accordance with section 3734.05 of the Revised Code, the solid waste landfill includes all portions of the facility described above and those areas within three hundred feet of the limits of waste placement unless the property line of the facility is less than three hundred feet from the limits of waste placement, in which case the solid waste landfill includes those areas within the property line.
- (10) "Solid waste management district" means a county that has established a resolution, or joint counties that have entered into an agreement, for the purposes of preparing, adopting, submitting, and implementing a solid waste

management plan for the county or joint counties and for the purposes of providing for, or causing to be provided for, the safe and sanitary management of solid waste within all of the incorporated and unincorporated territory of the county or joint counties and in compliance with Chapters 343. and 3734. of the Revised Code.

- (11) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that are generated off the premises of the facility from vehicles or containers into other vehicles or containers for transportation to a solid waste disposal facility. The term does not include the following:
- (a) Any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less, as long as the waste is not placed on the ground or on the waste handling floor.
  - (b) Any facility that accepts only source-separated recyclables or commingled recyclables that are currently recoverable utilizing existing technology.
  - (c) A legitimate recycling facility.
  - (d) An advanced recycling facility.
  - (e) A facility identified as any of the following:
    - (i) A solid waste disposal facility used for incineration or sanitary landfilling, including where the acceptance, unloading, processing, loading, and transport of solid waste for disposal are conducted within the boundary of the solid waste disposal facility.
    - (ii) A scrap tire collection, storage, recovery, monocell, or monofill facility operating in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder.
    - (iii) A construction and demolition debris facility operating in accordance with Chapter 3714. of the Revised Code and rules adopted thereunder where the operator has removed unauthorized solid waste from loads of C&DD for transport and management in accordance with Chapter 3734. of the Revised Code.
- (12) "Source-separated yard waste" means yard waste that has been separated from other solid waste at the point of generation or at the point of collection. Source separation includes but is not limited to such measures as placing yard waste in



portable containers and compartments of portable containers dedicated to yard waste collection, and in vehicles dedicated to yard waste collection.

(13) "Surface water" means any water on the surface of the earth.

(T)

(1) "Technologically enhanced naturally occurring radioactive material" or "TENORM" has the same meaning as in section 3748.01 of the Revised Code.

(2) "Tire derived fuel", "TDF", "tire derived chips", "tire chips" or "TDC" means a uniformly shredded product obtained from whole tires where the maximum size of ninety-five per cent of the shreds are less than four inches in any dimension. Tire chips is defined using the ASTM "Standard Practice for Use of Scrap Tires in Civil Engineering Applications," (D6270-20), section 3.2.10, and consists of pieces of scrap tires that have a basic geometrical shape, are between 12 mm (0.5 inch) and 50 mm (2 inch) in size, and have most of the wire removed. TDF and TDC are not scrap tires once the material has been transported from the scrap tire recovery facility for use as a fuel or for an authorized beneficial use.

(U) [Reserved.]

(V) "Variance" means an action of the director that changes a requirement of a rule adopted under Chapter 3734. of the Revised Code.

(W)

(1) "Water pollution" means the unpermitted release of sediment from disturbed areas, solid waste or waste-derived constituents, or leachate to the waters of the state.

(2) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(3) "Water supply well" includes potable and non-potable water supply wells.

(4) "Wetland" has the same meaning as in rule 3745-1-02 of the Administrative Code.

(5) "Working face" means that portion of a solid waste landfill where solid wastes are unloaded for final deposition.

(X) [Reserved.]

(Y) "Yard waste" means solid waste that includes the following:

- (1) Leaves.
- (2) Grass clippings.
- (3) Brush.
- (4) Tree trunks and stumps.
- (5) Prunings from trees or shrubs.
- (6) Any plant materials from residential trees and edible gardens.
- (7) Decorative plant materials that do not contain plastic, metal, polystyrene, or other non-compostable material including but not limited to any of the following:
  - (a) Pumpkins or gourds.
  - (b) Hay or straw bales.
  - (c) Holiday trees.
  - (d) Discarded or potted flowers.
  - (e) Wreaths.
  - (f) Grave blankets.

Yard waste does not include materials from industrial processing, agricultural processing, or food processing.

(Z) "~~Zone~~

- (1) "Zone of saturation" or "saturated zone" means that part of the earth's crust in which all voids are filled with water. Zone of saturation or saturated zone does not include the capillary zone.
- (2) "Zoonotic agent" has the same meaning as in section 3734.01 of the Revised Code.

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3745-500-210

**Variances for solid waste facilities and infectious waste.**

- (A) An applicant submitting an application for a variance for a solid waste facility, infectious waste treatment facility, or infectious waste generator shall complete the application on forms prescribed by the director and at a minimum include the following:
- (1) The provision or provisions of the state law for which the variance is requested.
  - (2) Detailed plans and specifications applicable to the variance request.
  - (3) Information regarding the objectives, procedures, and controls applicable to the variance request.
  - ~~(2)~~(4) Information regarding the reason and justification for the variance.
  - ~~(3)~~(5) Any other pertinent information and data regarding the application required by the director.
  - ~~(4)~~(6) A certification statement and signature in accordance with rule 3745-500-50 of the Administrative Code.
- ~~(B) In accordance with division (S)(1) of section 3745.11 of the Revised Code, the nonrefundable fee shall be paid at the time the application for a variance is submitted. If the application for a variance is part of an application for a permit to install, the variance application fee shall be paid in addition to the permit to install application fee.~~
- ~~(C)~~(B) The director shall issue, renew, modify, revoke, suspend, rescind, or deny ~~an application for a variance or renewal of a variance for a solid waste facility not later than six months after the date upon which the director receives a complete application with all pertinent information and data required unless the application for a variance is part of an application for a permit to install. If an application for a variance is part of an application for a permit to install, the director shall issue, renew, or deny an application for a variance or renewal of a variance concurrent with a final or proposed action on the permit to install application~~ in accordance with section 3734.02 of the Revised Code.
- ~~(D)~~(C) The director shall ~~not issue or, renew, modify, revoke, suspend, rescind, or deny~~ a variance for ~~a solid~~ an infectious waste treatment facility unless the applicant demonstrates to the director's satisfaction that construction, operation, and closure activities of the solid waste facility, in the manner approved by the variance and any terms or conditions imposed as part of the variance, does not create a nuisance or a hazard to public health or safety or the environment nor be likely to result in a

~~violation of any other requirements of Chapters 3704., 3714., 3734., and 6111. or an infectious waste generator in accordance with division (F) of section 3734.021 of the Revised Code and rules adopted thereunder.~~

~~(E)~~(D) When issuing or renewing a variance ~~for a solid waste facility~~ in accordance with this rule, the director shall act in accordance with Chapters 119., 3734., and 3745. of the Revised Code, as applicable.

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3745-500-220

**Exemptions from the requirements of Chapters 3714. and 3734. of the Revised Code.**

- (A) An application for an exemption from a requirement of Chapter 3714. or 3734. of the Revised Code or the rules adopted under those chapters shall include the following:
- (1) The provision or provisions of the state law for which the exemption is requested.
  - (2) Information regarding the reason and justification for the exemption including any effects on the public health and safety and the environment or potential fire hazards if the exemption is granted.
  - (3) Any other pertinent data regarding the application ~~required~~requested by the director or the approved board of health, as applicable.
  - (4) A certification statement and signature in accordance with rule 3745-500-50 of the Administrative Code.
- (B) Pursuant to division (G) of section 3734.02 of the Revised Code, the director may exempt any person processing scrap tires or generating, collecting, storing, treating, disposing of, or transporting solid wastes, including scrap tires, or infectious wastes, from any requirement of Chapter 3734. of the Revised Code or any rules adopted thereunder if granting the exemption is unlikely to adversely affect the public health or safety or the environment.
- (C) Pursuant to section 3714.04 of the Revised Code, the director or the approved board of health may exempt any person disposing of or proposing to dispose of construction and demolition debris from any requirement of Chapter 3714. of the Revised Code or any rules adopted thereunder if granting the exemption is unlikely to adversely affect the public health or safety or the environment or to create a fire hazard.
- (D) When issuing an exemption, the director or the approved board of health shall act in accordance with Chapters 119., 3709., 3714., 3734., and 3745. of the Revised Code, as applicable.
- (E) The director or the approved board of health, as applicable, may decline to act on a request for an exemption.

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3745-501-05

**Licensing requirements.**

(A) No person shall operate or maintain a solid waste facility, a construction and demolition debris facility, or a construction and demolition debris processing facility without a separate license for each facility as required by Chapter 3714. or 3734. of the Revised Code and the rules adopted thereunder. The requirement to obtain a separate license does not apply to a construction and demolition debris facility and a co-located processing facility operating or proposing to operate under a single license.

[Comment: Failure to obtain a renewal license is grounds for closure.]

(B) Unless otherwise excluded by paragraph (C) of this rule, no person shall operate an infectious waste treatment facility without an infectious waste treatment facility license.

(C) Infectious waste treatment facility exclusions. An infectious waste treatment facility is ~~not required~~ excluded from the requirement to obtain a license if the infectious waste treatment facility meets any of the following criteria:

(1) ~~Is owned or operated by the generator of the wastes~~ infectious waste and exclusively treats ~~wastes~~ waste that ~~are~~ is generated at any premises owned or operated by that generator ~~regardless of whether the wastes are generated on the same premises where the generator's treatment facility is located. Treatment of the wastes shall occur utilizing methods, techniques, and practices established by rules adopted under division (C)(1) or (C)(3) of section 3734.021 of the Revised Code. The owner or operator of an infectious waste facility operating in accordance with this paragraph may accept infectious waste generated by small quantity generators for treatment in Chapter 3745-570 of the Administrative Code.~~

(2) Is a hospital, as defined in section 3727.01 of the Revised Code, that exclusively accepts infectious wastes for treatment that are generated by any of the following:

(a) Generators who produce fewer than fifty pounds of infectious wastes during any one month, are not listed on a registration certificate as a generator of infectious wastes, and have staff privileges at the hospital.

(b) An emergency medical service organization, as defined in section 4765.01 of the Revised Code, regardless of whether the infectious waste was generated in providing care to the patient at the scene of an emergency or during the transportation of the patient to the hospital.

(c) An individual for purposes of the individual's own care or treatment.

- ~~(2)~~(3) Holds a license for a crematory facility issued under ~~section 4717.17~~Chapter 4717. of the Revised Code and a permit issued under Chapter 3704. of the Revised Code.
- ~~(3)~~(4) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:
- (a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584.21 U.S. C.A. 603.
  - (b) Chapter 918. of the Revised Code.
  - (c) Chapter 953. of the Revised Code.
- ~~(4)~~(5) Holds a solid waste facility license with a notation on the license that the facility also treats infectious waste in accordance with division (B) of section 3734.05 of the Revised Code.
- (D) A license issued pursuant to this chapter is effective until December thirty-first of the year for which the license is issued, unless revoked.

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3745-550-01            **Solid waste incinerator or energy recovery facility - applicability.**

(A) This chapter is the program chapter for solid waste incinerator facilities and solid waste energy recovery facilities.

(B) This chapter is applicable to any person who establishes or is the owner or operator of a facility.

[Comment: Solid waste incineration or energy recovery is not subject to Chapter 3745-27 of the Administrative Code unless an order or authorizing document specifies otherwise.]

(C) In addition to the rules made applicable by reference in this chapter, the following rules also apply:

(1) Rule 3745-500-35 of the Administrative Code, which pertains to relationships among authorizing documents, rules, and the authority of the director and board of health.

(2) Rule 3745-500-130 of the Administrative Code, which pertains to retention and distribution of authorizing documents.

(3) Rule 3745-500-150 of the Administrative Code, which pertains to altering a solid waste permit to install.

(4) Rule 3745-500-210 of the Administrative Code, which pertains to variances.

(5) Rule 3745-500-220 of the Administrative Code, which pertains to exemptions.

(6) Rule 3745-500-360 of the Administrative Code, which pertains to administrative changes to a solid waste permit to install.

(D) Chapter 3745-502 of the Administrative Code, which pertains to solid waste fees, is applicable to any person who establishes, owns, or operates a facility.

(E) An owner or operator that applies for or maintains a solid waste license with an infectious waste notation in accordance with section 3734.05 of the Revised Code is subject to the applicable provisions of Chapter 3745-570 of the Administrative Code.

~~(E)~~(F) This chapter is not applicable to the following:

(1) An owner or operator of a facility that incinerates exclusively wastes generated on one or more premises owned by the person who owns the facility.

- (2) Solid waste disposal by means of open burning, as authorized in accordance with Chapter 3745-19 of the Administrative Code, permitted only as provided therein.
- (3) Industrial processes subject to rule 3745-17-11 of the Administrative Code and fuel-burning equipment subject to rule 3745-17-10 of the Administrative Code that utilize biomass fuels or tire derived fuel as a supplemental fuel.
- (4) The disposal of animals destroyed as a result of an infectious or contagious disease in accordance with section 941.14 of the Revised Code.

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