

## **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