3745-27-02 **Permit to install.**

(A) Except as provided in paragraph (D) of this rule, no person shall establish or modify a solid waste facility or infectious waste treatment facility without obtaining a permit to install issued by the director.

[Comment: According to Chapter 3734. of the Revised Code and the rules promulgated thereunder, solid waste facilities requiring a permit include sanitary landfill facilities (including scrap tire monofills), transfer facilities, class I compost facilities, solid waste incinerators or solid waste recovery facilities, class I scrap tire storage facilities, and class I scrap tire recovery facilities.]

(B) For the purposes of this rule, "establish" or "establishment" of a sanitary landfill facility, infectious waste treatment facility, compost facility, scrap tire facility, or transfer facility means to construct or install any of the proposed facility components, and includes excavation that is related to the construction of a facility or any components thereof. "Establish" or "establishment" does not include clearing and grubbing.

(C) For the purposes of this rule, "modify" or "modification" means:

(1) A sanitary landfill facility undergoing:

(a) A change in the authorized maximum daily waste receipt established for the facility.

(b) A substantial horizontal or vertical increase in the limits of waste placement as that term is defined in rule 3745-27-01 of the Administrative Code, including but not limited to those modifications specified in division (A)(2)(d) of section 3734.05 of the Revised Code.

[Comment: A reduction to the limits of waste placement or total capacity by itself is generally not considered to be a modification, unless the reduction also results in other substantial changes to the facility such that paragraph (C)(1)(c) of this rule is applicable.]

(c) Any change which may endanger human health or the environment, including but not limited to a change to operation, technique of waste received, type of waste received, or design or construction of the facility, as determined by the director.

(2) A solid waste transfer facility undergoing:

(a) Any substantial expansion of the waste handling area.

(b) Any substantial change to the location of the waste handling area.

(3) An infectious waste treatment facility undergoing:

(a) A substantial change in waste handling at the facility, including, but not limited to:

(i) Type of waste received.

(ii) Any change in the facility's treatment technology or technologies.

(b) An increase in the treatment capacity of the facility. For the purposes of this rule, "treatment capacity" means the maximum amount of waste permitted by Ohio EPA to be charged into the treatment unit per hour, or the engineered throughput capacity per hour if no such permitted capacity is authorized.

(c) Any other substantial change which may endanger human health or the environment.

(4) A Class I composting facility undergoing:

(a) Any substantial expansion of the material placement area.

(b) Any substantial change to the location of the material placement area.

(c) Any change in type of waste received.

(5) A solid waste incinerator or solid waste energy recovery facility undergoing:

(a) Any substantial expansion of the waste handling area.

(b) Any substantial change to the location of the waste handling area.

(6) A Class I scrap tire storage facility or Class I scrap tire recovery facility undergoing:

(a) An increase in the designated daily design input capacity (DDIC) only when it requires an increase in the facility's annual license fee. Any decrease in a facility's DDIC would not be considered a modification.

(b) Changes requiring the issuance of new or additional special conditions to the permit.

(c) A change to store any whole or processed scrap tires outside of a building or in enclosed containers) if previously there were no scrap tires designated to

be stored outside a building or in enclosed containers or if there were specific limitations on scrap tires stored outside of a building or in enclosed containers.

(d) Any substantial expansion to the scrap tire handling area or scrap tire storage area.

(D) Exceptions. The following are not required to obtain a permit to install:

(1) The solid waste facility is for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

(2) The municipal solid waste landfill is required to install an “interim composite liner system” pursuant to rule 3745-27-20 of the Administrative Code.

(3) The infectious waste treatment facility is owned or operated by the generator of the wastes and treats wastes that are generated at any premises owned or operated by the generator.

(4) The infectious waste treatment facility is owned or operated by a hospital, as defined in section 3727.01 of the Revised Code; and

(a) Treats sharp wastes that are generated by a generator who has staff privileges at that hospital and produces fewer than fifty pounds of infectious wastes in any one month; or

(b) Treats wastes that are generated in providing care to a patient by an emergency medical services organization, as defined in section 4765.01 of the Revised Code; or

(c) Treats wastes generated by an individual for purposes of the individual's own care or treatment.

(5) The infectious waste treatment facility holds a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code.

(6) The infectious waste treatment facility 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, (2007).

(b) Chapter 918. of the Revised Code.

(c) Chapter 953. of the Revised Code.

(7) Any unit of a hazardous waste facility for which a hazardous waste facility installation and operation permit is required by Chapter 3734. of the Revised Code.

(8) Solid waste facilities that are holding a current registration pursuant to Chapter 3734. of the Revised Code and rules promulgated thereunder.

(E) Permit application.

(1) Each person proposing to establish or modify a solid waste facility or infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the director as he deems necessary in order to determine whether the criteria for approval have been met.

(2) Each application for a permit to install shall be accompanied by a nonrefundable application fee established in Chapters 3734. and 3745. of the Revised Code.

(3) Every applicant for a permit, other than for a permit modification, shall file a disclosure statement, on a form developed by the attorney general, with the director and the attorney general at the same time the applicant files an application for a permit with the director.

(4) The application for a permit to install shall be signed by either the owner or operator of the facility shall be one of the following:

(a) In the case of a corporation, a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility.

(b) In the case of a partnership, a general partner.

(c) In the case of a limited liability company, a manager, member, or other duly authorized representative of the limited liability company, if such representative is responsible for the overall operation of the facility.

(d) In the case of sole proprietorship, the owner.

(e) In the case of a municipal, state, federal, or other governmental facility, the principal executive officer, the ranking elected official, or other duly authorized employee.

(5) The signatures on the application for a permit to install shall constitute personal affirmation that all statements or assertions of fact made in the application are true and complete, comply fully with applicable state requirements, and shall

subject the signatory to liability under those state laws forbidding false or misleading statements.

(6) The applicant for a municipal solid waste landfill, industrial solid waste landfill, residual waste landfill, or solid waste transfer facility, undergoing one or more of the following, shall also submit within thirty days of the public meeting on the application, as specified in division (A)(2)(d) of section 3734.05 of the Revised Code, a copy of the transcript of the public meeting on the application, copies of any exhibits, displays or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(a) Establishing a new facility.

(b) Any increase of more than ten per cent in the total capacity of the existing facility.

(c) Any expansion of the limits of solid waste placement of the existing facility.

(d) Any increase in the depth of excavation at the existing facility.

(e) Any change in the technique of waste receipt or type of waste received at the existing facility that may endanger human health.

(F) A permit to install shall be issued, modified, revoked, or denied and may be appealed in accordance with provisions of the rules of procedure of Ohio EPA, Chapter 3745-47 of the Administrative Code and section 3734.09 of the Revised Code.

(G) Issuance of the permit.

(1) In deciding whether to grant or deny a permit to install, the director shall evaluate whether the construction, operation, closure, and if applicable, post closure care of the facility is capable of fulfilling all appropriate regulatory requirements for protecting surface water, ground water, and air by soliciting the input and coordinating the issuance of the permit to install with all relevant divisions of Ohio EPA, as specified in the appendix of this rule. The director may consult with other divisions or persons as the director deems appropriate.

(2) In deciding whether to grant or deny a permit to install, the director may take into consideration the social and economic impact of the air contaminants, water pollutants, or other adverse environmental impact that may be a consequence of issuance of the permit to install.

(H) Terms and conditions.

(1) The director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code.

(2) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(I) Termination.

(1) A permit to install for a new facility shall terminate three years after the effective date of the permit to install if the owner or operator has not undertaken a continuing program of installation or has not entered into a binding contractual obligation to undertake and complete within a reasonable time a continuing program of installation of the new facility.

(2) The owner or operator may request the establishment of a new termination date. Such request shall be submitted to the director and provide justification for the extension of time and an analysis demonstrating that the facility continues to meet the applicable siting criteria and design standards established in the current version of the rules.

(3) The director may establish a new termination date not to exceed twelve months of the current effective date if he determines that the owner or operator has adequately justified an extension of time and has demonstrated that the facility continues to meet the applicable siting criteria and design standards established in the current version of the rules.

(J) Administrative change to the permit. An administrative change to the permit is an amendment that does not result in a modification or alteration to the facility. A permit may be administratively changed for the following reasons:

(1) To update administrative information including but not limited to the telephone number, address, or name of the facility.

(2) To clarify or correct Ohio EPA typographical errors contained in the permit. Such changes must be made solely for the purpose of clarification or correction

of typographical errors and do not constitute a modification or alteration of the facility.

(3) To establish a new termination date of the permit to install in accordance with paragraph (I)(3) of this rule.

(K) Revocation of the permit. The director may revoke a permit to install if one or a combination of the following occur:

(1) Any cause that would require disqualification pursuant to division (A), (B), (D), or (E) of section 3734.44 of the Revised Code from receiving a permit upon original application.

(2) Fraud, deceit, or misrepresentation in securing the permit or in the conduct of the permitted activity.

(3) Offering, conferring, or agreeing to confer any benefit to induce any other individual or business concern to violate the provisions of Chapter 3734. of the Revised Code, or any rule adopted thereunder, or of any other law relating to the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous wastes.

(4) Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any permit holder.

(5) Preventing, without authorization of the director, any individual or business concern from transferring or disposing of solid wastes or hazardous wastes at a permitted treatment, transfer, storage, or disposal facility other than a facility owned or operated by the permit holder, or preventing, without authorization of the director, any individual or business concern from treating infectious waste at a licensed infectious waste treatment facility other than a facility owned and operated by the permit holder.

(L) This rule shall not exempt any person from compliance with any other applicable law.

Effective:	07/01/2008
R.C. 119.032 review dates:	11/01/2012

_____

Certification

_____

Date

Promulgated Under:	119.03
Statutory Authority:	3734.02, 3734.12, 3734.021, 3734.73
Rule Amplifies:	3734.02, 3734.12, 3734.05, 3734.021, 3734.73, 3734.09, 3734.44, 3734.76, 3734.77, 3734.78
Prior Effective Dates:	10/17/2003, 11/01/2007

APPENDIX

	To be Reviewed by:		
Project Type	DSW	DAPC	DDAGW
Sanitary landfill Municipal Solid Waste Industrial Solid Waste Residual Waste Scrap Tire	X	X	X
Transfer Facility	X	X	
Infectious Waste Treatment	X	X	
Class I Composting Facility	X	X	X
Solid Waste Incinerator	X	X	
Scrap Tire Class I Storage and Recovery Facilities	X	X	

DSW - Division of Surface Water
DAPC - Division of Air Pollution Control
DDAGW - Division of Drinking and Ground Waters