

**3745-37-01****Solid waste facility license or infectious waste treatment facility license or construction and demolition debris facility license required.**

- (A) No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district.

[Comment: Not all compost and infectious waste treatment facilities require licenses to operate. See Chapter 3734. of the Revised Code and Chapter 3745-27 of the Administrative Code for the applicability of specific licensing rules.]

- (B) No person shall operate or maintain an infectious waste treatment facility unless such person holds a valid and unexpired license for such facility issued by the board of health of the health district wherein the facility is located, or by the director, if the director has assumed the licensing function pursuant to section 3734.08 of the Revised Code, unless:
- (1) The facility is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (C)(3) of section 3734.021 of the Revised Code, wastes that are 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. Such facilities may accept for treatment infectious waste generated by small quantity generators; or
  - (2) The facility holds a license issued under section 4717.17 and a permit issued under Chapter 3704. of the Revised Code; or
  - (3) The 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, as amended;

- (b) Chapter 918. of the Revised Code;
- (c) Chapter 953. of the Revised Code.

An infectious waste treatment facility shall hold either an infectious waste treatment facility license or a solid waste facility license in accordance with division (B)(3) of section 3745.05 of the Revised Code, which requires the notation on the license that the facility also treats infectious waste.

- (C) No person shall establish, modify, operate or maintain a construction and demolition debris facility without a construction and demolition debris facility license issued by the licensing authority except as otherwise specified in this rule. An application for a construction and demolition debris facility license shall be made in accordance with Chapter 3745-37 of the Administrative Code and shall be submitted as follows:
  - (1) A person proposing to open a new facility shall submit a license application at least ninety days before proposed operation of the facility; and
  - (2) The owner or operator of a facility that was in operation or under construction prior to the effective date of this rule shall submit a license application in accordance with rule 3745-37-02 of the Administrative Code not later than six months after the effective date of this rule. The owner or operator may continue to operate the facility until the licensing authority issues a final action on the license application in accordance with Chapter 3745-37 of the Administrative Code and division (C) of section 3714.06 of the Revised Code.

[Comment: If the owner or operator chooses to continue operations prior to obtaining a license but after the effective date of this rule, the owner or operator is required to comply with rule 3745-400-11 of the Administrative Code for operation of the facility.]

[Comment: The six month grace period gives the owner or operator of an existing facility time to plan future facility development with the realization that once an initial license is issued, compliance with all applicable requirements of Chapter 3745-400 of the Administrative Code will be required.]
- (D) Chapter 3745-400 of the Administrative Code shall not apply to facilities that ceased acceptance of construction and demolition debris prior to the effective date of this rule.

**HISTORY:** Eff 7-29-76; 5-1-90; 9-30-96

**3745-37-02 Solid waste facility license, infectious waste treatment facility license or construction and demolition debris facility license application.**

(A)

- (1) The owner or operator of a solid waste facility or infectious waste treatment facility or construction and demolition debris facility shall be the applicant for a facility license. Applications for solid waste facility licenses required by rule 3745-37-01 of the Administrative Code or infectious waste treatment facility licenses required by division (B) of section 3734.05 of the Revised Code and rule 3745-37-01 of the Administrative Code, or construction and demolition debris facility licenses required by division (A) of section 3714.06 of the Revised Code and rule 3745-37-01 of the Administrative Code shall be made on forms prepared by the director and shall contain such information as the director may require. An applicant for a construction and demolition debris facility license shall submit two copies of the application to the licensing authority; and
- (2) An incomplete application shall not be considered. Within thirty days of the receipt of an incomplete application or sixty days in the case of an incomplete construction and demolition debris facility license application, the applicant shall be notified of the nature of the deficiency and of refusal by the director or the board of health to consider the application until the deficiency is rectified and the application completed; and
- (3) For construction and demolition debris facilities, if the licensing authority determines that information in addition to that required by this rule is necessary to determine whether the application satisfies the requirements of Chapters 3745-400 and 3745-37 of the Administrative Code, the license applicant shall supply such information as a precondition to further consideration of the license application.

(B) Applications for solid waste licenses or infectious waste treatment facility licenses or construction and demolition debris facility licenses shall be signed by the owner or operator of the solid waste facility or infectious waste treatment facility or construction and demolition debris facility:

- (1) If the owner or operator is a political subdivision, the application shall be signed by the chief administrative officer or contractual officer of said subdivision; or
- (2) If the owner or operator is a corporation, the application shall be signed by the corporate officer having direct responsibility for the facility; or
- (3) If the owner or operator is an organization other than a corporation, the application shall be signed by an equivalently responsible individual; or
- (4) If the owner or operator is an individual or sole proprietorship, the application shall be signed by the owner or operator.

(C) The signatures on a license application 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 applicable state laws concerning the submittal of false or misleading statements. The signatures shall constitute an

agreement that the signatories shall assume responsibility for compliance with Chapter 3734. of the Revised Code and Chapters 3745-27 and 3745-37 of the Administrative Code for solid waste or infectious waste treatment facility licenses or in the case of a construction and demolition debris facility license with Chapter 3714. of the Revised Code and Chapters 3745-400 and 3745-37 of the Administrative Code.

(D) Applications for solid waste facility licenses or infectious waste treatment facility licenses or construction and demolition debris facility licenses shall be made:

- (1) At least ninety days prior to the anticipated date for accepting waste or debris at the facility; and
- (2) For those construction and demolition debris facilities under construction or in operation on the effective date of this rule, within six months of the effective date of this rule; and
- (3) During the month of September, if the licensed facility will continue operations beyond December thirty-first.

Any license application not filed in the manner set forth in paragraph (D) of this rule shall not be considered.

(E) A construction and demolition debris facility license application shall include:

[Comment: Paragraph (D) of rule 3745-400-11 of the Administrative Code requires all permits, required by Chapters 3704. and 6111. of the Revised Code, be obtained by the owner or operator prior to debris placement. Note that depending on which types of permits are required, timeframes for obtaining those permits may vary from the ninety days established for a construction and demolition debris facility license.]

- (1) The facility design plan required in paragraph (A) of rule 3745-400-07 of the Administrative Code; and
- (2) In the initial license application, a letter from the local fire department stating that the department will respond to fires at the facility; and
- (3) Delineation of the following on a plan drawing meeting the specifications in paragraph (F)(2) of rule 3745-400-07 of the Administrative Code:
  - (a) Proposed active licensed disposal area; and
  - (b) Proposed inactive licensed disposal area(s):
    - (i) That have no debris placed in the area; and
    - (ii) For an existing facility, that has not been filled after the effective date of this rule but does not have a dense vegetative cover on it; and

- (iii) That have been capped in accordance with paragraphs (D) and (E) of Rule 3745-400-07 of the Administrative Code as applicable and received a capping certification approval, after the effective date of this rule, as required by paragraph (A)(3) of rule 3745-400-08 of the Administrative Code. These areas shall be subdivided and labeled as to the date the designated area received a capping certification approval by the licensing authority; and
- (c) For an existing facility, unfilled areas as of the effective date of this rule where debris is placed after the effective date of this rule and where liner or leachate collection system installation is delayed. This requirement applies to existing facilities for license years 1997, 1998, and 1999; and

[Comment: Paragraph (B) of rule 3745-400-11 of the Administrative Code allows filling in unlined areas up to a maximum of six contiguous acres or until January 1, 1999, whichever event occurs first.]

- (4) The acreage for each area designated in paragraph (E)(3) of this rule; and
- (5) For informational purposes only provide, in years, the remaining life of the facility; and
- (6) All financial assurance documentation required by rule 3745-400-13 of the Administrative Code; and
- (7) A debris placement plan, prepared by a professional engineer, which includes the following information on drawings and in narrative form. If plan drawings are used, the drawings shall be on plan sheets with a minimum dimension of twenty-four inches by thirty-six inches. The scale on the plan drawings shall be one inch equals no greater than two hundred feet and the contour interval shall be no greater than five feet. The debris placement plan shall include the following:
  - (a) Facility operation plan drawing(s) which includes the following information:
    - (i) Facility boundaries and limits of debris placement; and
    - (ii) Delineation of the areas and construction sequence for systematic construction activities in the unfilled areas of the proposed active licensed disposal area; and
    - (iii) Delineation of the areas designated for debris placement in the proposed active licensed disposal area and delineation of sequence of operational activities to ensure that operations are in compliance with rule 3745-400-11 of the Administrative Code; and
    - (iv) Depiction of which ground water monitoring system wells from the facility design plan information that will be installed or will continue to be sampled throughout the licensing period; and

- (v) Direction of flow for all surface waters at the facility, including the location of all run-on and run-off controls (e.g. ditches) for the limits of debris placement. For informational purposes only, show the location of any storm water, erosion and sediment controls required by the clean water act and regulated by the Ohio EPA division of surface water (e.g. sedimentation pond, etc.); and

[Comment: The reason for including the locations of the control structures regulated by the division of surface water is so that the plan identifies the entire drainage plan for the facility. However, Chapters 3745-37 and 3745-400 of the Administrative Code only regulate the run-on and run-off controls for the limits of debris placement.]

- (vi) All access roads needed to be constructed and operating during the licensure period; and
- (b) Detail drawings of the surface water run-on and run-off control structures; and
  - (c) Pre-acceptance debris screening program narrative if the owner or operator chooses to implement such a program in place of the establishment of an unloading zone as required by rule 3745-400-11 of the Administrative Code. The program narrative shall include the following information:
    - (i) Procedures for recording and maintaining records of the following: generator identification, source of the debris, the types of debris in the load including affirmation that the load does not contain prohibited materials, whether the debris arrives at the facility unprocessed or processed (e.g. shredded), and a written verification by the generator for each load of debris stating answers to all of the information required above; and
    - (ii) A description of procedures and the personnel responsible for determining waste acceptance and for documenting decisions concerning waste acceptance. These procedures shall include:
      - (a) Procedures for conducting random inspection of incoming loads with visual observation of the load to identify prohibited materials; and
      - (b) Procedures to be utilized upon discovery of prohibited materials; and
      - (c) Procedures for recording the incidence of discovery of prohibited materials and measures taken in response to each incident; and
      - (d) Procedures for training personnel conducting waste review and inspection activities; and

- (d) For an existing facility, plan drawings showing the horizontal limits of any soil barrier layer for construction over placed debris.

[Comment: For an existing facility, a barrier layer may be constructed at any time until January 1, 1999, when all areas for debris placement in the facility shall have isolation material, as specified in paragraph (A) of rule 3745-400-09 of the Administrative Code, or a liner or a barrier layer or a final cap system as specified in paragraphs (F) and (G) of rule 3745-400-07 of the Administrative Code.]

HISTORY: Eff 7-29-76; 5-1-90; 6-1-94; 9-30-96

**3745-37-03 Criteria for issuing solid waste facility licenses, infectious waste treatment facility licenses, or construction and demolition debris facility licenses.**

- (A) The board of health or the director, whichever is applicable, shall not issue a solid waste facility license unless:
- (1) A permit to install, if required by section 3734.05 of the Revised Code has been obtained by the applicant; and
  - (2) Detail plans have been approved by the director, if required by section 3734.05 of the Revised Code; and
  - (3) In the case of a previously or currently operating site or facility, the applicant operated the facility in substantial compliance with all applicable provisions of Chapter 3734. of the Revised Code and with Chapters 3745-27 and 3745-37 of the Administrative Code during the period of effectiveness of the last license held for the facility; and
  - (4) In the case of new facilities, the facility is adequately prepared for operations, and has been inspected by the health commissioner and by the director or his authorized representative; and
  - (5) The person identified as the operator of the facility is competent and qualified to operate the facility in substantial accordance with Chapter 3734. of the Revised Code and Chapters 3745-27 and 3745-37 of the Administrative Code; and
  - (6) The solid waste facility treating infectious waste has an infectious waste notation and has met the requirements under rule 3745-27-32 of the Administrative Code.
- (B) The board of health or the director, whichever is applicable, shall not issue an infectious waste treatment facility license unless:
- (1) A permit to install, if required by section 3734.05 of the Revised Code, has been obtained by the applicant; and
  - (2) Detail plans have been approved by the director, if required by division (B)(2)(e) of section 3734.05 of the Revised Code; and

- (3) In the case of a previously or currently operating site or facility, the applicant operated the facility in substantial compliance with all applicable provisions of Chapter 3734. of the Revised Code and with Chapters 3745-27 and 3745-37 of the Administrative Code during the period of effectiveness of the last license held for the facility; and
  - (4) In the case of new facilities, the facility is adequately prepared for operations, and has been inspected by the health commissioner and by the director or his authorized representative; and
  - (5) The person identified as the operator of the facility is competent and qualified to operate the facility in substantial accordance with Chapter 3734. of the Revised Code and Chapters 3745-27 and 3745-37 of the Administrative Code.
- (C) The licensing authority shall not issue a construction and demolition debris facility license unless:
- (1) All portions of the proposed facility meet the requirements contained in rule 3745-400-06 of the Administrative Code; and
  - (2) The applicant has operated the facility in substantial compliance with all applicable provisions of Chapter 3714. of the Revised Code and with Chapters 3745-400 and 3745-37 of the Administrative Code; and
  - (3) The owner or operator, who has previously or is currently responsible for the management or operation of one or more facilities licensed under Chapters 3714. or 3734. of the Revised Code, has managed or operated such facility in substantial compliance with applicable provisions of Chapters 3714., 3704., 3734., and 6111. of the Revised Code, and any rules and permits issued thereunder, and has maintained compliance with all applicable orders issued by the director, or from a board of health maintaining a program on the approved list, the environmental board of review, or courts having jurisdiction in accordance with Chapter 3746-13 of the Administrative Code, in the course of such previous or current management or operations.
- (D) The licensing authority of a construction and demolition debris facility may impose such special terms and conditions as are appropriate or necessary to ensure that the facility will comply with Chapter 3714. of the Revised Code and Chapter 3745-400 of the Administrative Code, and to protect public health and safety and the environment.

**HISTORY:** Eff 7-29-76; 5-1-90; 9-30-96

## **3745-37-04 Action by board of health or director.**

- (A) The board of health or the director shall either grant or deny a solid waste facility license within ninety days of the date upon which a complete application is received, unless detail plans required by rule 3745-27-06 of the Administrative Code have not been approved and permits required by Chapter 3745-31 of the Administrative Code have not been issued by the director prior to expiration of this ninety day period. For new facilities, a license shall be issued or denied following the director's final issuance of the facility's solid waste facility permit but not later than thirty days after the site has been inspected as required by paragraph (A)(4) of rule 3745-37-03 of the Administrative Code.
- (B) All licenses applied for pursuant to paragraph (D) of rule 3745-37-02 of the Administrative Code shall contain an effective date of January first. Licenses applied for pursuant to paragraph (D)(1) of rule 3745-37-02 of the Administrative Code shall be effective upon the date of issuance.
- (C) The board of health or the director shall either grant or deny an infectious waste treatment facility license within ninety days of the date upon which a complete application is received, unless detail plans required by rule 3745-27-37 of the Administrative Code have not been approved and permits required by Chapter 3745-31 of the Administrative Code have not been issued by the director prior to expiration of this ninety day period. For new facilities, a license shall be issued or denied following the director's final issuance of the facility's infectious waste treatment facility permit but not later than thirty days after the site has been inspected as required by paragraph (B)(4) of rule 3745-37-03 of the Administrative Code.
- (D) The licensing authority shall either grant or deny a construction and demolition debris facility license within ninety days of the date upon which a complete application is received. When a license is granted, the licensing authority shall remit one copy of the approved license application to the licensee with the license.

**HISTORY: Eff 7-29-76; 5-1-90; 9-30-96**

## **3745-37-05 Expiration of licenses.**

All solid waste facility licenses, infectious waste treatment facility licenses or construction and demolition debris facility licenses shall expire on December thirty-first of the year in which they become effective.

**HISTORY:** Eff 7-29-76; 5-1-90; 9-30-96

## **3745-37-06 Transfer of licenses.**

- (A) A person holding a solid waste facility license or infectious waste treatment facility license or construction and demolition debris facility license shall not transfer said license to another person unless the license holder notifies the board of health and the director in writing of the identity of the transferee and of the transferee's assumption of his obligations, at least one hundred twenty days prior to the proposed date of the transfer. The license transfer shall not be effective until approved by the director and by the board of health if the board is the license-issuing authority. The license holder shall publish prominent notice of the request for transfer of the license in the paper of general circulation in the county in which the facility is located at four-week intervals.
- (B) Not later than one hundred twenty days after receiving such notice, the board of health or the director shall approve or disapprove the transfer. The transfer shall be disapproved if the board or the director concludes, based on the transferee's previous operations, that the transferee will not operate the facility in substantial compliance with Chapter 3734. of the Revised Code and Chapters 3745-27 and 3745-37 of the Administrative Code in the case of a solid waste facility or infectious waste treatment facility license, or with Chapter 3714. of the Revised Code and Chapters 3745-400 and 3745-37 of the Administrative Code in the case of a construction and demolition debris facility license, or that the facility cannot be brought into substantial compliance. The board of health or the director shall promptly notify the transferee and the transferor of his or its decision in writing and shall state the reasons for his or its conclusions.
- (C) A solid waste facility license or infectious waste treatment facility license or construction and demolition debris facility license shall not be transferred from one facility to another.

**HISTORY:** Eff 7-29-76; 5-1-90; 9-30-96

**3745-37-07 Procedures for granting, denying, suspending, modifying, revoking, or disapproving transfer of solid waste facility licenses, infectious waste treatment facility licenses or construction and demolition debris facility licenses.**

- (A) In granting, denying, suspending, modifying, revoking or disapproving transfer of solid waste facility licenses, or infectious waste treatment facility licenses, or construction and demolition debris facility licenses, the director shall act in accordance with the requirements of Chapters 3714., 3734., and 3745. of the Revised Code.
- (B) In granting, denying, suspending, modifying, revoking, or disapproving transfer of solid waste facility licenses, or infectious waste treatment facility licenses, the board of health shall act in accordance with Chapter 3734. and sections 3709.20 and 3709.21 of the Revised Code. In granting, denying, suspending, modifying, revoking, or disapproving transfer of construction and demolition debris facility licenses, the licensing authority shall act in accordance with Chapter 3714. and sections 3709.20 and 3709.21 of the Revised Code.

**HISTORY:** Eff 7-29-76; 5-1-90; 9-30-96

## 3745-37-08 Approved list of health districts.

- (A) The director shall maintain the following approved lists of health districts:
- (1) The solid and infectious wastes program approved list of health districts for the purpose of issuing a license to a solid waste facility or infectious waste treatment facility under section 3734.05 of the Revised Code; and
  - (2) The construction and demolition debris program approved list of health districts for the purpose of issuing a license to a construction and demolition debris facility under section 3714.06 of the Revised Code.
- (B) Health districts placed on the solid and infectious wastes program approved list are also concurrently placed on the construction and demolition debris program approved list as required by division (A) of section 3714.09 of the Revised Code. Health districts removed from the solid and infectious wastes program approved list in accordance with division (B) of section 3734.08 of the Revised Code are also removed from the construction and demolition debris program approved list as required by division (A) of section 3714.09 of the Revised Code. Health districts which are not on the solid and infectious wastes program approved list in accordance with division (A) or (B) of section 3734.08 of the Revised Code may request that the director place the health district on the construction and demolition debris program approved list in accordance with division (B)(1) of section 3714.09 of the Revised Code.
- [Comment: The criteria for the placement of a health district on the director's construction and demolition debris approved list is contained in paragraphs (B) and (C) of rule 3745-37-09 of the Administrative Code.]
- (C) The director shall survey annually each health district on the solid and infectious wastes program approved list as provided by section 3734.08 of the Revised Code to determine whether there is substantial compliance with Chapter 3734. of the Revised Code and with Chapters 3745-27 and 3745-37 of the Administrative Code. Substantial compliance shall be deemed to exist if:
- (1) Applications for solid waste facility licenses or infectious waste treatment facility licenses are on file for each licensed solid waste facility or infectious waste treatment facility in the health district; and
  - (2) Applications are properly completed with all required information; and
  - (3) All known solid waste facilities or infectious waste treatment facilities operating in the health district and required to hold licenses by section 3734.05 of the Revised Code do hold valid and unexpired licenses; and

- (4) No license has been issued for any new solid waste facility or new infectious waste treatment facility prior to the director's issuance of required permits and approval of required detail plans; and
- (5) Certification of inspection and compliance has been made to the director within thirty days after issuance of a solid waste facility license, or infectious waste treatment facility license as required by section 3734.07 of the Revised Code; and
- (6) The health district inspects solid waste facilities or infectious waste treatment facilities subject to Chapter 3745-27 or 3745-37 of the Administrative Code, with sufficient frequency to insure substantial compliance therewith, and in any event inspects each such solid waste facility or infectious waste treatment facility at least quarterly, and inspects each such new solid waste facility or infectious waste treatment facility at least biweekly during the first three months of operation. Such quarterly inspections shall include inspection of any transport vehicles that are on the premises at the time of inspection; and
- (7) The health district maintains a file of information relating to each licensed solid waste facility and infectious waste treatment facility throughout each facility's operation and applicable closure and applicable postclosure periods. Each file shall include applications for solid waste licenses, or infectious waste treatment facility licenses, certification records, inspection records, approved plans, litigation information (except that privileged by the attorney-client relationship), and other pertinent information; and
- (8) The health district undertakes appropriate actions against persons holding solid waste licenses or infectious waste treatment facility licenses and against persons who operate solid waste facilities or infectious waste treatment facilities without holding required solid waste licenses, or infectious waste treatment facility licenses, and against other persons, whenever necessary to bring about substantial compliance with Chapter 3734. of the Revised Code and Chapters 3745-27 and 3745-37 of the Administrative Code; and
- (9) The health district takes immediate action to abate serious hazards to the public health resulting from violations of Chapter 3734. of the Revised Code, and Chapters 3745-27 and 3745-37 of the Administrative Code; and
- (10) The health district complies with rule 3745-37-07 of the Administrative Code; and
- (11) The health district seeks legal assistance from appropriate state and local agencies as necessary to carry out its assigned responsibilities.

- (D) The director shall survey annually each health district on the construction and demolition debris program approved list as provided by section 3714.09 of the Revised Code, to determine whether there is substantial compliance with Chapter 3714. of the Revised Code and with Chapters 3745-400 and 3745-37 of the Administrative Code. Substantial compliance shall be deemed to exist if:
- (1) Applications for construction and demolition debris facility licenses are on file for each licensed construction and demolition debris facility in the health district; and
  - (2) Applications are properly completed with all required information; and
  - (3) All known construction and demolition debris facilities operating in the health district and required to hold licenses by section 3714.06 of the Revised Code do hold valid and unexpired licenses; and
  - (4) Certification of inspection and compliance has been made to the director within thirty days after issuance of a construction and demolition debris facility license as required by section 3714.08 of the Revised Code; and
  - (5) The health district inspects construction and demolition debris facilities subject to Chapter 3745-400 or 3745-37 of the Administrative Code, with sufficient frequency to insure substantial compliance therewith, and in any event inspects each such construction and demolition debris facility at least quarterly, and inspects each such new construction and demolition debris facility at least bi-weekly during the first three months of operation; and
  - (6) The health district maintains a file of information relating to each licensed construction and demolition debris facility throughout operation and closure of the facility. Each file shall include applications for construction and demolition debris facility licenses, inspection records, approved exemptions and plans, certification records, litigation information (except that privileged by the attorney-client relationship), and other pertinent information; and
  - (7) The health district undertakes appropriate actions against persons holding construction and demolition debris facility licenses, and against persons who operate a construction and demolition debris facility without holding a required construction and demolition debris facility license and against other persons, whenever necessary to bring about substantial compliance with Chapter 3714. of the Revised Code and Chapters 33745-400 and 3745-37 of the Administrative Code; and
  - (8) The health district takes immediate action to abate serious hazards to the public health resulting from violations of Chapter 3714. of the Revised Code and Chapters 3745-400 and 3745-37 of the Administrative Code; and

- (9) The health district complies with rule 3745-37-07 of the Administrative Code; and
- (10) The health district seeks legal assistance from appropriate state and local agencies as necessary to carry out its assigned responsibilities; and
- (11) Each health district construction and demolition debris staff person possesses either a registered sanitarian/sanitarian in training certificate, the equivalent educational background required to be a registered sanitarian, or two years adequate work experience inspecting waste facilities; and
- (12) The health district maintains a file of information relating to each exemption issued, and each special term and/or condition imposed with each license issuance. The file shall include a copy of each exemption order issued and each license issued that contains special terms and/or conditions, as well as the health district's written justification for each action.

[Comment: Ohio EPA review of the documentation will be limited to ensuring that all documentation is complete and is incorporated into the file, not whether the documentation is technically adequate. A health district will not be removed from the construction and demolition debris program approved list for issuing an exemption or adding terms and/or conditions to a license. However, if the documentation for the action is not filed, the director may determine that the health district is not in substantial compliance with Chapter 3714. of the Revised Code.]

(E) If the director determines that:

- (1) In accordance with sections 3734.08 and 3714.09 of the Revised Code, there is substantial compliance with Chapters 3734. and 3714. of the Revised Code and Chapters 3745-27, 3745-400, and 3745-37 of the Administrative Code, he shall place the health district upon both the solid and infectious wastes program approved list and the construction and demolition debris program approved list; and
- (2) In accordance with division (B) of section 3714.09 of the Revised Code, there is substantial compliance with Chapter 3714. of the Revised Code and Chapters 3745-400 and 3745-37 of the Administrative Code, he shall place the health district upon the construction and demolition debris program approved list.

(F) If the director determines that:

- (1) In accordance with division (B) of section 3734.08 and division (A) of section 3714.09 of the Revised Code, there is not substantial compliance with Chapters 3734. and 3714. of the Revised Code and Chapters 3745-27,

3745-400, and 3745-37 of the Administrative Code, he shall promptly notify the health district of his determination by certified mail. The director or his authorized representative shall also consult with and advise the health district regarding its ineligibility to be placed on the both the solid and infectious wastes program approved list and the construction and demolition debris program approved list and steps to be taken to bring the solid waste program and/or infectious waste program and/or construction and demolition debris program into compliance; and

(2) In accordance with division (B) of Section 3714.09 of the Revised Code, there is not substantial compliance with Chapter 3714I. of the Revised Code and Chapters 3745-400 and 3745-37 of the Administrative Code, he shall promptly notify the board of health of his determination by certified mail. The director or his authorized representative shall also consult with and advise the health district regarding its ineligibility to be placed on the construction and demolition debris program approved list and steps to be taken to bring the construction and demolition debris program into compliance.

(G) Between one hundred twenty and one hundred eighty days after the mailing of the notice required by paragraph (F) of this rule, the director shall re-survey the health district. If he determines that there is substantial compliance, he shall maintain the health district on the applicable approved list(s). If he determines that there is still not substantial compliance, he shall promptly:

(1) Enter such determination into his journal; and

(2) Notify the health district of his determination by certified mail; and

(3) Publish notice of his determination in the Ohio EPA "Weekly Review"; and

(4) Publish notice of his determination in a newspaper of general circulation in the area within the jurisdiction of the health district.

(H) Within fifteen days after receipt of the notice specified by paragraph (G)(2) of this rule, the health district shall comply with the requirements of division (B) of section 3734.08 and section 3714.09 of the Revised Code.

**HISTORY: Eff 7-29-76; 5-1-90; 9-30-96**

**3745-37-09 Return of solid waste facility, infectious waste treatment facility, and construction and demolition debris facility licensing function to health districts.**

- (A) The director shall return the solid waste facility licensing and infectious waste treatment facility licensing and construction and demolition debris facility licensing function to a health district from which he has taken the licensing function pursuant to section 3734.08 and division (A) of section 3714.09 of the Revised Code and rule 3745-37-08 of the Administrative Code if he determines that the health district is both capable of and willing to enforce all applicable requirements of Chapters 3734. and 3714. of the Revised Code and Chapters 3745-27, 3745-400, and 3745-37 of the Administrative Code.
- (B) The director shall return the construction and demolition debris facility licensing function to a health district from which he has taken the licensing function pursuant to division (B) of section 3714.09 of the Revised Code and rule 3745-37-08 of the Administrative Code if he determines that the health district is both capable of and willing to enforce all applicable requirements of Chapter 3714. of the Revised Code and Chapters 3745-400 and 3745-37 of the Administrative Code.
- (C) The director shall place a health district not currently on the solid and infectious wastes program approved list on the construction and demolition debris facility program approved list if he determines that the health district is both capable and willing to enforce all applicable requirements of Chapter 3714. of the Revised Code and 3745-400 and 3745-37 of the Administrative Code.
- (D) In making the determination required in paragraph (A) or (B) of this rule, the director shall take into consideration:
  - (1) (a) Changes in or additions to the staff; and
  - (b) Increases in the funds available to the health district for enforcement of Chapters 3734. and/or 3714. of the Revised Code and Chapters 3745-27, 3745-400, and 3745-37 of the Administrative Code; and
  - (c) For the construction and demolition debris facility licensing function, staff credentials as required in paragraph (D)(11) of rule 3745-37-08 of the Administrative Code; and

- (2) Written assurances from the health district of increased efforts on the part of the district; and
  - (3) Decreases in the number or complexity of the solid waste facilities, infectious waste treatment facilities, or construction and demolition debris facilities that would be within the health district's jurisdiction; and
  - (4) Any other factor that indicates to the director that the health district meets the criteria set forth in paragraph (A) or (B) or (C) of this rule.
- (E) If the director makes the determination described in paragraph (A) or (B) or (C) of this rule, he shall promptly:
- (1) Enter such determination into his journal; and
  - (2) Notify the health district of his determination by certified mail; and
  - (3) Publish notice of his determination in the Ohio EPA "Weekly Review"; and
  - (4) Publish notice of his determination in a newspaper of general circulation in the area within the jurisdiction of the health district.

**HISTORY: Eff 7-29-76; 5-1-90; 9-30-96**

## **3745-37-10 Time for inspections.**

Whenever a person requests in writing that the health commissioner or the director or his authorized representative make any inspection required by Chapters 3745-27, 3745-400, and 3745-37 of the Administrative Code, the health commissioner or the director or his authorized representative shall make such inspection within fifteen calendar days of receipt of the request.

**HISTORY:** Eff 7-29-76; 5-1-90; 9-30-96

## **3745-37-11 Conditional solid waste disposal licenses.**

- (A) Before the Board of Health or the Director may make final the suspension, denial, or revocation of any solid waste disposal license held by any political subdivision, the Board or the Director shall issue a proposed suspension, denial, or revocation in the manner set forth in Regulation 3745-37-07.
  
- (B) If the political subdivision to which the proposed suspension, denial, or revocation is issued requests an adjudication hearing to contest the proposed denial, suspension, or revocation, the political subdivision may, at the adjudication hearing, present evidence relating to its financial ability to comply with Chapter 3745-27. Such evidence shall show
  - (1) that the political subdivision is levying taxes the revenues from which may be expended to comply with Chapter 3745-27 at the maximum rates imposed by the Ohio Constitution and the applicable statutes, and
  - (2) that the political subdivision has diligently attempted to increase taxes the revenues from which may be expended to comply with Chapter 3745-27 beyond the limits normally imposed by the applicable statutes and the Ohio Constitution and has been unsuccessful, and
  - (3) that expending sufficient funds to comply with Chapter 3745-27 would divert revenues from police forces, courts, fire departments, or essential public health programs other than solid waste disposal, and
  - (4) that incurring indebtedness for purposes of compliance with Chapter 3745-27 would be imprudent in view of the overall financial condition of the political subdivision, or that, if indebtedness has already been incurred, incurring additional indebtedness would be imprudent, and
  - (5) that the political subdivision cannot legally levy and enforce a user fee on all users of the site or facility sufficient to permit compliance with regulation 3745-27, and
  - (6) that the political subdivision cannot feasibly utilize the licensed disposal facility of another political subdivision, or operate a disposal facility jointly with another political subdivision, and
  - (7) that the political subdivision has fully assessed the capabilities and capacities of private solid waste management firms to supply those facilities and/or services for which the application for a conditional solid waste disposal license is being made. The Board or the Director shall require evidence that the political subdivision has directly contacted

private firms and has been unable to secure those services or facilities for which the conditional license is being requested.

- (C) If the political subdivision proves to the satisfaction of the Board or the Director that all of the criteria set forth in paragraph (B) above are satisfied, the Board or the Director may, if the hearing was from denial of a license, grant a conditional operating license, which shall excuse the political subdivision from compliance with such provisions of Chapter 3745-27 as were shown at the hearing to be beyond the political subdivision's financial ability; or may, if the hearing was from suspension or revocation of a license, modify the license so as to excuse the political subdivision from compliance with such provisions of Chapter 3745-27 as were shown at the hearing to be beyond its financial ability. Such licenses shall be in all other respects identical to other solid waste disposal licenses issued under this Chapter, 3745-37.
- (D) Whenever the Board or the Director grants a conditional solid waste disposal license as provided in paragraph (D) above, it shall specify in the license a reasonable time within which the political subdivision shall be required to bring the solid waste disposal facility for which the license was issued into full compliance with Chapter 3745-27.
- (E) Whenever a political subdivision holding a conditional operating license, or a solid waste disposal license modified pursuant to paragraph (D) above, is required by Regulation 3745-37-02(D) to apply for another license because of the impending expiration of the currently effective license, such political subdivision shall make application in the same manner as applications are made for other solid waste disposal licenses. The Board of Health or the Director shall process such application in the same manner as other applications are required to be processed by this Chapter, 3745-37. If, upon receiving notice of the Board's or the Director's proposed denial of the application, the political subdivision determines that it wishes to obtain another conditional operating license, it shall proceed as provided in paragraphs (B) through (E) above.
- (F) No solid waste disposal facility operating under a conditional license shall be permitted to receive sewage solids, semi-solids and liquids, other semi-solids or liquids, or hazardous wastes.

**HISTORY:** (former EP-33-11); Eff 7-29-76

## **3745-37-14 Authorized maximum daily waste receipts.**

- (A) When the director issues an order under division (A) of section 3734.06 of the Revised Code setting forth an authorized maximum daily waste receipt as defined in paragraph (G) of rule 3745-31-01 of the Administrative Code for any period of time not subject to the waste receipt limitation in section 6(C) of Amended Substitute House Bill 592, effective June 24, 1988, he shall establish the authorized maximum daily waste receipt at one hundred twenty per cent of the figure established under that section. If a waiver has been granted under the emergency need provisions of that section, the authorized maximum daily waste receipt shall be equal to the figure granted in the waiver.
- (B) Any authorized maximum daily waste receipt established by order issued under division (A) of section 3734.06 of the Revised Code will expire upon the effective date of a permit to install for the facility issued under Chapter 3745-31 of the Administrative Code that contains an authorized maximum daily waste receipt.
- (C) License fees for the annual solid waste disposal license shall be based on the highest authorized maximum daily waste receipt that will be in effect in the year to which the license pertains, except that if any higher authorized maximum daily waste receipt takes effect after the effective date of the license, it shall not be considered in determining the fee.
- (D) (1) The owner or operator of a licensed solid waste facility may make a written request to the director for a temporary increase in the facility's authorized maximum daily waste receipt. Such written request shall include the following:
  - (a) A discussion of the circumstances warranting the request and how continued compliance with the existing authorized maximum daily waste receipt will affect public health and safety, including any available documentation in support of the temporary increase; and
  - (b) The anticipated length of time the increase will be necessary. If the anticipated length of time exceeds ninety days, include a schedule addressing the submittal of a permit to install application for an increase in the facility's authorized maximum daily waste receipt. Such schedule shall provide for the submittal of a permit to install application within thirty days of the date of issuance of any such authorization by the director; and
  - (c) A discussion of how the operation of the facility will accommodate the temporary increase to assure compliance with Chapter 3745-27 of the Administrative Code; and

- (d) A copy of a letter having been sent by certified mail to the board of directors of the solid waste management district and the chairperson of the solid waste management policy committee where the facility is located, which provided notification of the facility owner's or operator's intent to request a temporary increase in the facility's authorized maximum daily waste receipt and a copy of the information required to be submitted to the director for his review and approval; and
  - (e) In the case where the increased amount of solid waste necessitating the request is generated out-of-district, copies of letters having been sent by certified mail to the board of directors of each solid waste management district where the increased amount of solid waste necessitating the request is generated, which provided notification of the facility owner's or operator's intent to request a temporary increase in the facility's authorized maximum daily waste receipt, and a copy of the information required to be submitted to the director for his review and approval; and
  - (f) A copy of a letter sent by certified mail to the local health department having jurisdiction over the facility which provides notification of the owner's or operator's intent to request a temporary increase in the facility's authorized maximum daily waste receipt.
- (2) If the director makes the determination that an emergency exists affecting public health and safety which necessitates a temporary increase in the solid waste receipt at the facility, the director may authorize a temporary increase as necessary for up to a maximum of one hundred eighty consecutive days. The director may include in the authorization a condition that, should the increased waste receipt result in operational violations at the facility, the authorization shall automatically become void upon the director's providing written notification to the owner or operator. An authorization for a temporary increase is not renewable. No such temporary increase based upon seasonal increases in waste generation may be authorized for a facility within eighteen months of the issuance date of any prior director's authorization of a temporary increase at the same facility. An authorization for a temporary increase in the authorized maximum daily waste receipt which exceeds ninety days shall:
- (a) Be conditioned upon the submittal of a substantially approvable permit to install application for a permanent increase in the authorized maximum daily waste receipt. Such application must be submitted within thirty days of the date of the director's

authorization of the temporary increase. failure to comply with this condition shall result in the authorization becoming void automatically upon the director providing written notification.

- (b) Be utilized in establishing a facility's annual license fee.
- (3) This paragraph is not applicable where the director exercises his authority under division (C)(1) of section 3734.53 of the Revised Code.

**HISTORY: Eff 11-17-88 (Emer.); 3-9-89 (Emer.); 6-12-89; 5-31-91**

## **3745-37-15 Additional criteria for issuing solid waste facility licenses to scrap tire facilities.**

- (A) The following criteria for issuing solid waste facility licenses to scrap tire facilities are in addition to those in paragraph (A) of rule 3745-37-03 of the Administrative Code. The board of health or the director, whichever is applicable, shall not issue a solid waste facility license, under section 3734.81 of the Revised Code, to a solid waste facility which is a scrap tire facility unless:
- (1) A permit to install, if required by section 3734.71, 3734.72, or 3734.73 of the Revised Code or a registration certificate, if required by section 3734.70, 3734.71, or 3734.73 of the Revised Code, has been obtained by the applicant; and
  - (2) Detail plans have been approved by the director, if required by section 3734.75, 3734.76, 3734.77, or 3734.78 of the Revised Code; and
  - (3) Any additional information, in addition to that required by this rule or rule 3745-37-02 of the Administrative Code, which the licensing authority determines is necessary to determine whether the application satisfies the requirements of Chapters 3745-27 and 3745-37 of the Administrative Code has been submitted. The license applicant shall supply such information as a precondition to further consideration of the license application.
- (B) Application for solid waste facility licenses for facilities which are scrap tire facilities shall be made:
- (1) At least ninety days prior to the anticipated date for accepting scrap tires at the facility; and
  - (2) During the month of September, if the licensed facility will continue operations beyond December thirty-first; and
  - (3) For scrap tire facilities in operation on March 1, 1996, at the same time as submitting an initial permit to install or registration certificate application for a scrap tire facility as required by rule 3745-27-97 of the Administrative Code.
- (C) Scrap tire facilities shall pay a non-refundable application fee to the approved health department or the director of one hundred dollars, except that the application fee does not apply to an application for a license for a scrap tire collection or storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

- (1) The non-refundable application fee shall be placed in a special fund set up by the local health department in accordance with division (F) of section 3734.82 of the Revised Code; and
  - (2) This special fund shall be used solely to administer and enforce scrap tire provisions of Chapter 3734. of the Revised Code and the rules adopted under it.
- (D) In the case of a scrap tire facility for which a "facility compliance plan" is required to be submitted with the application for a registration certificate or permit to install in rule 3745-27-61 or 3745-27-63 of the Administrative Code, whichever is applicable, the board of health or the director, whichever is applicable, shall not issue the initial solid waste facility license for the scrap tire facility unless the application for the scrap tire facility submits with the application for the initial license an accurate estimate of the number of scrap tires which have been collected or stored at the facility as of March 1, 1996.
- (E) In the case of a scrap tire facility for which a "facility compliance plan" is required to be submitted with the application for a registration certificate or permit to install in rule 3745-27-61 or 3745-27-63 of the Administrative Code, whichever is applicable, the board of health or the director, whichever is applicable, shall not issue a solid waste facility license for the scrap tire facility for the license periods commencing on January 1, 1998 through January 1, 2002, unless:
- (1) The applicant for the scrap tire facility license submits a revised "facility compliance plan" with the application for the license. The revised "facility compliance plan" shall contain all the information specified in rule 3745-27-61 or 3745-27-63 of the Administrative Code, whichever is applicable, and shall clearly indicate any changes in methods, procedures, and schedule by which the owner or operator will remove and/or store scrap tires at the facility in accordance with time frames and requirements for the scrap tire facility; and
  - (2) The applicant shall submit a demonstration that the number of scrap tires indicated on the application for the initial license have been or will have been reduced by at least twenty per cent during the current license year or that at least twenty per cent of those tires have been or will have been stored in compliance with the applicable requirements specified in rule 3745-27-61 or 3745-27-63 of the Administrative Code, whichever is applicable.

- (3) At the end of the period of time described in the "facility compliance plan", the applicant shall submit a demonstration that the size of the facility does not exceed its registered or permitted maximum size.
- (F) For a scrap tire facility that is owned or operated by an existing motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code:
- (1) Paragraph (D) of this rule applies to the issuing of a solid waste facility license for the scrap tire facility for the license periods commencing on January 1, 1997 through January 1, 1999, and
  - (2) Paragraph (E) of this rule applies to the issuing of a solid waste facility license for the scrap tire facility for the license periods commencing on January 1, 2000 through January 1, 2003. The demonstration to be submitted in accordance with paragraph (D)(2) of this rule shall indicate that the number of scrap tires indicated on the application for the initial license have been or will have been reduced by at least twenty-five per cent during the current license year or that at least twenty-five per cent of those tires have been or will have been stored in compliance with the applicable requirements specified in rule 3745-27-61 or 3745-27-63 of the Administrative Code, whichever is applicable.

**HISTORY: Eff 3-1-96**