

**3745-27-52      Operation of solid waste incinerator and solid waste energy recovery facilities.**

All solid waste incinerator and solid waste energy recovery facilities shall be operated in accordance with paragraphs (A) to (V) and paragraph (BB) of this rule. In addition, all solid waste incinerator and solid waste energy recovery facilities with an approved permit to install shall be operated in accordance with paragraphs (W) to (AA) of this rule.

- (A) All operations at solid waste incinerator and solid waste energy recovery facilities shall be conducted in compliance with approved detail plans, specifications, and information, the terms and conditions of the permit to install issued in accordance with rule 3745-27-02 of the Administrative Code, and the solid waste facility license issued in accordance with Chapter 3745-37 of the Administrative Code.

Existing solid waste energy recovery facilities constructed and operated prior to March 1, 1996 shall:

- (1) Not be required to obtain an approved solid waste energy recovery facility permit to install in order to continue existing operations at the facility unless otherwise required under division (A)(5) of section 3734.05 of the Revised Code.
  - (2) Not be subject to divisions (A)(3) and (A)(4) of section 3734.05 of the Revised Code, .
  - (3) Be subject to requirements to obtain an approved permit to install prior to modifying the facility as that term is defined in rule 3745-27-02 of the Administrative Code.
  - (4) Submit an application for an annual solid waste license in accordance with division (A)(1) of section 3734.05 of the Revised Code, for the year following the year that this rule becomes effective.
- (B) In accordance with the requirements of division (L) in section 3734.02 of the Revised Code:
- (1) The technical operation and maintenance of the solid waste facility shall be under the responsible charge of an operator certified by the director as having completed the solid waste facility operator training as required by Chapter 3734. of the Revised Code and rules adopted thereunder.
  - (2) A certified operator shall be required on-site and in responsible charge of the operation and maintenance of the solid waste facility at all times during the normal operating hours of the facility.
- (C) All permits and authorizations that may be required by Chapters 3704. and 6111. of the Revised Code shall be obtained, and compliance with any applicable requirements of those chapters shall be maintained.
- (D) A copy of the approved detail plans, specifications, and information shall be available at the facility and may be inspected by the health commissioner or the director.
- (E) Access roads shall be maintained at the facility in such a manner that allows passage of loaded vehicles during inclement weather conditions with minimum erosion and dust generation.
- (F) Access to the facility shall be limited to authorized personnel except during operating hours and when operating personnel are present.
- (G) Clear instructions for using the facility shall be posted and maintained in legible condition and shall include a listing of prohibited types of wastes as defined in paragraph (T) of this rule and telephone numbers of emergency personnel, including, but not limited to, local fire departments, boards of health, and the appropriate district office of Ohio EPA. This information is to be posted at the entrance to the facility and at waste handling areas.
- (H) All necessary measures shall be taken to prevent scavenging and other activities which would interfere with

proper operating procedures.

- (I) Live domestic and live farm animals shall be excluded from all areas of the facility, except for animals utilized for security purposes and/or vector control.
- (J) Solid waste handling shall be confined to the smallest practical area. Such handling shall be supervised by competent operating personnel who shall be thoroughly familiar with proper operational procedures, and with the approved detail plans, specifications, and information.
- (K) All reasonable measures shall be employed to collect, properly contain, and dispose of scattered litter, including frequent policing of the area and the use of wind screens where necessary.
- (L) The facility shall be managed in such a manner that noise, dust, and odors do not constitute a nuisance or a health hazard.
- (M) The facility shall be managed in such a manner that the attraction, breeding, and emergence of birds, insects, rodents, and other vectors do not constitute a nuisance or a health hazard. Supplemental effective control measures shall be initiated as deemed necessary by the health commissioner or the director.
- (N) Adequate fire control equipment, material, and services shall be available at or near the facility, and shall be engaged immediately to control or extinguish any fire at the facility.
- (O) Facility operations shall be recorded in a daily log. Logs shall be kept on forms prescribed by the director. All entries required by the log form shall be made daily. The log shall be available for inspection by the health commissioner or the director during normal operating hours. When required by the director, copies of daily logs or summaries of daily logs shall be submitted to the health commissioner and/or the director on forms prescribed by the director.
- (P) Adequate operable equipment for facility operation shall be available at all times.
- (Q) A contingency plan detailing emergency procedures, notification, equipment, and remediation shall be established, maintained, and implemented as necessary for the following:
  - (1) Discovery of unauthorized wastes.
  - (2) Fire, explosion, and spills.
  - (3) Equipment failure.
  - (4) Handling, removal, and disposal of solid wastes if all or part of the transfer facility should become unavailable for any reason.
- (R) A contingency plan shall be established and implemented as necessary that provides for written notification to the single or joint county solid waste management district in which the facility is located, and general notification to service area and customers, if all or part of the facility should become unavailable for any reason which would affect the facility's ability to accept solid waste.
- (S) All solid wastes arriving at the facility shall be incinerated as soon as practicable. All solid wastes which are not incinerated within twenty-four hours of receipt shall be placed in closed containers or in totally enclosed buildings, structures, or other methods of cover deemed acceptable to the director, that prevent water, insects, rodents, birds, and other vectors from reaching the wastes.
- (T) Solid waste incinerator or solid waste energy recovery facilities shall not accept the following:

- (1) Hazardous wastes.
- (2) Asbestos or asbestos-containing waste material that is subject to the provisions of NESHAP, 40 CFR Part 61, Subpart M, July 1, 2003.
- (3) Infectious wastes, other than those subject to division (B)(1)(a)(ii) of section 3734.021 of the Revised Code or identified in division (D) of section 3734.02 of the Revised Code, that have not been treated to render them noninfectious, unless the facility is an infectious waste treatment facility operated in accordance with rule 3745-27-32 of the Administrative Code, or holds a solid waste disposal license with a notation that the facility treats infectious wastes.
- (4) Explosive materials.
- (5) Lead-acid batteries.
- (6) After December 31, 1994, yard wastes, source-separated yard waste, or commingled yard waste as defined in rule 3745-27-01 of the Administrative Code.

[Comment: Application of this rule should be read in conjunction with the yard waste management and yard waste restriction program rules as found in paragraphs (DD) and (EE) of this rule.]

- (7) Scrap tires, provided:
  - (a) Scrap tires accepted at the facility are handled in accordance with the facility's permit to install and this rule are transferred to a registered scrap tire transporter.
  - (b) Any whole or shredded scrap tires temporarily stored at the facility shall be stored in accordance with rule 3745-27-65 of the Administrative Code. The total area upon which scrap tires are stored shall not exceed ten thousand square feet unless the facility obtains a class I scrap tire storage facility permit to install in accordance with rule 3745-27-63 of the Administrative Code and a scrap tire storage facility license in accordance with Chapter 3745-37 of the Administrative Code.

If any such materials are detected in incoming solid wastes, the load containing those materials shall be refused. Any such occurrences shall be noted in the daily log as required in paragraph (O) of this rule.

- (U) If the director or health commissioner determine that a substantial threat of surface water pollution and/or ground water pollution exists, then monitoring may be required.
- (V) Leachate shall be managed and disposed in accordance with applicable regulations.
- (W) Waste materials shall not be admitted to any area of the facility until all site preparations for that area have been completed, all necessary equipment has been brought to the facility, the facility has been adequately prepared for operation, and the prepared facility has been inspected by a representative of the Board of health of the health district in which the facility is located, or by the director, when that district is not on the approved list under section 3734.08 of the Revised Code.
- (X) All solid waste storage and handling, including ash storage and handling, and all recycling operations shall be conducted on floors that readily allow wet or dry cleanup operations. All floors shall be sloped and curbed so as to direct leachate to collection points and not allow ponding or off-site migration of leachate.
- (Y) The leachate collection system shall be maintained to prevent blockage or clogging that may impede proper

collection of leachate.

- (Z) All solid waste storage and handling, including ash storage and handling, and all recycling operations at the facilities shall be conducted within buildings, structures, or other methods of cover deemed acceptable to the director.
- (AA) The facilities shall have financial assurance for facility final closure established in accordance with rule 3745-27-15 of the Administrative Code, shall otherwise comply with the provisions of rule 3745-27-15 of the Administrative Code, and shall be subject to the following requirements:
- (1) Prior to accepting solid waste at a new facility, and not later than thirty days after issuance of a final permit to install, the financial assurance instrument shall be funded in accordance with rule 3745-27-15 of the Administrative Code.
  - (2) The final closure cost estimate, as prepared in accordance with rule 3745-27-15 of the Administrative Code, shall be annually reviewed and analyzed. The estimate and financial assurance instrument shall be revised as appropriate whenever a change in the final closure activities increases the cost of final closure, prior to adjusting for inflation as specified in paragraph (AA)(3) of this rule.
  - (3) The final closure cost estimate shall be adjusted annually for inflation. The adjustment shall be made as specified in this paragraph, using an inflation factor derived from the annual "implicit price deflator for gross national product" as published by the U.S. department of commerce in its "Survey of Current Business", (February, 2004)" The inflation factor is the result of dividing the latest published annual "deflator" by the "deflator" for the previous year.
    - (a) The first adjustment is made by multiplying the final closure cost estimate by the inflation factor. The result the adjusted final closure cost estimate.
    - (b) Subsequent adjustments are made by multiplying the most recently adjusted final closure cost estimate by the most recent inflation factor.
  - (4) After revising and updating the final closure cost estimate in accordance with paragraphs (AA)(2) to (AA)(3) of this rule, the new estimates and any relevant calculations shall be submitted in the report specified in paragraph (BB) of this rule. In addition, the financial assurance instrument shall be revised and resubmitted in accordance with rule 3745-27-15 of the Administrative Code.
- (BB) An annual report shall be submitted to the appropriate Ohio EPA district office and approved health department not later than the first day of April of each year. The annual report shall include, at a minimum, a summary of the following operational information for the preceding calendar year:
- (1) Indication as to the calendar period which the submittal represents.
  - (2) A summary of the facility's operations including:
    - (a) Quantity, in tons or cubic yards, of the following:
      - (i) Wastes received.
      - (ii) Materials recycled by material type, if any.
    - (b) County and state of origin of the wastes proceeded.
    - (c) Quantity and disposal locations of ash.

(d) Ash testing results.

(e) If applicable, a summary of instances recorded in accordance with procedures required in paragraph (EE)(1)(e) of this rule in which the owner or operator of the facility refused acceptance of a vehicle due to the presence of source-separated yard waste or commingled yard waste in the vehicle load.

(3) For facilities with an approved permit to install:

(a) A summary of any maintenance performed on the leachate control system or any other monitoring and control system installed at the facility.

(b) The most recent final closure cost estimate, as specified in paragraph (AA)(4) of this rule.

(c) Any changes to the information that identifies the facility's final closure contact person required by paragraph (C)(4)(d)(ii) of rule 3745-27-50 of the Administrative Code.

(d) A statement certifying compliance with paragraph (Y) of this rule.

(4) A notarized statement that the information contained in the annual report is true and accurate.

(CC) The owner or operator of a facility shall post legible sign(s) stating the yard waste restrictions applicable to the facility. A sign shall be posted in proximity to each public entrance of the facility.

(DD) Exemptions from yard waste restrictions.

[Comment: Application of this rule should be read in conjunction with paragraph (T)(6) of this rule. Definitions for "yard waste," "source-separated yard waste," and "commingled yard waste" are located in rule 3745-27-01 of the Administrative Code.]

(1) The owner or operator of a facility may accept for incineration source-separated yard waste if any of the following are applicable:

(a) If a publicly available composting facility registered or licensed in accordance with Chapter 3745-560 of the Administrative Code is not accepting yard waste in the county in which the facility is located on February 1, 1995, the owner or operator may continue to accept for incineration source-separated yard waste until a registered or licensed composting facility begins operating in the county in which the facility is located or until one hundred and eighty days after February 1, 1995, whichever is earlier.

(b) The owner or operator of a facility may for a temporary period of time accept for incineration yard waste resulting from storm damage or other natural catastrophe upon the written acknowledgement of the solid waste management district of the need for the temporary incineration of yard waste.

[Comment: The solid waste management district is the local entity responsible for tracking the availability of solid waste disposal and processing capacity. The solid waste management district is therefore the appropriate entity to make the determination that locally available yard waste management capacity is not sufficient to handle yard waste resulting from storm damage or other natural catastrophe.]

(c) The owner or operator of a facility may incinerate yard waste resulting from the incidental acceptance of source-separated yard waste where the source-separated yard waste has been commingled with other solid wastes at the facility, provided the owner or operator complies with paragraph (EE) of

this rule.

For the purposes of this rule, "incidental acceptance" of source-separated yard waste means source separated yard waste is commingled with other solid waste at the facility despite the owner or operator's implementation of a yard waste restriction management plan as specified in paragraph (EE)(1) of this rule.

- (2) The owner or operator of a facility may accept a vehicle load of source-separated yard waste for incineration if that vehicle load has been refused acceptance by a composting facility registered or licensed in accordance with Chapter 3745-560 of the Administrative Code. The owner or operator shall obtain documentation of this refused acceptance by a composting facility upon acceptance of the vehicle at the incineration facility. Such documentation shall identify the vehicle, the vehicle's load, the compost facility which refused acceptance of the vehicle load, and the date of refusal on a form prepared by the director. The owner or operator shall attach any form(s) received to the appropriate daily log of operations required in paragraph (O) of this rule.
- (3) The owner or operator of a facility may accept for incineration tree trunks and stumps.

(EE) Yard waste exemption criteria.

[Comment: The yard waste restriction program outlined in paragraph (EE) of this rule consists of procedures to inform persons transporting solid waste of the yard waste restrictions, alternative yard waste management options, and identification of readily observable dedicated yard waste collection vehicles or loads of source-separated yard waste in order to encourage alternative management of yard waste, direct persons to available yard waste composting facilities, and deter the incineration of readily observable source-separated yard waste loads. This approach is due to Ohio EPA's position that a incineration or solid waste energy recovery facility's required design, operation, and environmental monitoring provides more than adequate environmental protection.]

In order to qualify for the exemption under paragraph (DD)(1)(c) of this rule, the owner or operator of a facility shall do the following:

- (1) Implement a written program to ensure that yard waste is not accepted for incineration. The program shall, at a minimum consist of the following:
  - (a) Procedures for notifying persons transporting solid waste to the facility of the yard waste restrictions at the facility.
  - (b) Procedures for distributing information regarding alternative yard waste management methods, such as composting, to persons transporting solid waste to the facility. At a minimum, information shall include the name, address, and phone number of the solid waste management district in which the facility is located and a listing of any informational pamphlets, brochures, etc., regarding yard waste composting published by Ohio EPA and the solid waste management district in which the facility is located.
  - (c) Except for incineration or solid waste energy recovery facility with an on-site licensed or registered compost facility, procedures for distributing information regarding the facility names and locations of Ohio EPA licensed or Ohio EPA registered composting facilities in the county in which the incineration or solid waste energy recovery facility is located to persons transporting solid waste to the incineration or solid waste energy recovery facility.

- (d) Procedures for identifying vehicles dedicated to yard waste collection or vehicles transporting portable containers and compartments of portable containers dedicated to yard waste collection, or vehicles with loads observed to consist of source-separated yard waste, and for refusal of the load due to the presence of source-separated yard waste.
  - (e) Procedures for the recording of instances in which the facility refused acceptance of a vehicle load due to the presence of source-separated yard waste or commingled yard waste in the vehicle load.
- (2) Maintain the yard waste restriction program document at the facility. A copy of the yard waste restriction program document shall be available for inspection by the health commissioner and the director during normal operating hours. When required by the health commissioner or the director, the owner or operator shall provide a copy of the yard waste restriction program document.
- (3) Yard waste restriction program compliance. The owner or operator of an incineration or solid waste energy recovery facility shall review the yard waste restriction program and implement such revision(s) as the owner or operator deems necessary to ensure control of the acceptance of yard waste at the incineration or solid waste energy recovery facility when either of the following occur:
- (a) Upon discovery by the owner or operator that yard waste has been accepted for disposal at the facility.
  - (b) Upon notification by Ohio EPA or the approved health department that yard waste had been accepted for disposal at the facility.

The exemption specified in paragraph (DD)(1)(c) of this rule shall not apply unless the owner or operator complies with paragraph (EE)(3) of this rule.

[Comment: Chapter 3734. of the Revised Code does not expressly provide Ohio EPA the statutory authority to regulate transporters of solid waste which includes yard waste. Chapter 3734. of the Revised Code does not expressly provide Ohio EPA the statutory authority to require generators of solid wastes, which includes yard waste, to source-separated solid waste for delivery to a particular type of solid waste facility or recycling facility. Chapter 3734. of the Revised Code does provide Ohio EPA with authority to establish rules regarding the operation of regulated solid waste facilities. Given these circumstances, it is Ohio EPA's position that the requirement that an owner or operator review and revise the facility's yard waste restriction program upon discovery of the acceptance of yard waste is appropriate to assure improvement in the program's effectiveness.]

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CERTIFIED ELECTRONICALLY

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Certification

11/21/2014

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Date

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