

3745-502-03

**Requirements for collecting, remitting, and reporting solid waste management district disposal and generation fees.**

(A) Applicability.

This rule establishes the requirements for owners and operators of solid waste transfer and solid waste disposal facilities regarding collecting, remitting, and reporting district disposal and generation fees levied on the transfer and disposal of solid waste as authorized by division (B) of section 3734.57 of the Revised Code for district disposal fees and section 3734.573 of the Revised Code for district generation fees. This rule also provides for specific exclusions from the obligations to collect, remit, and report district disposal and generation fees.

(B) General requirements.

- (1) For purposes of computing the district disposal and generation fees that shall be collected and remitted in accordance with this rule, the owner or operator of any solid waste disposal or solid waste transfer facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.
- (2) The district disposal fees levied under division (B) of section 3734.57 of the Revised Code and district generation fees levied under section 3734.573 of the Revised Code are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste disposal or solid waste transfer facility notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator of the solid waste disposal or solid waste transfer facility or with a transporter of waste to the solid waste disposal or solid waste transfer facility that would not require or allow such payment.
- (3) Anyone delivering waste to a solid waste disposal or solid waste transfer facility shall accurately identify the type of waste as well as the state and county where the waste originated to the owner or operator of the receiving solid waste disposal or solid waste transfer facility.
  - (a) Waste shall be classified on a load-by-load basis. A load consists of the waste that is transported in and on a single delivery vehicle including but not limited to a truck, an individual rail car, an individual roll-off container, and an individual transfer trailer.
  - (b) Anyone delivering a load of waste consisting of waste that originated in

more than one county to a solid waste disposal or solid waste transfer facility shall reasonably estimate the percentage of the load that came from each county.

(c) The owner or operator of the solid waste disposal or solid waste transfer facility shall record, in the daily log, each load of waste received according to the following categories:

(i) Asbestos.

(ii) Construction and demolition debris.

(iii) Unauthorized waste.

(iv) Excluded waste.

(v) Industrial solid waste.

(vi) Municipal solid waste.

(vii) Source separated recyclables.

(d) Anyone delivering a load of waste that consists of solid waste commingled with construction and demolition debris or another excluded waste shall identify the entire load as solid waste.

(C) Collection of district disposal fees.

(1) As a trustee of a district levying a district disposal fee in accordance with division (B) of section 3734.57 of the Revised Code, the owner or operator of a solid waste disposal facility located within the boundaries of the district levying the fee shall collect district disposal fees on the disposal of solid waste in accordance with the schedule established by the district under division (B) of section 3734.57 of the Revised Code.

[Comment: Division (B) of section 3734.57 of the Revised Code establishes the range at which district solid waste disposal fees can be set as:

One to two dollars per ton for solid waste generated within the boundaries of the district and disposed at a solid waste disposal facility located within the boundaries of the district.

Two to four dollars per ton for solid waste generated outside the boundaries of the district but within this state and disposed at a solid waste disposal facility located within the boundaries of the district.

One to two dollars per ton for solid waste generated outside the boundaries of this state and disposed at a solid waste disposal facility located within the boundaries of the district. The disposal fee levied on solid waste generated outside the boundaries of this state shall not be more than the disposal fee levied on solid waste generated within the district.

The per ton district disposal fee that the owner or operator of the solid waste facility shall collect depends upon both the fee schedule ratified by the solid waste management district and the point of origin of the solid waste. A solid waste management district must ratify district disposal fees before those fees become effective. Section 3734.57 of the Revised Code prescribes the process that a solid waste management district must undergo to ratify a fee.]

- (2) When solid waste is delivered to a solid waste transfer facility that is located in this state, the district disposal fees levied under division (B) of section 3734.57 of the Revised Code shall be assessed upon the disposal of solid waste transported off the premises of the solid waste transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed.
- (3) The amount of the fees required to be collected under this paragraph by the owner or operator of the solid waste disposal facility shall equal the tonnage of solid waste received at the solid waste disposal facility multiplied by the applicable district disposal fees levied under division (B) of section 3734.57 of the Revised Code.
- (4) The owner or operator of a solid waste disposal facility that receives a load of solid waste commingled with construction and demolition debris or another excluded waste shall collect district disposal fees on the entire load of commingled waste in accordance with this rule.
- (5) The owner or operator of a solid waste disposal facility that meets all of the following conditions can request that the director approve an alternative means of collecting district disposal fees on loads consisting of commingled solid waste and construction and demolition debris when the wastes were received at a solid waste transfer facility as segregated loads, commingled at the solid waste transfer facility, and subsequently transported to the solid waste disposal facility as commingled waste:

- (a) The solid waste transfer facility where the solid waste and the construction and demolition debris are commingled and the solid waste disposal facility where the commingled waste is taken for disposal are both owned and operated by the same company.
- (b) All waste that is transferred from the solid waste transfer facility where the solid waste and construction and demolition debris are commingled is transported to the same solid waste disposal facility.
- (c) By the end of the working day, all waste that is accepted at the solid waste transfer facility will be taken to the solid waste disposal facility.
- (d) The daily logs at both the landfill facility and the solid waste transfer facility can be reconciled at the end of each working day to be consistent and accurate.

The owner or operator of the solid waste disposal facility requesting an alternative means of collecting district disposal fees shall collect the applicable district disposal fees in accordance with this rule until an alternative means of collecting district disposal fees has been approved by the director.

(D) General requirements for collecting district generation fees.

- (1) As a trustee of a district levying a generation fee in accordance with section 3734.573 of the Revised Code, the owner or operator of a solid waste disposal or solid waste transfer facility, as applicable, that receives solid waste from the district levying the generation fee shall collect district generation fees on the transfer or disposal of solid waste and remit those fees to the board in accordance with section 3734.57 of the Revised Code and this rule.

[Comment: The amount of the per ton district generation fee that the owner or operator of a solid waste disposal or solid waste transfer facility shall collect depends upon the fee schedule ratified by the district in which the solid waste was generated.]

- (2) District generation fees shall be collected on solid waste by the owner or operator of the solid waste disposal or solid waste transfer facility located in this state that first receives the solid waste.
  - (a) When solid waste is transported from a solid waste transfer facility that is

located in this state to a solid waste disposal facility, the owner or operator of the solid waste transfer facility shall collect and remit the applicable district generation fees. Under these circumstances, the owner or operator of the receiving solid waste disposal facility shall not be required to collect the district generation fees.

(b) When solid waste is transferred from one solid waste transfer facility that is located in this state to a second solid waste transfer facility, the owner or operator of the first solid waste transfer facility where the waste is accepted shall collect and remit the applicable district generation fees. Under these circumstances, the owner or operator of the second solid waste transfer facility shall not be required to collect the district generation fees.

(c) When solid waste is taken to a solid waste disposal facility that is located in this state without first being delivered to a solid waste transfer facility that is located in this state, the owner or operator of the solid waste disposal facility shall collect and remit the district generation fees.

(3) The owner or operator of a solid waste disposal or solid waste transfer facility that receives a load of solid waste commingled with either construction and demolition debris or another excluded waste shall collect district generation fees on the entire load of commingled waste in accordance with this rule.

(E) Collection of district generation fees at a solid waste transfer facility.

(1) In the case of solid waste that is taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility for disposal, the owner or operator of the solid waste transfer facility shall collect the district generation fees levied in accordance with section 3734.573 of the Revised Code.

(2) If the solid waste that is accepted at the solid waste transfer facility is not processed at that solid waste transfer facility to remove materials for recycling, then the amount of fees that the owner or operator of the solid waste transfer facility shall be required to collect under this paragraph shall equal the total tonnage of solid waste received at the solid waste transfer facility multiplied by the district generation fees levied in accordance with section 3734.573 of the Revised Code.

(3) If the owner or operator of the solid waste transfer facility recovers materials for

recycling from solid waste at the solid waste transfer facility, then the owner or operator of the solid waste transfer facility shall collect district generation fees levied in accordance with section 3734.573 of the Revised Code in accordance with one of the following:

- (a) The owner or operator of the solid waste transfer facility shall collect district generation fees on the entire tonnage of solid waste received at the solid waste transfer facility. The amount of fees required to be collected under this paragraph shall equal the total tonnage of solid waste received at the solid waste transfer facility multiplied by the district generation fees levied in accordance with section 3734.573 of the Revised Code.

[Comment: If the owner or operator of a solid waste transfer facility collects district generation fees on the entire tonnage of solid waste received at the solid waste transfer facility and materials are subsequently recovered for recycling at the solid waste transfer facility, then the owner or operator of the solid waste transfer facility shall not retain any portion of the fees that were collected, including the fees that were collected on the materials that were recovered for recycling at the solid waste transfer facility. Because the owner or operator of the solid waste transfer facility is collecting the district generation fees as a trustee of the board of the district levying the fees, it would not be appropriate for the owner or operator to retain any portion of the fees that are collected. Therefore, the owner or operator shall remit the entire amount of district generation fees collected to the board of the district levying the fees.]

- (b) The owner or operator of a solid waste transfer facility where ongoing, active material processing and recovery of recyclable materials takes place can apply for an adjustment factor to account for the material that will be recovered from the waste stream. If such an adjustment factor has been approved by the director in accordance with this rule, then the owner or operator of the solid waste transfer facility shall collect district generation fees on the tonnage of solid waste received at the solid waste transfer facility that has been adjusted to account for material that will be recovered for recycling.

[Comment: This provision allows owners and operators of material recovery facilities, also referred to as MRFs, to adjust the amount of waste upon which they assess district generation fees. In this manner, the adjustment allows the owner or operator of the MRF to account for the recyclable materials that will be recovered from mixed solid waste, and are therefore not subject to fees, prior to assessing district

generation fees on the solid waste received at the MRF].

- (i) Prior to adjusting the tonnage of solid waste upon which district generation fees are collected, the owner or operator of the solid waste transfer facility shall obtain approval from the director for the adjustment factor that will be used as the basis for the adjustment.
- (ii) The owner or operator of the solid waste transfer facility shall submit a request for an adjustment factor to the director in writing. The request shall include, at a minimum, a detailed description of the recovery process and the average recovery rate achieved at the solid waste transfer facility in the previous three calendar years. The owner or operator shall calculate the average recovery rate by dividing the tonnage of recyclable materials recovered from all solid waste processed at the solid waste transfer facility by the tonnage of all solid waste processed at the solid waste transfer facility during the calendar year. If the owner or operator requests an adjustment factor that is not based on the recovery rate for the previous three calendar years, then the written request must include adequate information to justify the use of the requested adjustment factor.
- (iii) The amount of the adjustment shall equal the total tonnage of solid waste in a load received at the facility multiplied by the adjustment factor that was approved by the director.
- (iv) The owner or operator of the solid waste transfer facility shall collect fees on the total tonnage of solid waste received at the solid waste transfer facility minus the adjustment quantity calculated in accordance with paragraph (E)(3)(b)(iii) of this rule. The amount of fees required to be collected under this rule shall equal the adjusted tonnage of solid waste as calculated in accordance with this paragraph multiplied by the district generation fees levied under section 3734.573 of the Revised Code.

[Comment: The following is an example of how to calculate the amount of district generation fees that the owner or operator of the solid waste transfer facility would collect when recyclable materials are recovered from waste: In 2007, a load weighing ten tons is accepted at the solid waste transfer facility. In 2006, the owner or operator of the solid waste transfer facility recovered, on average, thirteen per cent of solid waste that was processed at the

facility and received approval from the director for an adjustment factor of thirteen per cent. The solid waste management district where the waste was collected levies a district generation fee of five dollars per ton of solid waste generated. The owner or operator would collect fees on 8.7 tons of solid waste (10 tons x .13 = 1.3 tons; 10 tons - 1.3 tons = 8.7 tons.). Thus, the owner or operator would be required to remit forty-three dollars and fifty cents in district generation fees to the board (8.7 tons x \$5.00 = \$43.50).]

- (v) If a load of solid waste is accepted at the solid waste transfer facility but is not processed to recover recyclable materials, then the owner or operator of the solid waste transfer facility shall collect district generation fees on the entire tonnage of the load of solid waste.
- (vi) The owner or operator shall, in the annual report required in accordance with paragraph (AA) of rule 3745-27-23 of the Administrative Code, calculate the recovery rate achieved during the year for which the annual report was prepared.
- (vii) The owner or operator of the solid waste transfer facility shall request approval from the director for a revised adjustment factor if either of the following conditions occur:
  - (a) The recovery rate calculated in accordance with paragraph (E)(3)(b)(vi) of this rule is lower than the adjustment factor approved by the director in accordance with paragraph (E)(3)(b)(i) of this rule. In this case, the owner or operator of the solid waste transfer facility shall submit a request for approval of a revised adjustment factor to the director by no later than the first of May of the year in which the owner or operator was required to submit the annual report containing the lower recovery rate.
  - (b) At any time during the year, the owner or operator of the solid waste transfer facility alters either the process that is used to recover recyclables from solid waste or the types of recyclables recovered from solid waste in a manner that will result in a lower recovery rate. In this case, the owner or operator of the solid waste transfer facility shall submit a request for a revised adjustment factor to the director within thirty days after making the alteration.

The owner or operator of the solid waste transfer facility requesting approval for a revised adjustment factor shall continue to apply the existing approved adjustment factor until the director has approved the revised adjustment factor.

- (4) The owner or operator of a solid waste transfer facility where incidental amounts of recyclables are recovered from solid waste shall collect district generation fees in accordance with either of the following:
    - (a) On each load of waste in accordance with paragraph (E)(3)(a) of this rule.
    - (b) On the weight of each load of solid waste after recyclables have been recovered. The amount of fees the owner or operator of the solid waste transfer facility shall be required to collect under this paragraph shall equal the net tonnage of solid waste remaining in a load of waste after recyclables have been recovered multiplied by the district generation fees levied under section 3734.573 of the Revised Code.
- (F) Collection of district generation fees at a solid waste disposal facility.
- (1) In the case of solid waste that is transported to a solid waste disposal facility located in this state without first being delivered to a solid waste transfer facility located in this state, the owner or operator of the solid waste disposal facility where the wastes are received shall collect the district generation fees levied in accordance with section 3734.573 of the Revised Code.
  - (2) In the case of solid waste that is transported from a solid waste transfer facility that is located in this state to a solid waste disposal facility, the owner or operator of the receiving solid waste disposal facility shall not be required to collect the district generation fees levied under section 3734.573 of the Revised Code.
  - (3) The amount of the fees required to be collected under this paragraph by the owner or operator of the solid waste disposal facility shall equal the total tonnage of solid waste that was not previously taken to a solid waste transfer facility located in this state multiplied by the district generation fees levied under section 3734.573 of the Revised Code.
- (G) Submitting district disposal and generation fee return forms and remitting district disposal and generation fees to the board.
- (1) The owner or operator of a solid waste disposal or solid waste transfer facility

that is required to collect district disposal and generation fees pursuant to this rule shall prepare and file monthly district disposal and generation fee return forms on a form prescribed by the board.

- (2) The monthly district disposal and generation fee return forms required by paragraph (G)(1) of this rule shall indicate, at a minimum, the total tonnage of solid waste received at the facility during that month, the total amounts of the district disposal and generation fees required to be collected on that waste during that month under this rule, and the amounts of district disposal and generation fees remitted with the monthly district disposal and generation fee return form.
  - (a) When solid waste is transferred from one solid waste transfer facility located in this state to a second solid waste transfer facility located in this state, the owner or operator of the second solid waste transfer facility shall indicate on the monthly district disposal and generation fee return form the total tonnage of solid waste received from solid waste transfer facilities located in this state during that month for which district generation fees were required to be collected by the owner or operator of the first solid waste transfer facility.
  - (b) The owner or operator of a solid waste disposal facility shall indicate on the monthly district disposal and generation fee return form the total tonnage of solid waste received during that month from solid waste transfer facilities located in this state during that month for which the district generation fees were required to be collected by the owners and operators of those solid waste transfer facilities.
- (3) The owner or operator of a solid waste disposal or solid waste transfer facility that is required to collect district disposal and generation fees pursuant to this rule shall remit the entire amount of fees required to be collected to the board.
- (4) Not later than thirty days after the last day of the month to which a monthly district disposal and generation fee return applies, the owner or operator of a solid waste disposal or solid waste transfer facility, as appropriate, shall either mail or, if acceptable to the board, electronically transmit to the board the monthly district disposal and generation fee return form for that month together with the district disposal and generation fees required to be collected under this rule during that month as indicated on the monthly district disposal and generation fee return form.

(H) Extensions and late fees.

- (1) The owner or operator of a solid waste disposal or solid waste transfer facility may request an extension of not more than thirty days for filing the monthly district disposal and generation fee return form and remitting the district disposal and generation fees. The owner or operator shall submit the request in writing to the board together with a detailed description of why the extension is requested. For the request to be considered, the board shall receive the request not later than the day on which the district disposal and generation fee return form is required to be filed. Such an extension shall not be effective unless the request has been approved by the board in writing.
- (2) If the district disposal and generation fees are not remitted within the thirty days after the last day of the month to which the district disposal and generation fee return applies or are not remitted by the last day of an extension approved by the board, then the owner or operator of the solid waste disposal or solid waste transfer facility shall pay a late fee. The late fee shall continue to accrue each month until the district disposal and generation fees are remitted. The late fee shall be an additional ten per cent of the amount of the district disposal and generation fees for each month or portion thereof that the fees are late.
- (3) The late fee shall be calculated using the following formula: total late fee due = (total amount of district disposal and generation fees that are late) x (0.10) x (number of months that the district disposal and generation fees are late, expressed as a whole number).
- (4) For purposes of calculating the late fee, all of the following apply:
  - (a) The first month in which district disposal and generation fees are late begins on the first day after the deadline has passed for timely submitting the return and fees as specified in paragraph (G)(4) of this rule.
  - (b) One additional month shall be counted every thirty days thereafter.
  - (c) The full amount of the late fee (i.e. the full ten per cent) is accrued on the first day of each month that the district disposal and generation fees are late.
  - (d) The late fee will not be prorated according to the number of days that the district disposal and generation fees are late.

[Comment: The following is an example of how to calculate the amount of

the late fee that shall be paid to the board: The owner or operator of a solid waste disposal facility is required to remit district disposal fees totaling one thousand dollars by June thirtieth. The owner or operator doesn't remit the fees until July first. The late fee would be calculated as follows: ( $\$1,000 \times 0.10 \times 1 = \$100$ .) Thus, the owner or operator is required to remit one thousand one hundred dollars by July thirty-first. If the owner or operator remits the district disposal fees on or after August first then the owner or operator will owe a total of one thousand two hundred dollars ( $\$1,000 \times 0.10 \times 2$ .)]

(I) Exemptions.

- (1) The director may issue an order exempting from the fees levied under division (B) of section 3734.57 of the Revised Code or section 3734.573 of the Revised Code solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director, or the director of administrative services on behalf of the director for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination.
- (2) An order issued by the director under paragraph (I)(1) of this rule shall include a determination that the amount of the district disposal and generation fees not received by a district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan.
- (3) An order issued by the director under paragraph (I)(1) of this rule is a final action of the director.

(J) Exclusions and qualifications.

- (1) The district disposal fees levied in accordance with division (B) of section 3734.57 of the Revised Code and district generation fees levied in accordance with section 3734.573 of the Revised Code do not apply to the following:
  - (a) Solid wastes that are disposed of at a solid waste disposal facility owned by the generator of the wastes when the solid waste disposal facility

exclusively disposes of solid waste generated at one or more premises owned by the generator regardless of whether or not the solid waste disposal facility is located on a premises where the solid waste is generated.

- (b) Solid wastes that are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.
  - (c) Sewage sludge that is generated by a waste water treatment facility holding a national pollution discharge elimination system permit and that is disposed of through incineration, land application, composting, or at another resource recovery or disposal facility that is not a sanitary landfill facility.
  - (d) Materials that have been separated from a mixed waste stream for recycling by a generator and materials that have been recovered from the solid waste stream for recycling
- (2) The district disposal fees levied in accordance with division (B) of section 3734.57 of the Revised Code and the district generation fees levied in accordance with section 3734.573 of the Revised Code do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the district disposal fees levied under division (B) of section 3734.57 of the Revised Code and the district generation fees levied in accordance with section 3734.573 of the Revised Code shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.
- (3) The district generation fees levied in accordance with section 3734.573 of the Revised Code do not apply to yard waste delivered to a solid waste composting facility for processing or to a solid waste transfer facility.
- (4) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or an energy recovery facility, the district disposal fees levied under division (B) of section 3734.57 of the Revised Code shall be assessed upon the disposal of the fly ash and bottom ash remaining after burning the solid waste and shall be collected by the owner or operator of the sanitary landfill facility where the ash is disposed.

- (5) Except as provided in section 3734.571 of the Revised Code, any district disposal fees levied under division (B)(1) of section 3734.57 of the Revised Code apply to solid waste originating outside the boundaries of a district that is covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of the district where the wastes are generated or disposed.
- (6) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the district disposal fees levied under division (B) of section 3734.57 of the Revised Code shall be assessed upon the disposal of the fly ash, bottom ash, or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the sanitary landfill facility where the ash or other solid wastes are disposed.
- (7) When solid wastes that are burned in a disposal facility that is an incinerator or a solid waste energy recovery facility are delivered to a solid waste transfer facility prior to being transported to the incinerator or solid waste energy recovery facility where they are burned, the district generation fee levied under division (A) of section 3734.573 of the Revised Code shall be assessed on the wastes delivered to the solid waste transfer facility and shall be collected by the owner or operator of the solid waste transfer facility.
- (8) When solid wastes that are burned in a disposal facility that is an incinerator or a solid waste energy recovery facility are not delivered to a solid waste transfer facility prior to being transported to the incinerator or solid waste energy recovery facility where they are burned, the district generation fee levied under division (A) of section 3734.573 of the Revised Code shall be assessed on the wastes delivered to the incinerator or solid waste energy recovery facility and shall be collected by the owner or operator of the incinerator or solid waste energy recovery facility.