

**Exemptions and variances.**

(A) Chapters 3745-27, 3745-29, 3745-30 and 3745-37 of the Administrative Code shall not apply to the following activities and/or facilities:

- (1) Solid wastes generated within a single-family residence, and disposed of on the premises where generated in a manner that does not create a nuisance or health hazard.
- (2) The temporary storage of solid wastes, other than scrap tires, prior to collection for disposal or transfer. Such disposal or transfer shall be in accordance with Chapter 3734. of the Revised Code and rules adopted thereunder. For purposes of Chapters 3745-27 and 3745-37 of the Administrative Code, temporary storage of putrescible solid wastes in excess of seven days, or temporary storage of any solid wastes where such storage causes a nuisance or health hazard in the judgment of the health commissioner or the director or their authorized representative shall be considered open dumping.

In addition, Chapters 3745-27 and 3745-37 of the Administrative Code shall not apply to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard.

- (3) Vehicles used for hauling solid wastes other than scrap tires.
- (4) The beneficial use of coal combustion byproducts at coal mining and reclamation operations and abandoned mine lands that are regulated and authorized by the Ohio department of natural resources pursuant to section 1513.02 of the Revised Code.
- (5) Incinerators or energy recovery facilities that incinerate wastes generated on one or more premises owned by the person who owns the incinerator or energy recovery facility. This does not include any such facility which treats infectious waste pursuant to Chapter 3734. of the Ohio Revised Code.
- (6) Legitimate recycling facilities, other than scrap tire recovery facilities and premises where scrap tires are beneficially used.
  - (a) The owner or operator of a legitimate recycling facility that also transfers solid waste seeking exemption under this rule or a legitimate recycling facility claiming exemption under this rule shall collect and maintain information sufficient to demonstrate the applicability of this exemption to their facility. The information shall:

- (i) Include at a minimum all the following:
    - (a) The total weight of wastes received per month.
    - (b) The total weight of materials recovered for beneficial use per month.
    - (c) The weight and disposal location of unrecoverable materials;.
  - (ii) Be available for inspection by the director, the health commissioner, or their authorized representative upon request. Copies of information required by this rule shall be submitted to the director, the health commissioner, and/or their authorized representatives by the facility operator upon request.
  - (iii) Be maintained on the facility premises for the current year and the preceding two calendar years or the total period the facility has been in existence, if less than two years.
- (b) For the purposes of this rule, the exemption for facilities that do not maintain sixty percent recovery of the solid wastes received shall expire on the last day of the fifth month in any calendar year that the sixty percent recovered weight was not achieved. Upon expiration of this exemption, the owner or operator of the facility shall do all of the following:
- (i) Operate the facility in compliance with the requirements of rule 3745-27-23 of the Administrative Code.
  - (ii) Within fifteen days of the expiration of this exemption, provide written notice to the director of his intent to do one of the following:
    - (a) Submit, within one hundred twenty days of the expiration of this exemption, applications for a permit to install and a license to operate a solid waste transfer facility as required by section 3734.05 of the Revised Code, and pursuant to the requirements of Chapters 3745-27 and 3745-37 of the Administrative Code.
    - (b) Demonstrate to the satisfaction of the director the applicability

of this exemption to their facility. For the six month period immediately following the expiration of this exemption, the owner or operator of the facility shall submit, by the fifteenth day of each month, the information for the preceding month required by paragraph (A)(6)(a) of this rule.

If, during this period, the facility is unable to recover for beneficial use not less than sixty percent of the solid wastes, by weight, brought into the facility for five months, the facility owner or operator shall, within one hundred twenty days of the last day of the second month that the sixty percent recovery rate was not achieved, submit applications for a permit to install and a license to operate a solid waste transfer facility as required by section 3734.05 of the Revised Code and pursuant to the requirements of Chapters 3745-27 and 3745-37 of the Administrative Code.

- (7) Any "junk yard," or "scrap metal processing facility," licensed pursuant to Chapter 4737. of the Revised Code or motor vehicle salvage business licensed pursuant to Chapter 4738. of the Revised Code. This exemption shall not be construed to include sites where open dumping or open burning has occurred. This exemption does not apply to the management of scrap tires or other use, collection, storage, recovery, disposal, or beneficial use of scrap tires at a junk yard, or scrap metal processing facility, or motor vehicle salvage business.
- (8) The following activities regulated by Ohio EPA as listed below:
  - (a) Pond and lagoon operations regulated under Chapter 6111. of the Revised Code.
  - (b) Lime sludge and sewage sludge disposal, use, transportation or storage as approved under Chapter 6111. of the Revised Code. Lime sludge is defined as a material resulting from the treatment of a water supply for drinking or industrial purposes. Sewage sludge is defined as a solid, semi-solid or liquid residue generated during the treatment of sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum and solids removed in primary, secondary or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of sewage in a treatment works, animal manure, residue generated during treatment of

animal manure, or domestic septage.

(c) Land application of the following solid wastes authorized under Chapter 6111. of the Revised Code:

(i) Agricultural waste for incorporation into soil for the purposes of use as a soil amendment and agricultural or horticultural applications, provided that all of the following conditions are met:

(a) The agricultural waste is limited to source-separated non-processed plant materials, including stems, leaves, vines, roots, and raw vegetables, fruits and grains.

(b) The agricultural waste is land applied exclusively one fields owned by the owner of the agricultural production operation that generated the agricultural waste.

(c) The land application of the agricultural waste does not create a nuisance or health hazard in the judgement of the health commissioner or the director.

(ii) Pulp or paper sludge from waste water treatment works.

(iii) Sawdust.

(iv) Compost product blended with a solid waste.

(v) Lime or gypsum based waste such as flue gas desulfurization sludge, lime kiln, or cement kiln dust.

(d) Industrial processes subject to rule 3745-17-11 of the Administrative Code, and fuel-burning equipment subject to rule 3745-17-10 of the Administrative Code, that utilize biomass fuels or utilize tire derived fuel, as defined in rule 3745-27-01 of the Administrative Code, as a supplemental fuel.

For the purposes of this rule, biomass fuels are those fuels from any plant derived organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, forestry residues and sawdust, aquatic plants, and refuse derived fuel consisting of waste paper, cardboard, wood waste and yard wastes, and animal wastes.

- (9) Infectious wastes generated on the premises of a single-family residence not utilized for commercial purposes which generate or treat infectious wastes.
- (10) Infectious wastes generated by individuals for purposes of their own care or treatment that are disposed of with solid wastes from the individual's residence.
- (11) Facilities used for the transfer of solid wastes, other than scrap tires, that consist solely of portable containers and that have an aggregate volume of fifty cubic yards or less. The waste must not be placed on the ground or waste handling floor. These facilities are still subject to paragraph (A)(2) of this rule.

For the purposes of this rule, "aggregate volume" is the total volume of all portable containers at a facility designated for receiving solid wastes. The total volume of containers at a facility does not include the volume of an empty portable container being delivered to a facility by a transport vehicle, whose purpose includes removal of a full or partially full container of equal or greater volume, at the time of delivery of the empty container.

- (12) Tree stumps, not otherwise exempted by this rule or Chapter 3734. of the Revised Code, which are disposed in a licensed construction and demolition debris disposal facility.
- (13) Controlled substances handled in compliance with Chapters 4729. and 3719. of the Revised Code and/or materials that have been ordered destroyed by a court of law that are destroyed at facilities licensed for the treatment of infectious waste.
- (14) Land application of yard waste for incorporation into soil for purposes including, but not limited to, use as a soil amendment, agricultural and horticultural applications, or land reclamation, is not subject to the requirements of rules 3745-27-40 to 3745-27-47 and Chapters 3745-28 and 3745-37 of the Administrative Code provided that such land application does not create a nuisance or health hazard in the judgement of the health commissioner or the director.
- (15) The required disposal of animals destroyed because of a dangerously infectious or contagious disease(s) in accordance with section 941.14 of the Ohio Revised Code.

(B) Exemptions. Pursuant to division (G) of section 3734.02 of the Revised Code, the

director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, including scrap tires, from any requirement of Chapter 3734. of the Revised Code or any rules adopted thereunder if granting the exemption is unlikely to adversely affect the public health or safety or the environment.

For the purposes of this rule, an exemption is defined as a discretionary action of the director that relieves an applicant from a requirement of Chapter 3734. of the Revised Code or any rule adopted thereunder.

(C) Variances.

- (1) Any person may apply for a variance from any provision of Chapter 3745-27 of the Administrative Code except for any rule adopted under division (M) of section 3734.02 or section 3734.021 of the Revised Code.
- (2) Applications for variances shall identify the provision(s) of the regulations for which the variances is requested and shall contain information regarding the reason and justification for the variance, and any other pertinent data regarding the application as the director may require for the demonstration specified in paragraph (C)(5) of this rule.
- (3) In accordance with division (S)(1) of section 3745.11 of the Revised Code, a non-refundable fee of fifteen dollars shall be paid at the time the application for variance is submitted. If the application for a variance is part of an application for a permit-to-install, the variance application fee shall be paid in addition to the permit-to-install application fee.
- (4) The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required, unless the application for a variance is part of an application for a permit-to-install. If an application for a variance is part of an application for a permit-to-install, the director shall issue, renew, or deny an application for a variance or renewal of a variance concurrent with a final or proposed action on the permit-to-install application.
- (5) The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction, operation, closure activities and/or post-closure activities of the solid waste facility in the manner approved by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of any other requirements of Chapters

3704., 3714., 3734. and 6111. of the Revised Code and any rules adopted thereunder.

- (6) In issuing any variance, the director shall comply with the applicable requirements of division (A) of section 3734.02 of the Revised Code.

For the purposes of this rule, a variance is defined as an action of the director that alters or changes a requirement of a rule adopted under Chapter 3734. of the Revised Code.

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**CERTIFIED ELECTRONICALLY**

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Certification

10/30/2008

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Date

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