

DSIWM GUIDANCE DOCUMENT

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SUBJECT: What is a Transfer Facility

GUIDANCE NUMBER: 0035

REFERENCES: Municipal Solid Waste
 OAC 3745-27-01
 OAC 3745-27-03
 OAC 3745-27-21

CROSS REFERENCES (OTHER GUIDANCE):#0498 *Maintaining Exempt Status as a Legitimate Recycling Facility*

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I. PURPOSE

The purpose of this document is to clarify what is regulated as a transfer facility.

II. APPLICABILITY

All owners and operators of facilities that transfer solid waste.

III. BACKGROUND

The Division of Solid and Infectious Waste Management (DSIWM) began regulating solid waste transfer facilities in 1991 after the solid waste statute, ORC Chapter 3734, was revised to include transfer facilities. However, DSIWM does not regulate all transfer activities, nor does DSIWM regulate legitimate recycling facilities. Another guidance document addresses legitimate recycling facilities (see #0498 *Maintaining Exempt Status as a Legitimate Recycling Facility*).

Through the years, DSIWM has answered a variety of questions regarding just what activities are regulated as transfer facilities. As these questions arose, DSIWM prepared a guidance document or responded by letter. When the transfer facility rules were revised in 1999, DSIWM decided to incorporate these various documents into a single guidance document.

IV. DEFINITIONS

Solid Waste Transfer Facility, or Transfer Facility, is defined in Ohio Administrative Code (OAC) rule 3745-27-01(C)(13) as:

any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that are generated off the premises of the facility from vehicles or containers into other vehicles or containers for transportation to a solid waste disposal facility. The term does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted. The term does not include any facility that accepts scrap tires other than scrap tires which are accepted incidental to a mixed solid waste shipment.

V. PROCEDURE

WHEN A SITE IS A TRANSFER FACILITY

Defining the Facility. The facility owner or operator designates what is the transfer facility boundary in the facility permit application [see OAC rule 3745-27-21(B)]. Transfer operations occurring outside the facility boundary can be considered a violation of not operating in compliance with the plans/license. For example, the owner or operator may decide not to include the parking area or truck staging area as part of the transfer facility. However in so doing, if for some reason waste is being transferred in the parking area or truck staging area, the owner or operator may receive a notice of violation.

Some owners and operators have divided their facility into separate transfer and recycling operations. DSIWM does not regulate legitimate recycling facilities if they meet the criteria for legitimate recycling facilities stated in the definition and the exemption criteria found in OAC rule 3745-27-03. The separation should be noted in the permit application and should be well defined at the facility (e.g. a barrier or marker). Thus the operator and the inspector know where transfer operations are permitted to be conducted.

Multiple Transfer Steps. No matter how many transfer operations occur on the way to the landfill, each site of transfer would be regulated as a transfer facility. For example, a facility may bale the waste, then transport it to another facility that transfers the bales into a larger vehicle to transport them to the landfill. Both the baling operation and the transfer operation would be regulated as transfer facilities.

Yard Waste Transfer Facilities. A transfer facility that exclusively accepts yard waste, is not required to obtain a permit or an annual operating license. However the facility is subject to OAC rule 3745-27-23(BB) which requires posting instructions for using the facility, and managing the facility in such a manner that a nuisance or a health hazard does not occur. Such a facility would also be subject to any air pollution control requirements pursuant to ORC Chapter 3704 and any water pollution control requirements pursuant to ORC Chapter 6111.

WHEN A SITE IS NOT A TRANSFER FACILITY

Note that although sites that conduct the following activities are not regulated as transfer facilities, they are still subject to the water pollution control law (ORC Chapter 6111), the air pollution control law (ORC Chapter 3704), and the nuisance law (ORC Chapter 3767).

Portable containers that have an aggregate volume of fifty cubic yards or less. “Portable containers” [see OAC rule 3745-27-01(B)(26)] are “containers used for solid waste transfer that are not a part of the permanent structure of a transport vehicle, can be removed from the transporting vehicle without compromising the container's or the transporting vehicle's structural integrity, and can be removed from the transporting vehicle without utilizing destructive measures. Portable containers include trailers used to store and transport solid wastes.”

“Aggregate volume” [see OAC rule 3745-27-03(K)] “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.”

Thus the aggregate volume includes the volume of all the portable containers designated for receiving solid wastes. The volume of empty portable containers on a site that are being stored and are not receiving solid waste does not count toward the total aggregate volume. For example, a site may designate two 20-cubic-yard roll-off boxes specifically for receiving waste, and have five empty 20-cubic-yard roll-off boxes stored on-site for future use. In the instance where a transport vehicle is removing a filled container and replacing it with an empty container, the volume of the filled container being removed from the facility is no longer included in the aggregate volume calculation.

Such a site may also include a compactor, or be in a covered building, or include such environmental protection features as a leachate management system.

This exemption for facilities with portable containers is limited to those operations where waste is placed directly into the compacting unit or portable container and is not dumped on a tipping floor (or on the ground). DSIWM's position is that the phrase “consists solely of portable containers” refers to the absence of a tipping floor. The process of depositing solid waste on a tipping floor or on the ground presents more health and environmental nuisances than waste being transferred directly from portable container to portable container. A tipping floor increases the likelihood of exposing workers to the hazards of uncontained waste, contributes to litter problems and leachate generation, and increases vector control problems. Thus if the waste is dumped on a tipping floor (or on the ground), then the operator will have conducted open dumping as it is defined in ORC 3734.01(I). Open dumping as a violation of ORC 3734.03. If the operator changes the operation in such a manner that solid waste is placed on the ground, then the facility is no longer exempt from solid waste transfer facility permitting and licensing requirements. The operator must therefore submit an application for a permit to install with accompanying required information. It is a violation of ORC 3734.02(C) if the facility continues to operate as a transfer facility without the required permit and license.

Legitimate Recycling. See OAC rule 3745-27-01(C)(2) for the definition of “legitimate recycling facility” and OAC rule 3745-27-03(F) for exemption criteria and procedures. Guidance document #0498 *Maintaining Exempt Status as a Legitimate Recycling Facility* may also be reviewed.

Mobile transfer along the route. If a smaller collection truck transfers its load to a larger truck along its route (on the street or in a parking lot), and that site is used intermittently for such transfer, then the primary purpose of the street or parking lot is still as transportation infrastructure. In this case the transfer activity is not regulated as a transfer facility. However, if the transfer occurs at a specific or dedicated site that is used day to day and the 50 cubic yard limit for portable containers is exceeded, then the site would be a transfer facility.

Transfer of Containers or Vehicles. DSIWM regulates the transfer of waste, not the transfer of containers or vehicles. However, the waste must remain in the container and not be exposed during the transfer.

Transferring is not the primary purpose. Sites that conduct other activities which constitute greater than 50% of the site’s activities is not regulated as a transfer facility. Such a site may transfer other materials or wastes, or generate and collect their own wastes on site, or treat wastes (including solidification or stabilization).

For example, a company that off-loads barges may occasionally off-load a barge of solid waste. That site would not be regulated as a transfer facility until the solid waste off-loading became greater than 50% of their business.

As another example, a solid waste disposal facility may have a railway spur on-site where they transfer uncontainerized waste to the working face. In this case the waste has arrived at its final destination, the landfill, and since the transfer operation is part of landfill operations, the primary purpose is solid waste disposal and not transfer of solid waste. However, if the transfer were occurring outside the solid waste disposal facility boundary, then the transfer activity could very well be the primary purpose of the facility.

DSIWM does not regulate sites that transfer liquid waste, hazardous waste, or infectious waste. In addition, the definition of solid waste (see OAC rule 3745-27-01) excludes certain materials such as spent non-toxic foundry sand, non-toxic fly ash and bottom ash, construction and demolition debris and slag. Therefore a facility transferring these “exempt” wastes, unmixed with solid wastes, is not a solid waste transfer facility.

The transfer of solid wastes on the premises of the generator is not regulated as a transfer facility. For example, the generator may collect waste at various buildings and take it to a staging area to be transported to a solid waste disposal facility. Because the waste is being transferred on the premises of the generator, such staging areas are not transfer facilities. Another example is a company that cleans out empty portable tanks. The client brings the tank to the facility, the company cleans the tank thus generating the waste, then takes the waste to a solid waste disposal facility. Although the client is bringing the tank with the residue inside it, the client did not generate the waste, the company generated the waste and is not transferring it.

DSIWM also does not regulate treatment facilities. For example, a facility that accepts sludges from clients and solidifies them so they can be disposed at a solid waste disposal facility is not regulated as a transfer facility.

VI. POINT OF CONTACT

Appropriate District Office. A map is attached.

VII. DISCLAIMER

This document is intended to be used for guidance purposes only. Completion of the activities and procedure outlined in this document shall not be construed to release an owner or operator from any requirement or obligation for complying with ORC Chapter 3734, the OAC rules adopted thereunder, or any authorizing document(s) or orders issued thereunder, nor shall it prevent Ohio EPA from pursuing enforcement actions to require an owner's or operator's compliance with ORC Chapter 3734, the OAC rules, or any authorizing document(s) or orders issued thereunder.