

Chapter 3734: SOLID AND HAZARDOUS WASTES

3734.01 Solid and hazardous waste definitions.

As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section [3709.05](#) of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural products made from shale and clay products, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section [3734.81](#) of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section [1.59](#) of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section [3734.02](#) of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section [3734.73](#) of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section [3734.021](#) of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section [3734.05](#) of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section [3734.81](#) of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C) (2) to (5), (7), or (10) of section [3734.85](#) of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section [3734.05](#) of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste; recover energy or material resources from the waste; render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery or storage; or reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process that renders the wastes noninfectious so that it is no longer an infectious waste and is no longer an infectious substance as defined in applicable federal law, including, without limitation, steam sterilization and incineration, and, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section [3734.81](#) of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

(1) Geographically contiguous property owned by a generator;

(2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation, operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section [3734.81](#) of the Revised Code is required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" means any wastes or combination of wastes that include cultures and stocks of infectious agents and associated biologicals, human blood and blood products, and substances that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent, including all of the following:

(1) Laboratory wastes;

(2) Pathological wastes;

(3) Animal blood and blood products;

(4) Animal carcasses and parts;

(5) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(7) of this section.

(6) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals;

(7) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the director of health, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

As used in this division, "blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(S) "Infectious agent" means a type of microorganism, pathogen, virus, or proteinaceous infectious particle that can cause or significantly contribute to disease in or death of human beings.

(T) "Zoonotic agent" means a type of microorganism, pathogen, or virus that causes disease in vertebrate animals, is transmissible to human beings, and can cause or significantly contribute to disease in or death of human beings.

(U) "Solid waste transfer facility" means 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 were generated off the premises of the facility from vehicles or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" 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.

(V) "Beneficially use" includes:

(1) With regard to scrap tires, to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in

accordance with Chapter 119. of the Revised Code;

(2) With regard to material from a horizontal well that has come in contact with a refined oil-based substance and that is not technologically enhanced naturally occurring radioactive material, to use the material in any manner authorized as a beneficial use in rules adopted by the director under section [3734.125](#) of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section [4501.01](#) of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section [4738.01](#) of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(2) The facility exclusively stores scrap tires in portable containers.

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only

those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section [3734.12](#) of the Revised Code.

(HH) "Horizontal well" has the same meaning as in section [1509.01](#) of the Revised Code.

(II) "Technologically enhanced naturally occurring radioactive material" has the same meaning as in section [3748.01](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 429, §1, eff. 9/14/2016.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

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3734.02 Rules for inspection and licensing of solid waste facilities.

(A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions.

The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or by another type of mail accompanied by a receipt and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make

available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing.

Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. 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. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail or by another type of mail accompanied by a receipt.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(3) of section [3734.05](#) of the Revised Code, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(4) of that section denying the permit application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section [3734.12](#) of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to a generator of infectious wastes that does any of the following:

(1) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section [3734.021](#) of the Revised Code, any of the following:

(a) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(b) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section [3727.01](#) of the Revised Code;

(c) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section [4765.01](#) of the Revised Code.

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; 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; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section [1511.01](#) of the Revised Code, conducted in accordance with section [1511.022](#) of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section [953.23](#) of the Revised Code.

(E)

(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterrupted and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section [3734.05](#) of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section [3734.05](#) of the Revised Code, to be credited to the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC

MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using:		
Containers	On-site, off-site, and	
	satellite	\$ 500
Tanks	On-site, off-site, and	
	satellite	500

Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	10,000
Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section [6111.046](#) of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section [3734.05](#) of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section [3734.05](#) of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and

subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(7) of section [3734.05](#) of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

- (1) A hazardous waste facility operating under a permit issued in accordance with this chapter;
- (2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;
- (3) A facility in another nation operating in accordance with the laws of that nation;
- (4) A facility holding a permit issued pursuant to Title of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;
- (5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) Except for infectious wastes generated by a person who produces fewer than fifty pounds of infectious wastes at a premises during any one month, no owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes that have not been treated to render them noninfectious.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)

(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section [3734.05](#) of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section [1546.06](#) of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the

facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)

(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections [3734.70](#) to [3734.73](#) of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections [3734.75](#) to [3734.78](#) and section [3734.81](#) of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section [3734.05](#) of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1) and (2)(a) of section [3734.05](#) of the Revised Code to a solid waste compost facility.

(O)

(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes.

(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste.

(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it.

(P)

(1) As used in divisions (P) and (Q) of this section:

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health.

(b) "Drilling operation" includes a production operation as defined in section [1509.01](#) of the Revised Code.

(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the director of health under section [3748.04](#) of the Revised Code.

(4) The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code governing the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including, without limitation, technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations less than five picocuries per gram above natural background. Rules adopted by the director may include at a minimum both of the following:

(a) Requirements in accordance with which the owner or operator of a solid waste facility must monitor leachate and ground water for radium-226, radium-228, and other radionuclides;

(b) Requirements in accordance with which the owner or operator of a solid waste facility must develop procedures to ensure that technologically enhanced naturally occurring radioactive material accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(Q) Notwithstanding any other provision of this section, the owner or operator of a solid waste facility shall not receive, accept, process, handle, manage, or dispose of technologically enhanced naturally occurring radioactive material associated with drilling operations without first obtaining representative analytical results to determine compliance with divisions (P)(2) and (3) of this section and rules adopted under it.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, SB 293, §1, eff. 9/14/2016.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-29-2004; 04-15-2005

3734.021 Standards for generators and transporters of infectious wastes and owners and operators of treatment facilities.

(A) Infectious wastes shall be segregated, managed, treated, and disposed of in accordance with rules adopted under this section.

(B) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary or appropriate to protect human health or safety or the environment that do both of the following:

(1) Establish standards for generators of infectious wastes that include, without limitation, the following requirements and authorizations that:

(a) All generators of infectious wastes:

(i) Either treat all specimen cultures and cultures of viable infectious agents on the premises where they are generated to render them noninfectious by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section before they are transported off that premises for disposal or ensure that such wastes are treated to render them noninfectious at an infectious waste treatment facility off that premises prior to disposal of the wastes;

(ii) Transport and dispose of infectious wastes, if a generator produces fewer than fifty pounds of infectious wastes during any one month that are subject to and packaged and labeled in accordance with federal requirements, in the same manner as solid wastes. Such generators who treat specimen cultures and cultures of viable infectious agents on the premises where they are generated shall not be considered treatment facilities as "treatment" and "facility" are defined in section [3734.01](#) of the Revised Code.

(iii) Dispose of infectious wastes subject to and treated in accordance with rules adopted under division (B) (1)(a)(i) of this section in the same manner as solid wastes;

(iv) May take wastes generated in providing care to a patient by an emergency medical services organization, as defined in section [4765.01](#) of the Revised Code, to and leave them at a hospital, as defined in section [3727.01](#) of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility regardless of whether the wastes were generated in providing care to the patient at the scene of an emergency or during the transportation of the patient to a hospital;

(v) May take wastes generated by an individual for purposes of the individual's own care or treatment to and leave them at a hospital, as defined in section [3727.01](#) of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility.

(b) Each generator of fifty pounds or more of infectious wastes during any one month:

(i) Register with the environmental protection agency as a generator of infectious wastes and obtain a registration certificate. The fee for issuance of a generator registration certificate is one hundred forty dollars payable at the time of application. The registration certificate applies to all the premises owned or operated by the generator in this state where infectious wastes are generated and shall list the address of each such premises. If a generator owns or operates facilities for the treatment of infectious wastes it generates, the certificate shall list the address and method of treatment used at each such facility.

A generator registration certificate is valid for three years from the date of issuance and shall be renewed for a term of three years upon the generator's submission of an application for renewal and payment of a one hundred forty dollar renewal fee.

The rules may establish a system of staggered renewal dates with approximately one-third of such certificates subject to renewal each year. The applicable renewal date shall be prescribed on each registration certificate. Registration fees shall be prorated according to the time remaining in the registration cycle to the nearest year.

The registration and renewal fees collected under division (B)(1)(b)(i) of this section shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(ii) Segregate infectious wastes from other wastes at the point of generation. Nothing in this section and rules adopted under it prohibits a generator of infectious wastes from designating and managing any wastes, in addition to those defined as infectious wastes under section [3734.01](#) of the Revised Code, as infectious wastes. After designating any such other wastes as infectious, the generator shall manage those wastes in compliance with the requirements of this chapter and rules adopted under it applicable to the management of infectious wastes.

(iii) Either treat the infectious wastes that it generates at a facility owned or operated by the generator by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section to render them noninfectious, or designate the wastes for treatment off that premises at an infectious waste treatment facility holding a license issued under division (B) of section [3734.05](#) of the Revised Code, at an infectious waste treatment facility that is located in another state that is in compliance with applicable state and federal laws, or at a treatment facility authorized by rules adopted under division (B)(2)(d) of this section, prior to disposal of the wastes. After being treated to render them noninfectious, the wastes shall be disposed of at a solid waste disposal facility holding a license issued under division (A) of section [3734.05](#) of the Revised Code or at a disposal facility in another state that is in compliance with applicable state and federal laws.

(iv) Not compact or grind any type of infectious wastes prior to treatment in accordance with rules adopted under division (B)(2)(a) of this section;

(v) May discharge untreated liquid or semiliquid infectious wastes consisting of blood, blood products, body fluids, and excreta into a disposal system, as defined in section [6111.01](#) of the Revised Code, unless the discharge of those wastes into a disposal system is inconsistent with the terms and conditions of the permit for the system issued under Chapter 6111. of the Revised Code;

(vi) May transport or cause to be transported infectious wastes that have been treated to render them noninfectious in the same manner as solid wastes are transported.

(2) Establish standards for owners and operators of infectious waste treatment facilities that include, without limitation, the following requirements and authorizations that:

(a) Require treatment of all wastes received to be performed in accordance with methods, techniques, and practices approved by the director;

(b) Govern the location, design, construction, and operation of infectious waste treatment facilities. The rules adopted under division (B)(2)(b) of this section shall require that a new infectious waste incineration facility be located so that the incinerator unit and all areas where infectious wastes are handled on the premises where the facility is proposed to be located are at least three hundred feet inside the property line of the tract of land on which the facility is proposed to be located and are at least one thousand feet from any domicile, school, prison, or jail that is in existence on the date on which the application for the permit to establish the incinerator is submitted under division (B)(2)(b) of section [3734.05](#) of the Revised Code.

(c) Establish quality control and testing procedures to ensure compliance with the rules adopted under division (B)(2)(b) of this section;

(d) Authorize infectious wastes to be treated at a facility that holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717., and a permit issued under Chapter 3704., of the Revised Code to the extent that the treatment of those wastes is consistent with that permit and its terms and conditions. The rules adopted under divisions (B)(2)(b) and (c) of this section do not apply to a facility holding such a license and permit.

In adopting the rules required by divisions (B)(2)(a) to (d) of this section, the director shall consider and, to the maximum feasible extent, utilize existing standards and guidelines established by professional and governmental organizations having expertise in the fields of infection control and infectious wastes management.

(e) Require shipping papers to accompany shipments of wastes that have been treated to render them noninfectious. The shipping papers shall include only the following elements:

(i) The name of the owner or operator of the facility where the wastes were treated and the address of the treatment facility;

(ii) A certification by the owner or operator of the treatment facility where the wastes were treated indicating that the wastes have been treated by the methods, techniques, and practices prescribed in rules adopted under division (B)(2)(a) of this section.

(C) This section and rules adopted under it do not apply to the treatment or disposal of wastes consisting of dead animals or parts thereof, or the blood of animals:

(1) By the owner of the animal after slaughter by the owner on the owner's premises to obtain meat for consumption by the owner and the members of the owner's household;

(2) In accordance with Chapter 941. of the Revised Code; or

(3) By persons who are subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) As used in this section, "generator" means a person who produces infectious wastes at a specific premises.

(E) Rules adopted under this section shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating infectious waste treatment facilities.

(F)

(1) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the issuance, modification, revocation, suspension, and denial of variances from the rules adopted under division (B) of this section. Variances shall be issued, modified, revoked, suspended, or denied in accordance with division (F) of this section, rules adopted under it, and Chapter 3745. of the Revised Code.

(2) A person who desires to obtain a variance or renew a variance from the rules adopted under division (B) of this section shall submit to the director an application as prescribed by the director. The application shall contain detail plans, specifications, and information regarding objectives, procedures, controls, and any other information that the director may require. The director shall issue, renew, or deny a variance or renewal of a variance within six months of the date on which the director receives a complete application with all required information and data.

(3) The director may hold a public hearing on an application submitted under division (F) of this section for a variance at a location in the county in which the operations that are the subject of the application for a variance or renewal of variance are conducted. Not less than twenty days before the hearing, the director shall provide to the applicant notice of the hearing by certified mail or by another type of mail that is accompanied by a receipt and shall publish notice of the hearing at least one time in a newspaper of general circulation in the county in which the hearing is to be held. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Not later than ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing.

(4) A variance shall not be issued, modified, revoked, or denied under division (F) of this section until the director has considered the relative interests of the applicant, other persons and property that will be affected by the variance, and the general public. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that the requested action will not create a nuisance or a hazard to the health or safety of the public or to the environment. In granting a variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed on the applicant in place of the provision or provisions.

(5) A variance granted under division (F) of this section shall be for a period specified by the director and may be renewed from time to time on terms and for periods that the director determines to be appropriate. The director may order the person to whom a variance has been issued to take action within the time that the director determines to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the health or safety of the public or to the environment.

(6) An application submitted under division (F) of this section shall not be denied and a variance shall not be revoked or modified under that division without a written order of the director stating the findings on which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or holder of a variance by certified mail or by another type of mail that is accompanied by a receipt.

(7) The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances submitted under division (F) of this section and a current schedule of pending variance hearings under it.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Effective Date: 08-05-1998 .

3734.022 [Repealed].

Repealed by 129th General Assembly File No. 115, SB 294, §2, eff. 9/5/2012.

Effective Date: 04-18-1990 .

3734.023 Off-site infectious waste treatment facility definitions.

As used in sections [3734.024](#), [3734.025](#), and [3734.026](#) of the Revised Code, "off-site infectious waste treatment facility" and "treatment facility" mean an infectious waste treatment facility for which a license is required under division (B) of section [3734.05](#) of the Revised Code. "Off-site infectious waste treatment facility" and "treatment facility" also include a solid waste incineration facility for which the license issued under division (A)(1) of section [3734.05](#) of the Revised Code includes the notation authorizing the treatment of infectious wastes made pursuant to division (B)(3) of that section.

Effective Date: 03-04-1992.

3734.024 Funding for municipal corporation or township for conducting environmental monitoring programs in connection with off-site infectious waste treatment facilities.

For the purpose of providing funding to a municipal corporation or township for conducting environmental monitoring programs in connection with off-site infectious waste treatment facilities located within the municipal corporation or township; providing local emergency response services in connection with such a facility and the transportation of infectious wastes to such a facility; and providing financial assistance to the board of health of the health district having jurisdiction within the municipal corporation or township for the enforcement of the infectious waste provisions of this chapter and rules, orders, and terms and conditions of permits and licenses adopted or issued under them, the municipal corporation or township may levy a fee of not more than five dollars per ton on the treatment of infectious wastes at the treatment facility. The fees levied under this section are in addition to all other applicable fees and taxes and shall be added to any other fee or amount specified in a contract that is charged by the owner or operator of an off-site infectious waste treatment facility.

The legislative authority of a municipal corporation or township may levy the fee authorized by this section by enacting an ordinance or adopting a resolution. Upon doing so, the legislative authority shall mail a copy of the ordinance or resolution to the director of environmental protection, the board of health of the health district having jurisdiction within the municipal corporation or township, and the owner or operator of each treatment facility located in the municipal corporation or township. The levying of the fee shall commence on the sixtieth day after the adoption of the ordinance or resolution.

Effective Date: 03-04-1992.

3734.025 Return and remittance of fees by owner or operator.

The owner or operator of an off-site infectious waste treatment facility shall pay the fees levied by an ordinance or resolution adopted under section [3734.024](#) of the Revised Code monthly to the treasurer or other such officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township. The owner or operator shall remit the fees to the treasurer or other officer or to the fiscal officer in accordance with rules adopted under section [3734.026](#) of the Revised Code. The remittance shall be accompanied by a return indicating the total amount of infectious wastes received at the facility for treatment during the month to which the return applies. If a monthly return and remittance of the fees are not submitted to the treasurer or other officer or to the fiscal officer within sixty days after the last day of the month to which the return and remittance apply or within sixty days after the date otherwise established in rules adopted under section [3734.026](#) of the Revised Code, the owner or operator shall pay a penalty of an additional fifty per cent of the amount of the remittance for each month that it is late.

Money received by the treasurer or other officer of the municipal corporation under this section shall be paid into the general fund of the municipal corporation. Money received by the fiscal officer of a township under this section shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the fiscal officer of the township, as appropriate, shall maintain separate records of money received from the fees remitted under this section.

No owner or operator of an off-site infectious waste treatment facility shall violate or fail to comply with this section or a rule adopted under section [3734.026](#) of the Revised Code.

Effective Date: 03-04-1992; 12-20-2005.

3734.026 Procedures for remitting fees.

The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for remitting fees levied under section [3734.024](#) of the Revised Code to the treasurers or other appropriate fiscal officers of municipal corporations and to the fiscal officers of townships. The rules also shall establish the dates for remitting the fees to those officers and may establish any other requirements that the director considers necessary or appropriate to implement or administer sections [3734.024](#) and [3734.025](#) of the Revised Code.

Effective Date: 03-04-1992; 12-20-2005.

3734.027 Low-level radioactive waste - prohibited activities.

(A) No person shall commingle with any type of solid wastes, hazardous waste, or infectious wastes any low-level radioactive waste whose treatment, recycling, storage, or disposal is governed under division (B) of section [3748.10](#) of the Revised Code.

(B) Except as authorized by the director of health under Chapter 3748. of the Revised Code and rules adopted under it, no owner or operator of a solid waste facility, infectious waste treatment facility, or hazardous waste facility shall accept for transfer, storage, treatment, or disposal or shall transfer, store, treat, or dispose of any radioactive waste specified in division (A) of this section.

Amended by 129th General Assembly File No.115, SB 294, §1, eff. 9/5/2012.

Effective Date: 09-08-1995 .

3734.028 Standards of quality for compost products.

(A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code and in consultation with the director of agriculture, shall adopt, and may amend, suspend, or rescind, rules establishing standards of quality for compost products produced by composting facilities subject to this chapter to ensure that the use of those products in accordance with accepted agricultural or horticultural practices does not pose a threat to public health or safety or the environment. The rules may establish differing standards of quality for compost products, in accordance with their various uses, if the director considers such standards to be necessary or appropriate to protect public health and safety and the environment. The rules shall require the owner or operator of a composting facility subject to this chapter that produces a compost product that does not meet the standards of quality applying to it to either reprocess the product or dispose of it in a manner approved by the director.

(B) No owner or operator of a composting facility shall sell or offer for sale at retail or wholesale, use, distribute for use, or give away any compost product that does not comply with the applicable standard of quality established in rules adopted under this section for the use for which the product is being sold, offered for sale, distributed, or given away or for which the product is being used by the owner or operator.

Effective Date: 08-10-1994.

3734.029 Application to compost products produced by facility composting dead animals.

(A)

(1) Except as otherwise provided in division (A)(2) of this section, the standards of quality for compost products established in rules adopted under division (A) of section [3734.028](#) of the Revised Code apply to compost products produced by a facility composting dead animals that is subject to section 939.04 of the Revised Code in addition to compost products produced by facilities subject to this chapter.

(2) The standards of quality established in rules adopted under division (A) of section [3734.028](#) of the Revised Code do not apply to the use, distribution for use, or giving away of the compost products produced by a composting facility subject to section 939.04 of the Revised Code when either of the following applies:

(a) The composting is conducted by the person who raises the animals and the compost product is used in agricultural operations owned or operated by that person, regardless of whether the person owns the animals;

(b) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.

(B) No owner or operator of a composting facility that is subject to regulation under section 939.04 of the Revised Code shall sell or offer for sale at retail or wholesale, distribute for use, or give away any compost product that does not comply with the standard of quality applicable under division (A) of this section for the use for which the product is being sold, offered for sale, distributed, or given away.

No person shall violate this division.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.

Effective Date: 08-10-1994 .

3734.03 Open burning or open dumping.

No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection in rules adopted in accordance with division (V) of section [3734.01](#), section [3734.02](#), or sections [3734.70](#) to [3734.73](#) of the Revised Code and except for burying or burning the body of a dead animal as authorized by section [941.14](#) of the Revised Code. No person shall dispose of treated or untreated infectious wastes by open burning or open dumping.

Effective Date: 08-10-1994.

3734.04 Inspection - enforcement.

The board of health of each district maintaining a program on the approved list under division (A) or (B) of section [3734.08](#) of the Revised Code shall provide for the inspection, licensing, and enforcement of sanitary standards for solid waste facilities, other than scrap tire facilities, in conformity with this chapter and for the inspection and licensing of solid waste facilities that are scrap tire collection, storage, monocell, monofill, and recovery facilities and the enforcement of this chapter and rules adopted under it governing those facilities, the management of scrap tires, and the transportation of scrap tires. The director of environmental protection shall provide for the inspection of hazardous waste facilities and of generators and transporters of hazardous waste, issuance of permits, and enforcement of this chapter and of rules adopted thereunder governing the storage, treatment, transportation, and disposal of hazardous waste and also shall provide for the enforcement of section [3734.60](#) of the Revised Code.

Effective Date: 10-29-1993.

3734.041 Explosive gas monitoring plan for landfill.

(A) The owner or operator holding a license issued under division (A) of section [3734.05](#) of the Revised Code for a sanitary landfill that is so situated that a residence or other occupied structure off the premises of the landfill is located within one thousand feet horizontal distance from the exterior boundary of the landfill, and the owner or operator of any closed landfill that is so situated and for which a license was issued under division (A) of section [3734.05](#) of the Revised Code, or the subsequent owner, lessee, or other person who has control of the land on which the closed landfill is located, shall, within sixty days after the effective date of the rules adopted under division (F) of this section, submit an explosive gas monitoring plan for the landfill or closed landfill to the director of environmental protection for approval for compliance with those rules. After approval of the plan, the owner, operator, subsequent owner, lessee, or other person shall conduct monitoring of explosive gas levels at the landfill or closed landfill, and submit written reports of the results of the monitoring to the director and the board of health of the health district in which the landfill is located in accordance with the approved plan and the schedule for implementation contained in the approved plan.

No person shall violate or fail to perform a duty imposed by a plan approved under this section.

(B) Division (A) of this section does not apply to a sanitary landfill or closed sanitary landfill that exclusively disposes, or disposed, of solid wastes generated on the premises where the landfill or closed landfill is located; to a sanitary landfill or closed sanitary landfill that exclusively disposes, or disposed, of solid wastes generated on one or more premises owned by the person who owns the landfill or closed landfill; or to a sanitary landfill or closed sanitary landfill owned or operated by a person other than the generator of the wastes that exclusively disposes, or disposed, of nonputrescible solid wastes or nonputrescible wastes generated by a single generator at one or more premises owned by the generator.

(C) As used in this division and division (D) of this section, "responsible party" includes the owner or operator of a solid waste disposal facility; any current or former owner of a closed solid waste disposal facility; any person who was responsible for the operations of a closed solid waste disposal facility; any lessee or other person who has control of the property on which a closed solid waste disposal facility is located; a receiver appointed pursuant to Chapter 2735. of the Revised Code with respect to a solid waste disposal facility or closed solid waste disposal facility; and a trustee in bankruptcy.

Notwithstanding division (B) of this section, if the director determines that, due to the types of wastes disposed of, the engineering design, the hydrogeological setting, the period of time since the commencement of operation, the proximity of residential or other occupied structures located off the premises of a solid waste disposal facility to the exterior boundaries, or information related to concentrations of explosive gas at or surrounding a facility or closed facility, the potential exists for the formation and subsurface migration of explosive gases in such quantities and under such conditions as to threaten human health or safety or the environment, the director may issue to any responsible party an order directing the responsible party to prepare and submit a new or revised explosive gas monitoring and reporting plan that complies with division (A) of this section and provides for the adequate evaluation of explosive gas generation at and migration from the solid waste disposal facility or closed solid waste disposal facility. A plan so submitted shall be approved in accordance with division (A) of this section. After approval of the plan, the responsible party shall conduct monitoring of explosive gas levels at the facility or closed facility and submit written reports of the results of the monitoring in accordance with the plan approved under this section. For the purposes of this division and division (D) of this section, explosive gases shall be considered to threaten human health or safety or the environment if concentrations of methane generated by a facility in occupied structures exceed twenty-five per cent of the lower explosive limit or if concentrations of methane generated by the facility at the facility boundary exceed the lower explosive limit. As used in this division, "lower explosive limit" means the lowest per cent by volume of methane that will produce a flame in air at twenty-five degrees centigrade and atmospheric pressure.

(D) If a report submitted pursuant to a plan approved under division (A) of this section indicates that the formation of explosive gases at, and migration of explosive gases from, a solid waste disposal facility or closed solid waste disposal facility threatens human health or safety or the environment, the director or his authorized representative may conduct an evaluation of the levels of explosive gases on the premises of the facility and in occupied structures located in proximity to the boundaries of the facility to determine whether the formation of explosive gases at, and migration of those gases from, the facility or closed facility constitutes such a threat. In addition, the director or the director's authorized representative, on their own initiative, may conduct an evaluation in accordance with division (G) of this section. Based upon the findings of an evaluation, the director may issue an order under division (A) or (B) of section [3734.13](#) of the Revised Code, as the director considers necessary or appropriate, directing any responsible party to perform such measures as the director considers necessary or appropriate, to abate or minimize the formation of explosive

gases or their migration off the premises of the facility, to abate or remedy any conditions caused by the formation and migration of such gases that threaten human health or safety or the environment and to take such actions as the director finds necessary or appropriate to prevent recurrence of the migration of explosive gases or decrease their concentration to levels set forth in division (C) of this section.

After the issuance of an order under this division, the director shall inspect the facility at such intervals as the director or an authorized representative of the director considers necessary or appropriate to ascertain compliance with the order until such time as the director determines that full compliance with those terms and conditions has been achieved.

If a report submitted pursuant to a plan approved under division (A) of this section indicates that the formation of explosive gases at, and migration of explosive gases from, a solid waste disposal facility that is subject to an order issued under division (D) of this section has recurred in such quantities or under such conditions as to threaten human health or safety or the environment, or if the director determines from an inspection of any such facility that the responsible party has violated or is violating a term or condition of the order or that measures in addition to those prescribed by the order are necessary or appropriate under the circumstances, the director shall take such actions under division (A), (B), or (C) of section [3734.13](#) of the Revised Code as the director considers necessary or appropriate to protect human health or safety or the environment.

(E) The director shall conduct random inspections of licensed and closed sanitary landfills for explosive gas levels and to monitor the accuracy of the reports submitted pursuant to plans approved under division (A) of this section.

(F) The director shall adopt rules under Chapter 119. of the Revised Code prescribing standards for conducting the explosive gas monitoring required by division (A) of this section including, without limitation, standards governing the numbers, locations, and design and construction of monitoring wells; quality control procedures to be followed by persons conducting those evaluations to ensure the accuracy of the monitoring; the frequency for sampling the monitoring wells, which shall be at least quarterly, except as otherwise provided in this division; and the frequency of reporting monitoring results to the director and board of health. The rules shall require that, in the instance of closed sanitary landfills, explosive gas monitoring be conducted for the period of twenty years after closure or for such other period as the director considers necessary or appropriate. Such explosive gas monitoring shall be conducted quarterly during each of the five years immediately following closure of the landfills and semiannually thereafter. If such semiannual sampling shows that the methane limits set in division (C) of this section are exceeded, sampling may be resumed at a frequency determined by the director.

(G) The director or the director's authorized representative may enter upon a solid waste disposal facility or a closed solid waste disposal facility to conduct an evaluation of the concentration of explosive gas generated at or migrating from the facility. The owner or operator of a solid waste disposal facility or closed solid waste disposal facility shall allow the director or representative to conduct such an evaluation of the facility, any structures within the boundary of the facility, and any occupied structures in close proximity to the boundary of the facility that are owned or controlled by the owner or operator.

(H) The remedy provided by division (D) of this section is cumulative and concurrent with any other remedy provided in this chapter or Chapter 3704. of the Revised Code, and the existence or exercise of one remedy does not prevent the exercise of any other.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Effective Date: 05-31-1988.

3734.042 Complaint of presence of vectors at scrap tire collection, storage, monocell, monofill, or recovery facility.

Upon receiving a written complaint of the presence of vectors at a scrap tire collection, storage, monocell, monofill, or recovery facility, the board of health of the health district having jurisdiction promptly shall conduct an inspection of the facility named in the complaint. If the board of health finds from the inspection that vectors are present at the facility in such numbers that the chemical treatment of the scrap tires present at the facility is necessary to protect the public health, and if the board has exhausted all means to

compel the person holding a license for the facility under section [3734.81](#) of the Revised Code to abate the problem, the board may apply to the director of environmental protection for a grant from the scrap tire management fund created in section [3734.82](#) of the Revised Code to pay the board's costs of providing such treatment. The application shall be accompanied by a plan that indicates the nature of the chemical treatment that the board intends to use and the locations at the facility where the chemical treatment is to be applied and by a summary of all efforts made by the board to compel the person holding a license for the facility to abate the problem. If the director finds from the application and plan that the proposed treatment of the scrap tires stored at the facility is necessary to protect the public health and that the board will apply such treatment only to the tires stored in an outdoor location at the facility and to no other locations on the premises of the facility, the director may make a grant to the board from the fund to pay the costs to be incurred by the board for providing the proposed chemical treatment. The director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the awarding of such grants. Prior to submitting an application for a grant, the board of health may take formal action to suspend or revoke the facility's license under section [3734.09](#) of the Revised Code.

Effective Date: 10-29-1993.

3734.05 Licensing requirements.

(A)

(1) Except as provided in divisions (A)(6) and (7) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section [3734.08](#) of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section [3734.08](#) of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section [3734.06](#) of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section [3734.02](#) and division (D) of section [3734.12](#) of the Revised Code.

(2)

(a) Except as provided in divisions (A)(2)(b), (6), and (7) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section [3734.02](#) of the Revised Code and applicable rules adopted under division (D) of section [3734.12](#) of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section [3734.02](#) of the Revised Code and division (D) of section [3734.12](#) of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section [3734.08](#) of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section [3734.06](#) of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section [3745.11](#) of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), (4), or (5) of section [3734.06](#) of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the

information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application.

The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3)

The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section [3734.02](#) of the Revised Code and applicable rules adopted under division (D) of section [3734.12](#) of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(4) The director shall act upon any updated engineering plans, specifications, and information submitted under division (A)(3) of this section within one hundred eighty days after receiving them. If the director issues an order disapproving the plans, specifications, and information submitted under division (A)(3) of this section, the order shall include all of the following requirements :

(a) That the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order;

(b) That the owner or operator cease accepting solid wastes for disposal or transfer at the facility; and

(c) The owner or operator commence closure of the facility not later than one year after issuance of the order.

If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger

ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(4) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(5) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section [3734.02](#) of the Revised Code and division (D) of section [3734.12](#) of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(6) Divisions (A)(1) and (2)(a) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section [3734.02](#) of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section [3734.02](#) of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(7) Divisions (A)(1) to (5) of this section do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections [3734.75](#) to [3734.78](#) of the Revised Code, as applicable, and section [3734.81](#) of the Revised Code.

(B)

(1) No person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section [3734.08](#) of the Revised Code.

(2)

(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section [3734.08](#) of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section [3734.06](#) of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section [3734.021](#) of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a complete application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a complete application under division (A)(2)(a) of this section for a permit to open a new solid

waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section [3734.08](#) of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section [3734.06](#) of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section [3745.11](#) of the Revised Code or the amount of the license fee due under division (C) of section [3734.06](#) of the Revised Code.

(d) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section [3734.021](#) of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(e) The director shall act on any updated engineering plans, specifications, and information submitted under division (B)(2)(d) of this section within one hundred eighty days after receiving them. If the director disapproves any such updated engineering plans, specifications, and information, the director shall include in the order disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to a generator of infectious wastes that meets any of the following conditions:

(a) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section [3734.021](#) of the Revised Code, any of the following wastes:

(i) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(ii) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section [3727.01](#) of the Revised Code;

(iii) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section [4765.01](#) of the Revised Code.

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

- (i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;
- (ii) Chapter 918. of the Revised Code;
- (iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

The director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in rules adopted under division (B)(2)(b) of section [3734.021](#) of the Revised Code.

(C) Except for a facility or activity described in division (E)(3) of section [3734.02](#) of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section [3734.12](#) of the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community concerning the activities.

(D)

(1) Except as provided in section [3734.123](#) of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section [3734.12](#) of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

- (a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;
- (b) That the facility complies with the director's hazardous waste standards adopted pursuant to section [3734.12](#) of the Revised Code;
- (c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

- (i) Fires or explosions from treatment, storage, or disposal methods;
- (ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;
- (iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section [3734.41](#) of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section [3734.42](#) of the Revised Code as a basis for making a finding and determination under division (D)(2) (f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33(e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

- (i) Two thousand feet of any residence, school, hospital, jail, or prison;
- (ii) Any naturally occurring wetland;
- (iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section [1546.06](#) of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the

director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E) No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules adopted under it.

(H)

(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section [3734.02](#) of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section [3734.12](#) of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)

(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, a modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator for any off-site facility as defined in section [3734.41](#) of the Revised Code shall be classified as a Class 3 modification. The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.

(2) Except as provided in section [3734.123](#) of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section [3734.12](#) of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section [3734.12](#) of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section [3734.12](#) of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section or as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

As used in division (I) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section [3734.02](#) of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)

(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E) (3)(b) of section [3734.02](#) of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule.

Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section [3734.02](#) of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section [3734.12](#) of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, SB 293, §1, eff. 9/14/2016.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 09-26-2003 .

3734.051 to 3734.057 [Repealed].

Effective Date: 12-31-1999.

3734.058 Limiting regulations by local authorities.

(A) Except as provided in division (B) of this section, no political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the operation of a byproduct disposal facility authorized by a byproduct disposal facility permit to install or modify issued under division (B) of former section 3734.054, division (B) or (C)(3) of section 3734.055, or division (B) of former section 3734.057 of the Revised Code, nor shall any political subdivision adopt or enforce any law, ordinance, resolution, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(B)

(1) Division (A) of this section does not apply to the issuance of an annual license for a byproduct disposal facility under division (A)(1) of section [3734.05](#) of the Revised Code; the issuance of orders under section [3709.20](#) or [3709.21](#) of the Revised Code to enforce the solid waste provisions of this chapter or rules adopted or terms and conditions of permits, licenses, or orders issued under those provisions; the inspection of any such facility for compliance with those provisions, any such terms and conditions, or any orders issued under section [3709.20](#) or [3709.21](#) of the Revised Code to enforce those provisions or any such terms and conditions; or the enforcement of those provisions, any such terms and conditions, or any orders issued under section [3709.20](#) or [3709.21](#) of the Revised Code to enforce those provisions or any such terms and conditions, by a board of health on the approved list under section [3734.08](#) of the Revised Code.

(2) Division (A) of this section does not alter, impair, or limit the authority of a board of health or political subdivision of this state that has been delegated any of the powers and duties of the director of environmental protection under Chapter 3704. of the Revised Code pursuant to division (P) of section [3704.03](#) of the Revised Code to exercise the authority and perform the duties conferred upon the board or political subdivision by that delegation.

(C) As used in this section:

(1) "Byproduct disposal facility" means a solid waste disposal facility that exclusively disposes of coal combustion wastes. "Byproduct disposal facility" does not include a coal mining and reclamation operation where coal combustion wastes are used in conducting the operation, or are disposed of, in compliance with Chapter 1513. of the Revised Code and rules adopted under it.

(2) "Coal combustion wastes" includes all of the following:

(a) Air pollution control wastes that are solid wastes, that result from the combustion of coal at a coal-fired electric generating facility owned, operated, or leased by an electric light company or a municipal power agency, and that are generated by air pollution control equipment installed or used at the electric generating facility for the purpose of complying with applicable emission standards or emission limitations established under the "Air Quality Act of 1967," 81 Stat. 485, 42 U.S.C.A. 1857, as amended, and regulations adopted under it or Chapter 3704. of the Revised Code and rules adopted under it;

(b) Air pollution control wastes that are solid wastes and that are generated in the operation of air pollution control equipment installed at a byproduct disposal facility for the purpose of complying with Chapter 3704. of the Revised Code and rules adopted under it;

(c) Water pollution control wastes that are solid wastes and that are generated in the operation of a disposal system or treatment works installed at a byproduct disposal facility for the purpose of complying with Chapter 6111. of the Revised Code and rules adopted under it;

(d) Any other similar types of solid wastes that are produced in the operation of a coal-fired electric generating facility or in the operation of air pollution control equipment, disposal systems, or treatment works installed or used at such a facility and that are identified in rules adopted under division (A) of section [3734.02](#) of the Revised Code.

(3) "Disposal system" and "treatment works" have the same meanings as in section [6111.01](#) of the Revised Code.

(4) "Electric light company" has the same meaning as in section [4905.03](#) of the Revised Code.

(5) "Municipal power agency" means any Ohio nonprofit corporation, the members of which are municipal corporations that own and operate electric utility systems, that sells electricity to its members for resale.

Effective Date: 12-31-1999.

3734.059 [Repealed].

Effective Date: 12-31-1999.

3734.06 Annual fee for solid waste facility license - special fund - special infectious waste fund.

(A)

(1) Except as provided in divisions (A)(2), (3), (4), and (5) of this section and in section [3734.82](#) of the Revised Code, the annual fee for a solid waste facility license shall be in accordance with the following schedule:

AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under divisions (A)(1), (2), and (3) of this section, the authorized maximum daily waste receipt shall be the maximum amount of wastes the facility is authorized to receive daily that is established in the permit for the facility, and any modifications to that permit, issued under division (A)(2) of section [3734.05](#) of the Revised Code; the annual license for the facility, and any revisions to that license, issued under division (A)(1) of section [3734.05](#) of the Revised Code; the approved operating plan or operational report for which submission and approval are required by rules adopted by the director of environmental protection under section [3734.02](#) of the Revised Code; or an order issued by the director as authorized by rule . If no authorized maximum daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (A)(1) of this section and thirty thousand dollars under divisions (A)(2) and (3) of this section.

The authorized maximum daily waste receipt set forth in any such document shall be stated in terms of cubic yards of volume for the purpose of regulating the design, construction, and operation of a solid waste facility. For the purpose of determining applicable license fees under this section, the authorized maximum daily waste receipt so stated shall be converted from cubic yards to tons as the unit of measurement based upon a conversion factor of three cubic yards per ton for compacted wastes generally and one cubic yard per ton for baled wastes.

(2) The annual license fee for a facility that is an incinerator facility is one-half the amount shown in division (A)(1) of this section. When a municipal corporation, county, or township owns and operates more than one incinerator within its boundaries, the municipal corporation, county, or township shall pay one fee for the licenses for all of its incinerators. The fee shall be determined on the basis of the aggregate maximum daily waste receipt for all the incinerators owned and operated by the municipal corporation, county, or township in an amount that is one-half the amount shown in division (A)(1) of this section.

(3) The annual fee for a solid waste compost facility license shall be in accordance with the following schedule:

AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
12 or less	\$ 300

13 to 25	600
26 to 50	1,200
51 to 75	1,800
76 to 100	2,500
101 to 150	3,750
151 to 200	5,000
201 to 250	6,250
251 to 300	7,500
301 to 400	10,000
401 to 500	12,500
501 or more	30,000

(4) The annual license fee for a solid waste facility, regardless of its authorized maximum daily waste receipt, is five thousand dollars for a facility meeting either of the following qualifications:

(a) The facility is owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated.

(b) The facility exclusively disposes 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.

(5) The annual license fee for a facility that is a transfer facility is seven hundred fifty dollars.

(6) The same fees shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the solid waste provisions of this chapter and rules adopted under them, excluding the provisions governing scrap tires. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(B) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (A)(1), (2), (3), and (4) of this section or the entire amount of any such fee that is less than two thousand five hundred dollars. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the solid waste provisions of this chapter and the rules adopted under them, excluding the provisions governing scrap tires. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund. The board of health shall retain the entire amount of each fee collected under division (A)(5) of this section, which moneys shall be paid into the special fund of the health district.

(C)

(1) Except as provided in divisions (C)(2) and (3) of this section, the annual fee for an infectious waste treatment facility license shall be in accordance with the following schedule:

MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under divisions (C)(1) and (2) of this section, the maximum daily waste receipt shall be the maximum amount of infectious wastes the facility is authorized to

receive daily that is established in the permit for the facility, and any modifications to that permit, issued under division (B)(2)(b) of section [3734.05](#) of the Revised Code; or the annual license for the facility, and any revisions to that license, issued under division (B)(2)(a) of section [3734.05](#) of the Revised Code. If no maximum daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (C)(1) of this section and thirty thousand dollars under division (C)(2) of this section.

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-30-1999 .

3734.061 Waste management fund.

There is hereby created in the state treasury the waste management fund. The fund shall consist of money credited to it under this chapter and Chapter 3714. of the Revised Code. The environmental protection agency shall use money in the fund to pay the costs of administering and enforcing this chapter and Chapter 3714. of the Revised Code and rules adopted under those chapters, including ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris. The agency also shall use money in the fund to address violations of Chapters 3704. and 6111. of the Revised Code at facilities regulated under this chapter and Chapter 3714. of the Revised Code.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

3734.07 Facilities to be inspected - certification - right of entry.

(A) Before a license is initially issued and annually thereafter, or more often if necessary, the board of health shall cause each solid waste facility and infectious waste treatment facility to be inspected and a record to be made of each inspection and shall require each solid waste facility and infectious waste treatment facility in the health district to be in substantial compliance with this chapter and the rules adopted under it.

(B) Within thirty days after the issuance of a license, the board of health shall certify to the director of environmental protection that the solid waste facility or infectious waste treatment facility has been inspected and is in substantial compliance with this chapter and the rules adopted under it. Each board of health shall provide the director with such other information as he may require from time to time.

(C) The board of health or its authorized representative and the director or the director's authorized representative, upon proper identification and upon stating the purpose and necessity of an inspection, may enter at reasonable times upon any private or public property, real or personal, to inspect or investigate, obtain samples, and examine or copy any records to determine compliance with this chapter and the rules adopted under it. The board of health or its authorized representative or the director or the director's authorized representative may apply for, and any judge of a court of record may issue, an appropriate search warrant necessary to achieve the purposes of this chapter and the rules adopted under it within the court's territorial jurisdiction. If entry is refused or inspection or investigation is refused, hindered, or thwarted, the board of health may suspend or revoke the operating license of the solid waste facility or infectious waste treatment facility that refused entry, or the director may suspend or revoke the license or permit of the solid waste facility, hazardous waste facility, or infectious waste treatment facility that refused entry.

(D) If the entry authorized by division (C) of this section is refused or if the inspection or investigation so authorized is refused, hindered, or thwarted by intimidation or otherwise and the director, board of health, or authorized representative of either applies for and obtains a search warrant under division (C) of this section to conduct the inspection or investigation, the owner or operator of the premises where entry was refused or inspection or investigation was refused, hindered, or thwarted is liable to the director or board of health for the reasonable costs incurred by either for the regular salaries and fringe benefit costs of personnel assigned to conduct the inspection or investigation from the time the entry, inspection, or investigation was refused, hindered, or thwarted until the search warrant is executed; for the salary, fringe benefits, and travel expenses of the attorney general, prosecuting attorney of the county, or city director of law, or an authorized assistant, incurred in obtaining the search warrant; and for expenses necessarily incurred for the assistance of local law enforcement officers in executing the search warrant. In the application for the search warrant, the director or board of health may request and the court, in its order granting the search warrant, may order the owner or operator of the premises to reimburse the director or board of health for such of those costs as the court finds reasonable.

From moneys recovered under this division, the director shall reimburse the attorney general for the costs incurred by the attorney general or the attorney general's authorized assistant in connection with proceedings for obtaining the search warrant; shall reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in executing the search warrant; and shall deposit the remainder of any such moneys to the credit of the following, as applicable:

(1) The hazardous waste facility management fund created in section [3734.18](#) of the Revised Code if the inspection or investigation pertained to compliance with the hazardous waste provisions of this chapter or a rule, order, or term or condition of a permit adopted or issued under them or with a rule adopted under section [3734.121](#) of the Revised Code ;

(2) The general revenue fund if the inspection or investigation pertained to compliance with the solid waste provisions of this chapter or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them, other than the provisions governing solid wastes that consist of scrap tires;

(3) The scrap tire management fund created in section [3734.82](#) of the Revised Code if the inspection or investigation pertained to compliance with the provisions of this chapter governing solid wastes that consist of scrap tires or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them;

(4) The waste management fund created in section 3734.061 of the Revised Code if the inspection or investigation pertained to compliance with the infectious waste provisions of this chapter or rules, orders, or terms and conditions of a permit or license issued under them.

From moneys recovered under this division, the board of health shall reimburse the prosecuting attorney of the county or city director of law for the costs incurred by the prosecuting attorney or city director of law or an authorized assistant in connection with proceedings for obtaining the search warrant; shall reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in executing the search warrant; and shall deposit the remainder of any such moneys to the special infectious waste fund of the health district created under division (C) of section [3734.06](#) of the Revised Code if the inspection or investigation pertained to compliance with the infectious waste provisions of this chapter or rules, orders, or terms and conditions of a permit or license issued under them; to the credit of the special fund of the health district created under division (B) of section [3734.06](#) of the Revised Code if the inspection or investigation pertained to compliance with the solid waste provisions of this chapter or rules,

orders, or terms and conditions of a permit, license, or variance adopted or issued under them, other than the provisions governing solid wastes that consist of scrap tires; or to the credit of the special fund of the health district created under division (F) of section [3734.82](#) of the Revised Code if the inspection or investigation pertained to compliance with the provisions of this chapter governing solid wastes that consist of scrap tires or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Effective Date: 10-29-1993 .

3734.08 Annual survey.

(A) The director of environmental protection shall survey annually each health district licensing solid waste facilities and infectious waste treatment facilities as provided by section [3734.05](#) or [3734.81](#) of the Revised Code to determine whether there is substantial compliance with this chapter and rules adopted under it and, upon determining that there is substantial compliance, shall place the health district upon an approved list. The director shall make a resurvey when in his opinion it is necessary and shall remove from the approved list any health district not substantially complying with this chapter and rules adopted under it.

(B) If, after a survey or resurvey is made as provided by this section, the director determines that a health district is not eligible to be placed on the approved list or to continue on the list, he shall certify that fact to the board of health of the health district, and the director shall administer and enforce this chapter and rules adopted under it in the health district until such time as the health district is placed on the approved list. Whenever the director is so required to administer and enforce this chapter and rules adopted under it in any health district, he is hereby vested with all the authority and all the duties granted to or imposed upon a board of health by this chapter and rules adopted under it in the health district. All solid waste facility licensing fees required to be paid to a board of health by section [3734.06](#) or [3734.82](#) of the Revised Code, as applicable, and all such previous fees paid to the board that have not been expended or encumbered shall be paid to the director and by him deposited in the state treasury to the credit of the general revenue fund or the scrap tire management fund created in section [3734.82](#) of the Revised Code, as applicable.

All infectious waste treatment facility licensing fees required to be paid to the board of health under section [3734.06](#) of the Revised Code and all such previous fees paid to the board that have not been expended or encumbered shall be paid to the director and by him deposited in the state treasury to the credit of the general revenue fund.

(C)

(1) The director may provide for the inspection of solid waste facilities that are scrap tire collection, storage, monocell, monofill, and recovery facilities in health districts that are on the approved list under this section.

(2) Nothing in this chapter limits the authority of the director to initiate and pursue any administrative remedy, or to request the attorney general or the prosecuting attorney of the appropriate county or city director of law of the appropriate city to initiate and pursue any judicial remedy, available under this chapter to enforce the solid and infectious waste provisions of this chapter and any rules or terms or conditions of any permit, license, variance, or order adopted or issued under them, with respect to any solid waste facility or infectious waste treatment facility, regardless of whether a facility is located in a health district that is on the approved list under this section.

Effective Date: 10-29-1993.

3734.09 Suspension, revocation, denial of license.

The board of health of a health district in which a solid waste facility or an infectious waste treatment facility is located, or the director of environmental protection, may suspend, revoke, or deny a license for

the facility for violation of any section of this chapter or any rule adopted under it. The director may suspend, revoke, or deny a permit to operate any hazardous waste facility for violation of any section of this chapter or any rule adopted under it. No application for a permit or license to be issued under this chapter shall be denied and no permit or license issued under this chapter shall be modified, suspended, or revoked without a written order stating the findings upon which the denial, suspension, modification, or revocation is based. A copy of the order shall be sent to the applicant or permit or license holder by certified mail. Unless an emergency exists requiring immediate action to protect the public health or safety or the environment, no suspension, modification, or revocation of a permit or license shall be made effective until the permit or license holder has been given notice in writing and, in the case of a permit holder, a reasonable period of time to make corrections. Appeal from any modification, suspension, revocation, or denial of a license shall be made in accordance with sections [3745.02](#) to [3745.06](#) of the Revised Code.

Effective Date: 10-29-1993.

3734.10 Injunction.

The attorney general or the prosecuting attorney of the county, city director of law, or village solicitor where a violation has occurred, is occurring, or may occur, upon request of the respective board of health of the health district, the legislative authority of a political subdivision in which a violation has occurred, is occurring, or may occur, or the director of environmental protection, shall criminally prosecute to termination or bring an action for injunction against any person who has violated, is violating, or is threatening to violate any section of this chapter, rules adopted under this chapter, or terms or conditions of permits, licenses, variances, or orders issued under this chapter. In the instance of a violation of section [3734.60](#) of the Revised Code, only the director of environmental protection may request the attorney general, or the prosecuting attorney of the county, city director of law, or village solicitor where a violation of that section has occurred, is occurring, or may occur, to bring an action for injunction against a person who has violated, is violating, or is threatening to violate that section. The court of common pleas in which an action for injunction is filed has the jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated, is violating, or is threatening to violate any section of this chapter, rules adopted thereunder, or terms or conditions of permits, licenses, variances, or orders issued under this chapter. The court shall give precedence to such an action over all other cases.

Upon written request by any person, the board of health or the director shall conduct such investigations and make such inquiries as are necessary to secure compliance with this chapter, rules adopted thereunder, and terms and conditions of permits, licenses, variances, and orders issued under it. The director or any board of health, upon request or upon their own initiative, may investigate or make inquiries into any alleged violation or act of improper solid waste disposal, improper infectious waste transportation or treatment, or improper hazardous waste storage, transportation, treatment, or disposal or regarding the management of scrap tires.

This section does not apply to the enforcement of sections [3734.90](#) to [3734.9013](#) of the Revised Code or any rules adopted or assessments made under those sections.

This chapter does not abridge rights of action or remedies in equity, under common law, or as provided by statute or prevent the state or any municipal corporation or person in the exercise of their rights in equity, under common law, or as provided by statute to suppress nuisances or to abate or prevent pollution.

Effective Date: 10-29-1993.

3734.101 Civil action.

(A) Except as provided in division (C) or (H) of this section, any person aggrieved or adversely affected by an alleged violation of this chapter or a rule, permit, license, variance, or order issued or adopted under it may commence a civil action on his own behalf against any person, the state, or a political subdivision that is alleged to be in violation of this chapter or a rule, permit, license, variance, or order issued or adopted under it. Actions against the state or a political subdivision under this division may only relate to its activities involved in generating, transporting, storing, treating, or disposing of hazardous waste, infectious

waste, or solid wastes, but may not relate to any such activities involved in the cleanup of a hazardous waste facility, infectious waste treatment facility, or solid waste facility, to the selection of scrap tire facilities for cleanup, or to any regulatory activity, including, without limitation, inspections conducted by it in accordance with this chapter and rules adopted under it.

(B) An action under division (A) of this section may be commenced no sooner than one hundred fifty days after the aggrieved or adversely affected person has given notice of the alleged violation to the director of environmental protection, the attorney general, and the alleged violator. Notice required under this division shall be delivered by certified mail and shall describe in detail the alleged violation for which the action may be commenced.

(C)

(1) No action may be commenced under division (A) of this section if, within one hundred fifty days after the aggrieved or adversely affected person has given notice under division (B) of this section, one of the following occurs:

(a) The director, with the written concurrence of the attorney general, has issued an administrative enforcement order requiring compliance by the alleged violator with the particular provision of this chapter, rule, permit, license, variance, or order in question;

(b) The attorney general, prosecuting attorney of a county, city director of law, or village solicitor is prosecuting a civil or criminal action in any court to require compliance by the alleged violator with the particular provision of this chapter, rule, permit, license, variance, or order in question.

(2) Any person who has given notice under division (B) of this section may intervene, as a matter of right, in any administrative enforcement action under division (C)(1)(a) of this section or in any civil action under division (C)(1)(b) of this section.

(3) If the attorney general gives his written concurrence to the director's administrative enforcement order under division (C)(1)(a) of this section, he shall send by certified mail an exact photographic copy of the written concurrence to the person who gave notice under division (B) of this section.

(D) If the director is not a party in any action commenced under this section, he may intervene in it as a matter of right.

(E) Only the court of common pleas in the county in which an alleged violation occurs has original jurisdiction over actions authorized by division (A) of this section. The court may do either or both of the following:

(1) Compel the alleged violator to comply with the particular provision of this chapter, rule, permit, license, variance, or order in question;

(2) Award, as the court considers appropriate, costs of litigation, including reasonable attorney's fees and expert witness fees, to either of the following:

(a) A plaintiff who substantially prevails in the action;

(b) A defendant who substantially prevails if the court ultimately determines that the action was brought in bad faith.

(F) Nothing in this section restricts any right that any person or class of persons may have under any statute or common law to seek enforcement of this chapter or rules, permits, licenses, variances, or orders issued or adopted under it or to seek any other relief.

(G) The Rules of Civil Procedure generally applicable in civil actions apply to actions commenced under this section except as this section expressly provides otherwise.

(H) This section does not apply to the enforcement of sections [3734.90](#) to [3734.9013](#) of the Revised Code or any rules adopted or assessments made under those sections.

Effective Date: 10-29-1993.

3734.11 Prohibited acts.

(A) No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section [3734.13](#) of the Revised Code.

(B) No person who holds a permit or license issued under this chapter shall violate any of the terms and conditions of the permit or license.

(C) No person shall operate a solid waste facility or portion of such a facility within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless either of the following applies:

(1) The facility was operating on December 21, 1988, under an operating license issued under section [3734.05](#) of the Revised Code;

(2) The facility is used only for disposal of solid wastes generated within the park or recreation area in accordance with a permit or license issued under section [3734.05](#) of the Revised Code.

(D) No person shall make any false material statement or representation in any affidavit, disclosure form, or other document required to be submitted to the attorney general by this chapter or any rule adopted under it.

Amended by 131st General Assembly File No. TBD, SB 293, §1, eff. 9/14/2016.

Effective Date: 02-29-1996 .

3734.12 Director of environmental protection - powers and duties.

As used in this section, "Resource Conservation and Recovery Act" means the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. 6921, as amended.

The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code, which shall be consistent with and equivalent to the regulations adopted under the Resource Conservation and Recovery Act except for rules adopted under divisions (D) and (F) of this section governing solid waste facilities and except as otherwise provided in this chapter, doing all of the following:

(A) Adopting the criteria and procedures established under the Resource Conservation and Recovery Act for identifying hazardous waste. The director shall prepare, revise when appropriate, and publish a list of substances or categories of substances identified to be hazardous using the criteria specified in 40 C.F.R. 261, as amended, which shall be composed of at least those substances identified as hazardous pursuant to section 3001(B) of that act. The director shall not list any waste that the administrator of the United States environmental protection agency delisted or excluded by an amendment to the federal regulations, any waste that the administrator declined to list by publishing a denial of a rulemaking petition or by withdrawal of a proposed listing in the United States federal register after May 18, 1980, or any waste oil or polychlorinated biphenyl not listed by the administrator.

(B) Establishing standards for generators of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Record-keeping practices that accurately identify the quantities of hazardous waste generated, the constituents that are significant in quantity or in potential harm to human health or safety or the environment, and the disposition of the waste;

(2) Labeling of containers used for storage, transportation, or disposal of hazardous waste to identify the waste accurately;

(3) Use of appropriate containers for hazardous waste;

(4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;

(5) A manifest system requiring a manifest consistent with that prescribed under the Resource Conservation and Recovery Act requiring a manifest for any hazardous waste transported off the premises where generated and assuring that all hazardous waste that is transported off the premises where generated is designated for treatment, storage, or disposal in facilities for which a permit has been issued or in the other facilities specified in division (F) of section [3734.02](#) of the Revised Code;

(6) Submission of such reports to the director as the director determines necessary;

(7) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;

(8) Obtainment of a United States environmental protection agency identification number.

(C) Establishing standards for transporters of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Record-keeping concerning hazardous waste transported, including source and delivery points;

(2) Submission of such reports to the director as the director determines necessary;

(3) Transportation of only properly labeled waste;

(4) Compliance with the manifest system required by division (B) of this section;

(5) Transportation of hazardous waste only to the treatment, storage, or disposal facility that the shipper designates on the manifest to be a facility holding a permit or another facility specified in division (F) of section [3734.02](#) of the Revised Code;

(6) Contingency plans to minimize unanticipated damage from transportation of hazardous waste;

(7) Financial responsibility, including, but not limited to, provisions requiring a financial mechanism to cover the costs of spill cleanup and liability for sudden accidental occurrences that result in damage to persons, property, or the environment;

(8) Obtainment of a United States environmental protection agency identification number.

In the case of any hazardous waste that is subject to the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, the rules shall be consistent with that act and regulations adopted under it.

(D) Establishing performance standards for owners and operators of hazardous waste facilities and owners and operators of solid waste facilities, necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Maintaining records of all hazardous waste that is treated, stored, or disposed of and of the manner in which the waste was treated, stored, or disposed of or records of all solid wastes transferred or disposed of and of the manner in which the wastes were disposed of;

(2) Submission of such reports to the director as the director determines necessary;

(3) Reporting, monitoring, inspection, and, except with respect to solid waste facilities, compliance with the manifest system referred to in division (B) of this section;

(4) Treatment, storage, or disposal of all hazardous waste received by methods, techniques, and practices approved by the director and disposal or transfer of all solid wastes received by methods, techniques, and practices approved by the director;

- (5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;
- (6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;
- (7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.
- (8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;
- (9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;
- (10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;
- (11) Trial burns and land treatment demonstrations.

The rules adopted under divisions (D) and (F) of this section pertaining to solid waste facilities do not apply to scrap tire collection, storage, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections [3734.70](#) to [3734.73](#) of the Revised Code, as applicable.

(E) Governing the issuance, modification, revocation, suspension, withdrawal, and denial of installation and operation permits, draft permits, and transportation certificates of registration;

(F) Specifying information required to be included in applications for hazardous waste facility installation and operation permits and solid waste permits, including, but not limited to, detail plans, specifications, and information respecting all of the following:

- (1) The composition, quantities, and concentrations of hazardous waste and solid wastes to be stored, treated, transported, or disposed of and such other information as the director may require regarding the method of operation;
- (2) The facility to which the waste will be transported or where it will be stored, treated, or disposed of;
- (3) The closure and post-closure care of a facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred.

(G) Establishing procedures ensuring that all information entitled to protection as trade secrets disclosed to the director or the director's authorized representative is not disclosed without the consent of the owner, except that such information may be disclosed, upon request, to authorized representatives of the United States environmental protection agency, or as required by law. As used in this section, "trade secrets" means any formula, plan, pattern, process, tool, mechanism, compound, procedure, production date, or compilation of information that is not patented, that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article, trade, or service having commercial value, and that gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(H) Prohibiting the disposal of specified hazardous wastes in this state if the director has determined both of the following:

- (1) The potential impacts on human health or safety or the environment are such that disposal of those wastes should not be allowed.
- (2) A technically feasible and environmentally sound alternative is reasonably available, either within or outside this state, for processing, recycling, fixation of, neutralization of, or other treatment of those

wastes. Such reasonable availability shall not be determined without a consideration of the costs to the generator of implementing the alternatives.

The director shall adopt, and may amend, suspend, or rescind, rules to specify hazardous wastes that shall not be disposed of in accordance with this division. Nothing in this division, either prior to or after adoption of those rules, shall preclude the director from prohibiting the disposal of specified hazardous wastes at particular facilities under the terms or conditions of a permit or by order.

(I)

(1)

(a) Governing the following that may be more stringent than the regulations adopted under the Resource Conservation and Recovery Act when the director determines that such more stringent rules are reasonable in order to protect human health or safety or the environment:

(i) Specific wastes that the director determines, because of their physical, chemical, or biological characteristics, are so extremely hazardous that the storage, treatment, or disposal of the wastes in compliance with those regulations would present an imminent danger to human health or safety or the environment;

(ii) The use of only properly designed, operated, and approved transfer facilities;

(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including record-keeping, reporting, and manifest requirements.

(b) In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

(i) Geography of the state;

(ii) Geology of the state;

(iii) Hydrogeology of the state;

(iv) Climate of the state;

(v) Engineering and technical feasibility;

(vi) Availability of alternative technologies or methods of storage, treatment, or disposal.

(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the Resource Conservation and Recovery Act to the extent that such reports contain information that the generator, transporter, or facility owner or operator is required to obtain in order to comply with the regulations adopted by the administrator of the United States environmental protection agency under the Resource Conservation and Recovery Act or to the extent that such reports are required by the director to meet the requirements of division (B)(7), (D)(9), or (H) of this section or section [3734.121](#) of the Revised Code.

(J) Governing the storage, treatment, or disposal of hazardous waste in, and the permitting, design, construction, operation, monitoring, inspection, closure, and post-closure care of, hazardous waste underground injection wells, surface impoundments, waste piles other than those composed of materials removed from the ground as part of coal or mineral extraction or cleaning processes, land treatment facilities, thermal treatment facilities, and landfills that may be more stringent than the regulations adopted under the Resource Conservation and Recovery Act whenever the director reasonably determines that federal regulations will not adequately protect the public health or safety or the environment of this state with respect to the subject matter of the more stringent rules. Such more stringent rules shall be developed to achieve a degree of protection, as determined by the director, consistent with the degree of hazard potentially posed by the various wastes or categories of wastes to be treated, stored, or disposed of and the types of facilities at which they are to be treated, stored, or disposed of. In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

- (1) Geography of the state;
- (2) Geology of the state;
- (3) Hydrogeology of the state;
- (4) Climate of the state;
- (5) Engineering and technical feasibility;
- (6) Availability of alternative technologies or methods of storage, treatment, or disposal.
- (K) Establishing performance standards and other requirements necessary to protect public health and the environment from hazards associated with used oil, including, without limitation, standards and requirements respecting all of the following:
 - (1) Material that is subject to regulation as used oil;
 - (2) Generation of used oil;
 - (3) Used oil collection centers and aggregation points;
 - (4) Transportation of used oil;
 - (5) Processing and re-refining of used oil;
 - (6) Burning of used oil;
 - (7) Marketing of used oil;
 - (8) Disposal of used oil;
 - (9) Use of used oil as a dust suppressant.
- (L) Establishing any other requirements, standards, or criteria that are consistent with and equivalent to the Resource Conservation and Recovery Act governing any matter not specifically addressed by divisions (A) to (K) of this section.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Effective Date: 09-26-2003 .

3734.121 List of hazardous wastes generated within state.

(A) The director of environmental protection shall

, no later than the first day of October each even-numbered year, compile and make available to the extent allowed by rules adopted under division (G) of section 3734.12 of the Revised Code a list of hazardous wastes generated within the state during the preceding calendar year by any person who is not exempt from regulation under this chapter and rules adopted under it. The list shall contain at least:

- (1) The name and address of each person generating hazardous waste;
 - (2) The waste description of each waste generated and the United States environmental protection agency hazardous waste number assigned to each waste under regulations promulgated under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; and
 - (3) The quantity of waste generated during the preceding calendar year.
- (B) The director of environmental protection may:
- (1) From funds made available by the general assembly, make grants on a fifty per cent matching basis to a municipal corporation or county for the purposes of:

- (a) Providing training for local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous waste facilities in their jurisdictions;
 - (b) Providing special clothing and equipment needed by local public health and public safety officers for dealing with emergencies involving hazardous waste facilities in their jurisdictions; and
 - (c) Reviewing materials provided to them by the director relating to applications for a hazardous waste facility installation and operation permit.
- (2) From funds made available by the general assembly, make grants to any generator wishing to conduct applied research on technically feasible and environmentally sound alternatives for waste reduction, processing, recycling, fixating, neutralizing, or otherwise treating its own hazardous waste.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Effective Date: 12-03-1985 .

3734.122 Storage and disposal of polychlorinated biphenyls, substances, equipment, and devices containing or contaminated with polychlorinated biphenyls.

(A) As used in this section, "commercial facility" means a facility of a business engaged for profit in the storage and disposal of polychlorinated biphenyls, substances, equipment, and devices containing or contaminated with polychlorinated biphenyls, or both.

(B) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, may adopt, amend, suspend, or rescind rules with respect to all of the following subjects:

- (1) Notification of the existence or proposed establishment of any commercial facility;
- (2) Required inspections of commercial facilities, including, without limitation, a requirement that any such commercial facility be inspected before commencing its activities;
- (3) Establishing standards for the storage and disposal of polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls at commercial facilities;
- (4) Establishing standards and criteria for defining substances, equipment, and devices containing or contaminated with polychlorinated biphenyls for the purposes of this section.

Rules adopted under divisions (B)(3) and (4) of this section shall be identical to federal laws and regulations governing the storage and disposal of polychlorinated biphenyls and substances, devices, and equipment containing or contaminated with polychlorinated biphenyls.

No person shall violate a rule adopted under this section.

(C) The director shall not issue an enforcement order or request the attorney general to bring a civil action for injunction or imposition of a civil penalty under section [3734.13](#) of the Revised Code, and neither the director, a board of health of a health district, nor the legislative authority of a political subdivision shall request the attorney general, the prosecuting attorney of a county, or a city director of law to prosecute or bring an action for injunction under section [3734.10](#) of the Revised Code, for a violation of a rule adopted under division (B) of this section if the United States environmental protection agency has commenced and is pursuing administrative or civil proceedings to impose a civil penalty or has commenced criminal prosecution of the violation under applicable federal law. This division does not require that administrative, civil, and criminal actions to enforce a rule adopted under division (B) of this section be abandoned if the action was commenced before the United States environmental protection agency initiated an administrative, civil, or criminal action with respect to the violation.

(D) The director may expend moneys credited to the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code for the payment of the cost of measures necessary for the proper cleanup of sites where polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of. Before beginning to clean up

any site under this division, the director shall develop a plan for the cleanup and an estimate of its cost. The director may carry out the plan in whole or in part by entering into contracts for that purpose. The director shall keep an itemized record of the cost of the measures performed, including, without limitation, the cost for labor, materials, and any contract services required. Upon completion of the measures, the director shall record the cost of performing those measures at the office of the county recorder of the county in which the site is located. The cost so recorded constitutes a lien against the property on which the site is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the cost. Any moneys so received shall be credited to the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code.

Effective Date: 05-08-1996.

3734.123 Assessment of commercial hazardous waste incinerator capacity in state.

(A) As used in this section and section [3734.124](#) of the Revised Code, "commercial hazardous waste incinerator" means an enclosed device that treats hazardous waste by means of controlled flame combustion and that accepts for treatment hazardous waste that is generated off the premises on which the device is located by any person other than the one who owns or operates the device or one who controls, is controlled by, or is under common control with the person who owns or operates the device. "Commercial hazardous waste incinerator" does not include any "boiler" or "industrial furnace" as those terms are defined in rules adopted under section [3734.12](#) of the Revised Code.

(B) Not sooner than three years after April 15, 1993, and triennially thereafter, the director of environmental protection shall prepare, publish, and issue as a final action an assessment of commercial hazardous waste incinerator capacity in this state. However, after the issuance as a final action of a determination under division (A) of section [3734.124](#) of the Revised Code that terminates the restrictions established in division (C) of this section, the director shall cease preparing, publishing, and issuing the periodic assessments required under this division. The assessment shall determine the amount of commercial hazardous waste incinerator capacity needed to manage the hazardous waste expected to be generated in this state and imported into this state for incineration at commercial hazardous waste incinerators during the next succeeding twenty calendar years. The assessment shall include at least all of the following:

- (1) A determination of the aggregate treatment capacity authorized at commercial hazardous waste incinerators located in this state;
- (2) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;
- (3) A determination of the quantity of hazardous waste generated outside this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated outside this state that will be treated at those facilities;
- (4) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located outside this state, and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;
- (5) The amount of commercial hazardous waste incinerator capacity that the director reasonably anticipates will be needed during the first three years of the planning period to treat hazardous waste generated from the remediation of sites in this state that are on the national priority list required under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a result of corrective actions implemented under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; and as a result of clean-up activities conducted at sites listed on the master sites list prepared by the environmental protection agency;
- (6) Based upon available data, provided that the data are reliable and are compatible with the data base of the environmental protection agency, an identification of any hazardous waste first listed as a hazardous waste in regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after April 15, 1993, and of any hazardous waste that has been

proposed for such listing by publication of a notice in the federal register on or before December 1 of the year immediately preceding the triennial assessment;

(7) An analysis of other factors that may result in capacity changes over the period addressed by the assessment.

(C) Except as otherwise provided in section [3734.124](#) of the Revised Code, none of the following shall occur on or after April 15, 1993:

(1) The director shall not do any of the following:

(a) Issue any hazardous waste facility installation and operation permit under division (D) of section [3734.05](#) of the Revised Code for the establishment of a new commercial hazardous waste incinerator, or issue any modified hazardous waste facility installation and operation permit under division (I) of that section that would authorize an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;

(b) Issue any permit pursuant to rules adopted under division (F) of section [3704.03](#) of the Revised Code, division (J) of section [6111.03](#) of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or the modification of such an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it. Upon determining that an application for any permit pertains to the establishment, modification, or operation of any appurtenant facility or equipment, the director shall cease reviewing the application and return the application and accompanying materials to the applicant along with a written notice that division (C)(1)(b) of this section precludes the director from reviewing and acting upon the application.

(c) Issue any exemption order under division (G) of section [3734.02](#) of the Revised Code exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing facility to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from divisions (C)(1)(a) or (b) or (C)(2) of this section.

(2) If the director determines that an application for a hazardous waste facility installation and operation permit submitted under division (D) of section [3734.05](#) of the Revised Code pertains to the establishment of a new commercial hazardous waste incinerator, or a request for a modification of an existing incinerator submitted under division (I) of that section pertains to an increase of either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it, the director shall cease reviewing the application or request and shall return it and the accompanying materials to the applicant along with a written notice that division (C)(2) of this section precludes the review of the application or request.

Effective Date: 09-26-2003.

3734.124 Restrictions on incinerators.

(A) Promptly after issuing a periodic assessment under division (B) of section [3734.123](#) of the Revised Code, the director of environmental protection shall make a determination as to whether it is necessary or appropriate to continue the restrictions established in division (C) of section [3734.123](#) of the Revised Code during the period of time between the issuance of the assessment and the issuance of the next succeeding periodic assessment or as to whether it is necessary or appropriate to terminate the restrictions. The director shall consider all of the following when making a determination under this division:

(1) The findings of the assessment;

(2) The findings of an evaluation conducted by the director, in consultation with the chairperson of the state emergency response commission created in section [3750.02](#) of the Revised Code, regarding the capability of this state to respond to the types and frequencies of releases of hazardous waste that are likely to occur at commercial hazardous waste incinerators;

- (3) The effect that a new commercial hazardous waste incinerator may have on ambient air quality in this state;
- (4) The findings of a review of relevant information regarding the impacts of commercial hazardous waste incinerators on human health and the environment, such as health studies and risk assessments;
- (5) The findings of a review of the operational records of commercial hazardous waste incinerators operating in this state;
- (6) The findings of any review of relevant information concerning the following:
 - (a) The cost of and access to commercial hazardous waste incinerator capacity;
 - (b) The length of time and the regulatory review process necessary to fully permit a commercial hazardous waste incinerator;
 - (c) Access to long-term capital investment to fund the building of a commercial hazardous waste incinerator in this state;
 - (d) Efforts by generators of hazardous waste accepted by commercial hazardous waste incinerators to reduce the amount of hazardous waste that they generate.
- (7) Regulatory and legislative concerns that may include, without limitation, the provisions of paragraphs (a) and (b) of 40 C.F.R. 271.4, as they existed on April 15, 1993.

If, after considering all of the information and concerns that the director is required to consider under divisions (A)(1) to (7) of this section, the director determines that it is necessary or appropriate to terminate the restrictions established in division (C) of section [3734.123](#) of the Revised Code in order to protect human health or safety or the environment, the director shall issue as a final action a written determination to that effect. If the director determines that it is necessary or appropriate for those purposes to continue the restrictions until the issuance of the next succeeding periodic assessment under division (B) of section [3734.123](#) of the Revised Code, the director shall issue as a final action a written determination to that effect. After the issuance as a final action of a determination under this division that it is necessary or appropriate to terminate the restrictions established in division (C) of section [3734.123](#) of the Revised Code, the director shall cease making the periodic determinations required under this division.

(B) Beginning three years after April 15, 1993, but only on and after the date of issuance as final actions of an assessment under division (B) of section [3734.123](#) of the Revised Code and a determination under division (A) of this section that it is necessary or appropriate to terminate the restrictions established in division (C) of section [3734.123](#) of the Revised Code, the director may do any of the following:

- (1) To the extent otherwise authorized thereunder, issue any permit pursuant to rules adopted under division (F) of section [3704.03](#) of the Revised Code, division (J) of section [6111.03](#) of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or for the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it;
- (2) To the extent otherwise authorized in division (G) of section [3734.02](#) of the Revised Code, issue an order exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from division (C)(1) (a) or (b) or;
- (3) Approve or disapprove an application for a hazardous waste facility installation and operation permit, and issue a permit, under division (D) of section [3734.05](#) of the Revised Code for a new commercial hazardous waste incinerator;
- (4) Approve or disapprove under division (I) of section [3734.05](#) of the Revised Code a request to modify the permit of an existing commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it.

Effective Date: 09-26-2003.

3734.125.

The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements governing the beneficial use of material from a horizontal well that has come in contact with a refined oil-based substance and that is not technologically enhanced naturally occurring radioactive material.

Added by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

3734.13 Enforcement and emergency orders.

(A) The director of environmental protection may issue, modify, suspend, or revoke enforcement orders in accordance with Chapter 3745. of the Revised Code to a holder of a registration certificate, permit, or license issued by the director or a board of health under this chapter, or to another person, directing the holder or person to abate a violation, or to prevent any threatened violation, of any section of this chapter other than sections [3734.90](#) to [3734.9013](#) of the Revised Code, a rule adopted thereunder, or a term or condition of a permit, license, or variance issued thereunder within a specified, reasonable time.

(B) Notwithstanding division (C) of section [3734.85](#) of the Revised Code, if the director determines that an emergency exists requiring immediate action to protect the public health or safety or the environment, the director may issue an order, without notice or hearing, reciting the existence of the emergency and requiring that such action be taken as necessary to meet the emergency. The order shall take effect immediately. Any person to whom the order is directed shall comply immediately, but on application to the director shall be afforded a hearing as soon as possible and not later than thirty days after application. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it. No emergency order shall remain in effect for more than one hundred twenty days after its issuance.

(C) If the director determines that any person is violating or has violated this chapter, a rule adopted thereunder, or a term or condition of a permit, license, variance, or order issued thereunder, the director may request in writing that the attorney general bring a civil action for appropriate relief, including a temporary restraining order, preliminary or permanent injunction, and civil penalties in any court of competent jurisdiction. Such an action shall have precedence over all other cases. Except as otherwise provided in this division with regard to a violation of the provisions of this chapter governing scrap tires, a rule adopted under those provisions, a term or condition of a permit or license issued under them, or a term or condition of an order issued pertaining to scrap tires, the court may impose upon the person a civil penalty of not more than ten thousand dollars for each day of each violation of this chapter other than a violation of section [3734.60](#) of the Revised Code, sections [3734.62](#) to [3734.65](#) of the Revised Code, sections [3734.90](#) to [3734.9013](#) of the Revised Code or a rule adopted under those sections, or division (B) of section [3734.912](#) or section [3734.914](#) of the Revised Code; of a rule adopted under this chapter other than a rule adopted under division (B) of section [3734.122](#) of the Revised Code; or of a term or condition of a permit, license, variance, or order issued under this chapter. The court may impose upon a person who violates a rule adopted under division (B) of section [3734.122](#) of the Revised Code a civil penalty of not more than twenty-five thousand dollars for each day of each violation of the rule. The court may impose upon a person who violates section [3734.60](#) of the Revised Code a civil penalty of not more than two hundred fifty dollars for each day of violation of that section. The court may impose upon a person who violates any of the provisions of this chapter governing scrap tires, a rule adopted under those provisions, a term or condition of a permit or license issued under them, or a term or condition of an order issued pertaining to scrap tires a civil penalty of not more than five thousand dollars for each day of each violation, except that if the violation is of a provision, rule, or term or condition that relates to the open burning or open dumping of scrap tires, or if the violation is of an emergency order of the director issued under division (B) of section 3734.13 of the Revised Code that pertains to scrap tires, the court may impose a civil penalty of not more than ten thousand dollars for each day of each violation. The court may impose upon a person who violates section [3734.62](#) of the Revised Code a civil penalty of not more than one hundred dollars for each violation of that section. The court may impose upon a person who violates section [3734.63](#), [3734.64](#), or [3734.65](#) of the Revised Code a civil penalty of not more than five thousand dollars for each day of each

violation of the applicable section, but the total amount of a civil penalty imposed upon a person for a violation of the applicable section shall not exceed twenty-five thousand dollars. The court may impose upon a person who violates division (B) of section [3734.912](#) or section [3734.914](#) of the Revised Code a civil penalty of not more than twenty-five dollars for each day of violation.

Any action under this section is a civil action, governed by the Rules of Civil Procedure.

(D) No person shall violate any term or condition of any order issued under this section.

(E) Except as otherwise provided in this division, moneys resulting from civil penalties imposed under division (C) of this section shall be paid into the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code. Moneys resulting from civil penalties imposed under division (C) of this section for violations of any of the provisions of this chapter governing scrap tires, rules adopted under those provisions, terms or conditions of permits or licenses issued under them, or terms or conditions of orders issued pertaining to scrap tires shall be credited to the scrap tire management fund created in section [3734.82](#) of the Revised Code.

Effective Date: 10-29-1993; 04-06-2007; 2008 HB169 04-25-2008 .

3734.131 [Repealed].

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 6/11/2012.

Repealed by 129th General Assembly File No.115, SB 294, §2, eff. 9/5/2012.

Effective Date: 07-22-1994 .

3734.132 [Repealed].

Repealed by 129th General Assembly File No.115, SB 294, §2, eff. 9/5/2012.

Effective Date: 07-22-1994 .

3734.133 [Repealed].

Repealed by 129th General Assembly File No.115, SB 294, §2, eff. 9/5/2012.

Effective Date: 07-22-1994 .

3734.14 Exchange, use, and recovery of resources from hazardous waste.

The director of environmental protection shall periodically determine the market potential and feasibility of the exchange, use, and recovery of resources from hazardous waste. Using the information required under divisions (B) and (I) of section [3734.12](#) of the Revised Code, the director shall, in compliance with the procedures adopted under division (G) of section [3734.12](#) of the Revised Code pertaining to the protection of trade secrets, provide information on the availability of hazardous waste to persons who desire to acquire it and use or recover resources from hazardous waste. When necessary or desirable to facilitate the exchange and use of hazardous waste, the director may order exemptions from the requirements of this chapter in accordance with division (G) of section [3734.02](#) of the Revised Code.

Effective Date: 08-01-1984.

3734.141 Disposing of acute hazardous waste.

After December 31, 1986, no person shall dispose of any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, in this state unless the director of environmental protection determines, based upon information provided by the generator of the waste, that the waste:

- (A) Cannot be treated and rendered nonhazardous, recycled, reclaimed, or destroyed by incineration or biological agents;
- (B) Has been reduced to its lowest level of toxicity; and
- (C) Has been completely encapsulated or is otherwise protected so as to eliminate its leaching potential.

Effective Date: 08-01-1984.

3734.15 Registration and liability of transporters and acceptors of hazardous waste.

(A) No person shall transport hazardous waste anywhere in this state unless the person has first filed an annual registration statement with, and paid an annual registration fee to, the United States department of transportation in accordance with 49 C.F.R. 107.601 to 107.620.

For the purposes of this section, "registered transporter" means any person who has filed an annual registration statement with, and paid an annual registration fee to, the United States department of transportation in accordance with 49 C.F.R. 107.601 to 107.620.

(B) A registered transporter of hazardous waste shall be responsible for the safe delivery of any hazardous waste that the registered transporter transports from such time as the registered transporter obtains the waste until the registered transporter delivers it to a treatment, storage, or disposal facility specified in division (F) of section [3734.02](#) of the Revised Code, as recorded on the manifest required in division (B) of section [3734.12](#) of the Revised Code. Any registered transporter who violates this chapter or any rule adopted under the chapter while transporting hazardous waste shall be liable for any damage or injury caused by the violation and for the costs of rectifying the violation and conditions caused by the violation.

(C) No person who generates hazardous waste shall cause the waste to be transported by any person who is not a registered transporter. No person shall accept for treatment, storage, or disposal any hazardous waste from an unregistered transporter. Any person who is requested to accept such waste for treatment, storage, or disposal shall notify the director, the board of health in the person's location, and the public utilities commission of the request.

If a generator causes an unregistered transporter to transport the hazardous waste, the generator of the waste, the transporter, and any person who accepts the waste for treatment, storage, or disposal shall be jointly and severally liable for any damage or injury caused by the handling of the waste and for the costs of rectifying their violation and conditions caused by their violation.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 6/11/2012.

Effective Date: 07-22-1994 .

3734.16 Generator's liability for intentional violation.

A generator of hazardous waste who violates any of the rules adopted by the director of environmental protection in accordance with divisions (B) and (I) of section [3734.12](#) of the Revised Code shall be liable for any damage or injury caused by the violation and for the costs of rectifying the violation and conditions caused by the violation in addition to any civil penalties or criminal fines imposed for the violation under section [3734.13](#) or [3734.99](#) of the Revised Code.

Effective Date: 08-01-1984.

3734.17 Prohibiting accepting waste after violation by generator.

No person shall accept for transportation or for treatment, storage, or disposal any hazardous waste whose generator has violated any of the rules adopted by the director of environmental protection in accordance with divisions (B) and (I) of section [3734.12](#) of the Revised Code with respect to the waste. Any person who accepts for treatment, storage, or disposal any hazardous waste and who violates any of the rules adopted by the director in accordance with divisions (D), (I), and (J) of section [3734.12](#) of the Revised Code shall be liable for any damage or injury caused by the violation and for the costs of rectifying the violation and conditions caused by the violation in addition to any civil penalties or criminal fines imposed for the violation under section [3734.13](#) or [3734.99](#) of the Revised Code.

Effective Date: 08-01-1984.

3734.18 Fees - hazardous waste facility management fund.

(A) As used in this section:

(1) "On-site facility" means a facility that treats or disposes of hazardous waste that is generated on the premises of the facility.

(2) "Off-site facility" means a facility that treats or disposes of hazardous waste that is generated off the premises of the facility.

(3) "Satellite facility" means any of the following:

(a) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(b) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(c) An on-site facility that also receives hazardous waste that is transported uninterrupted and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(B) A treatment or disposal facility that is subject to the fees that are levied under this section may be both an on-site facility and an off-site facility. The determination of whether an on-site facility fee or an off-site facility fee is to be paid for a hazardous waste that is treated or disposed of at the facility shall be based on whether that hazardous waste was generated on or off the premises of the facility.

(C) There are hereby levied fees on the disposal of hazardous waste to be collected according to the following schedule at each disposal facility to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter or that is operating in accordance with a permit by rule under rules adopted by the director of environmental protection:

(1) For disposal facilities that are off-site facilities, fees shall be levied at the rate of four dollars and fifty cents per ton for hazardous waste disposed of by deep well injection and nine dollars per ton for hazardous waste disposed of by land application or landfilling. The owner or operator of the facility, as a trustee for the state, shall collect the fees and forward them to the director in accordance with rules adopted under this section.

(2) For disposal facilities that are on-site or satellite facilities, fees shall be levied at the rate of two dollars per ton for hazardous waste disposed of by deep well injection and four dollars per ton for hazardous waste disposed of by land application or landfilling. The maximum annual disposal fee for an on-site disposal facility that disposes of one hundred thousand tons or less of hazardous waste in a year is twenty-five thousand dollars. The maximum annual disposal fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by land application or landfilling is fifty thousand dollars, and the maximum annual fee for an on-site facility that disposes of more than one hundred thousand tons of

hazardous waste in a year by deep well injection is one hundred thousand dollars. The maximum annual disposal fee for a satellite facility that disposes of one hundred thousand tons or less of hazardous waste in a year is thirty-seven thousand five hundred dollars, and the maximum annual disposal fee for a satellite facility that disposes of more than one hundred thousand tons of hazardous waste in a year is seventy-five thousand dollars, except that a satellite facility defined under division (A)(3)(b) of this section that receives hazardous waste from a single generation site is subject to the same maximum annual disposal fees as an on-site disposal facility. The owner or operator shall pay the fee to the director each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section [3734.05](#) of the Revised Code or on the anniversary of the date of a permit by rule. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that it is late.

(D) There are hereby levied fees at the rate of two dollars per ton on hazardous waste that is treated at treatment facilities that are not on-site or satellite facilities to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter, whose owner or operator is operating in accordance with a permit by rule under rules adopted by the director, or that are not subject to the hazardous waste facility installation and operation permit requirements under rules adopted by the director.

(E) There are hereby levied additional fees on the treatment and disposal of hazardous waste at the rate of ten per cent of the applicable fees prescribed in division (C) or (D) of this section for the purposes of paying the costs of municipal corporations and counties for conducting reviews of applications for hazardous waste facility installation and operation permits for proposed new or modified hazardous waste landfills within their boundaries, emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section [3734.05](#) of the Revised Code or on the anniversary of the date of a permit by rule or the date on which the facility became exempt from hazardous waste facility installation and operation permit requirements under rules adopted by the director. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs within the municipal corporation through employees of the municipal corporation or pursuant to contracts entered into with persons or political subdivisions. Moneys received by a board of county commissioners under this division shall be paid into a special fund of the county and used exclusively for those purposes within the unincorporated area of the county through employees of the county or pursuant to contracts entered into with persons or political subdivisions.

(F) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (D) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(G) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (C) and (D) of this section to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section [6111.046](#) of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (C)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board on an annual basis for that use and for the purposes specified in sections [3734.19](#) to [3734.27](#) of the Revised Code.

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency, the controlling board shall approve the expenditure.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-29-2004 .

[3734.181 \[Repealed\].](#)

Effective Date: 08-23-1993.

[3734.19 Request to survey the locations or facilities.](#)

(A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste or construction and demolition debris facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or facilities.

Upon receipt of a request and a review of the evidence submitted with the request, the director shall conduct an investigation to determine if hazardous waste was actually treated, stored, or disposed of at the locations or facilities and, if so, to determine the nature and approximate quantity and types of the waste treated, stored, or disposed of at the particular locations or facilities. In addition, the director shall determine whether the locations or facilities, because of their present condition and the nature and quantities of waste treated, stored, or disposed of therein, result or are likely to result in air pollution, pollution of the waters of the state, or soil contamination or constitute a present or imminent and substantial threat to public health or safety. The director shall report the findings of the investigation to the municipal corporation, county, or township requesting the survey.

For the purpose of conducting investigations under this section, the director or the director's authorized representative may enter upon any public or private property. The director or the director's authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction. When conducting investigations under this section, the director shall cause no unnecessary damage to any property. The director may expend moneys from the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code, the hazardous waste cleanup fund created in section [3734.28](#) of the Revised Code, or the environmental protection remediation fund created in section [3734.281](#) of the Revised Code for conducting investigations.

(B) As used in this section and in sections [3734.20](#), [3734.21](#), [3734.23](#), [3734.25](#), and [3734.26](#) of the Revised Code, "soil contamination" means the presence in or on the soil of any of the following:

(1) Hazardous waste or hazardous waste residue resulting from the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing into or on the soil of hazardous waste or hazardous waste residue, or any material that when discharged, deposited, injected, dumped, spilled, leaked, emitted, or placed into or on the soil becomes a hazardous waste, in any quantity or having any characteristics that are or threaten to be injurious to public health or safety, plant or animal life, or the environment or that unreasonably interfere with the comfortable enjoyment of life or property;

(2) Solid waste or construction and demolition debris or any constituents from disposed solid waste or construction and demolition debris that pose a substantial threat to public health, safety, or the environment.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985 .

3734.20 Investigations.

(A)

(1) If the director of environmental protection has reason to believe that hazardous waste was treated, stored, or disposed of at any facility or property located within the state or that solid waste or construction and demolition debris was disposed of at any facility or property in the state, the director may conduct such investigations and make such inquiries as are reasonable or necessary to determine if conditions at the facility or property:

(a) Constitute a substantial threat to public health or safety; or

(b) Are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination.

The director may obtain samples and examine and copy records for purposes of an investigation.

(2) The director or the director's authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction.

(3) The director may expend money from the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code, the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code, or the environmental protection remediation fund created in section [3734.281](#) of the Revised Code for conducting investigations at any facility or property where the director has reason to believe that hazardous waste was treated, stored, or disposed of. The director may expend money from the environmental protection remediation fund established in section [3734.281](#) of the Revised Code for conducting investigations at any facility or property where the director has reason to believe that solid waste or construction and demolition debris was disposed of.

(B) If the director determines that conditions at a hazardous waste facility, solid waste facility, or other facility or property where hazardous waste was treated, stored, or disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination, the director shall initiate appropriate action under this chapter or Chapter 3704. or 6111. of the Revised Code or seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

If the director determines that conditions at a facility or property where solid waste or construction and demolition debris was disposed of constitute a substantial threat to public health or safety, the director shall initiate appropriate action under this chapter or Chapter 3714. of the Revised Code or seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

If an order of the director to abate or prevent air or water pollution or soil contamination or to remedy a threat to public health or safety caused by conditions at such a facility or property issued pursuant to this

chapter or Chapter 3704., 3714., or 6111. of the Revised Code is not wholly complied with within the time prescribed in the order, the director may, through officers or employees of the environmental protection agency or through contractors employed for that purpose, enter upon the facility or property and perform measures to abate or prevent air or water pollution or soil contamination from the facility or property or to protect public health or safety, including, but not limited to, measures prescribed in division (B) of section [3734.23](#) of the Revised Code.

The director shall keep an itemized record of the cost of the investigation and measures performed, including costs for labor, materials, and any contract services required. Upon completion of the investigation or measures, the director shall record the cost of performing the investigation and measures at the office of the county recorder of the county in which the facility or property is located. The cost so recorded attaches to the real property and constitutes a perfected lien against the property.

A lien imposed under this section shall continue until it is discharged or upon a filing by the director of a release of the lien in the office of the county recorder of the county in which the facility or property subject to the lien is located.

Upon written request of the director, the attorney general shall institute a civil action to recover the cost of the investigation or other measures, as applicable. Any money so received shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

When entering upon a facility or property under this division, the director shall perform or cause to be performed only those measures necessary or appropriate to abate or prevent air or water pollution or soil contamination caused by conditions at the facility or property or to abate threats to public health or safety caused by conditions at the facility or property. For this purpose the director may expend money from the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund and may expend money from loans from the Ohio water development authority to the environmental protection agency that pledge money from the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 05-08-1996; 09-29-2005

3734.21 Paying costs of closing, constructing or restoring facilities.

(A) The director of environmental protection may expend money credited to the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code, the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code, or the environmental protection remediation fund created in section [3734.281](#) of the Revised Code for any of the following:

- (1) The payment of the cost of measures necessary for the proper closure of hazardous waste facilities or any solid waste facilities containing significant quantities of hazardous waste;
- (2) The payment of costs of the development and construction of suitable hazardous waste facilities required by division (B) of section [3734.23](#) of the Revised Code to the extent the director determines that such facilities are not available;
- (3) The payment of costs that are necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety.

In addition, the director may expend and pledge money credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for repayment of and for interest on any loan made by the Ohio water development authority to the environmental protection agency for the payment of such costs.

(B) The director may expend money credited to the environmental protection remediation fund established in section [3734.281](#) of the Revised Code for the payment of the cost of all or part of any of the following:

- (1) Closure or post-closure care of a solid waste or construction and demolition debris facility;
- (2) Remediation or abatement of conditions that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety at a property where solid waste or construction and demolition debris was disposed of.

(C) Before beginning activities at any property under this section, the director shall develop a plan for the activities and an estimate of the cost thereof. The plan may include those measures and activities authorized by division (A) or (B) of this section, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation to prevent the infiltration of water into areas where hazardous waste, solid waste, or construction and demolition debris is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions ; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste , solid waste, or construction and demolition debris and the treatment or disposal of such wastes at a suitable facility. The plan or any part of the plan shall be carried out by entering into contracts therefor in accordance with the procedures established in division (C) of section [3734.23](#) of the Revised Code.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985; 09-29-2005

3734.22 Agreement with owner prior to cleanup.

Before beginning activities under section [3734.21](#) of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the activities will be conducted, specifying the activities to be performed and authorizing the director, employees of the agency, or contractors retained by the director to enter upon the land and perform the specified activities. The director also may enter into an agreement with any other owner of real or personal property for purposes of conducting those activities, including obtaining soil that may be used on the land where the activities will be conducted.

Each agreement may contain provisions for the reimbursement of the state for the costs of the activities. Methods of reimbursement may include the assignment of royalties or proceeds from the sale of timber or other resources present at the location.

All reimbursements and payments shall be credited to the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code, the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code, or the environmental protection remediation fund created in section [3734.281](#) of the Revised Code, as applicable.

The agreement may require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency in accordance with the bidding procedure established in division (C) of section [3734.23](#) of the Revised Code may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the agreement, or to construct, maintain, repair, remove, or make any other alterations or improvements, as determined appropriate by the director. The director also may obtain an easement under this section from any other person to address the use of resources or materials for purposes of conducting activities pursuant to section [3734.20](#) or [3734.21](#) of the Revised Code. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary or appropriate to protect the public health or safety, the agreement may require the owner to enter into an environmental covenant with the director in accordance with sections [5301.80](#) to [5301.92](#) of the Revised Code.

Upon a breach of the reimbursement provisions of the agreement by the owner of the land or facility, or upon notification to the director by the owner that the owner is unable to perform the duties under the reimbursement provisions of the agreement, the director may record the unreimbursed portion of the costs

of the activities at the office of the county recorder of the county in which the land or facility is located. The costs so recorded constitute a lien against the property on which the activities were conducted.

A lien imposed under this section shall continue until it is discharged or upon a filing by the director of a release of the lien in the office of the county recorder of the county in which the property subject to the lien is located.

Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of the activities. Any moneys so recovered shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 05-08-1996; 12-30-2004; 09-29-2005

3734.23 Acquiring facility constituting imminent and substantial threat - restoration contracts.

(A) The director of environmental protection may acquire by purchase, gift, donation, contribution, or appropriation in accordance with sections [163.01](#) to [163.21](#) of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code, the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code, or the environmental protection remediation fund created in section [3734.281](#) of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section [3734.20](#) of the Revised Code, perform closure, post closure care, or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. After performing these measures, the director shall provide for the post-closure care, maintenance, and monitoring of facilities cleaned up under this section.

(C) Before proceeding to clean up any property or facility under this section or section [3734.20](#) or [3734.21](#) of the Revised Code, the director shall develop a plan for the cleanup of the facility and an estimate of the cost thereof. The director may carry out the plan or any part of the plan by contracting for the services, construction, and necessary repairs.

(D) The director shall keep an itemized record of the costs of any acquisition under division (A) of this section and the costs of cleanup under division (B) of this section.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985; 09-29-2005

3734.24 Transferring or selling cleaned up facility.

After the cleanup of a solid waste facility or a hazardous waste facility acquired and cleaned up under section [3734.23](#) of the Revised Code, the director of environmental protection may, if the facility is suitable for use by any other state department, agency, office, or institution and if the proposed use of the facility is compatible with the condition of the facility as cleaned up, transfer the facility to that state department, agency, office, or institution. The director shall continue to provide for the post-closure care, maintenance, and monitoring of any such cleaned-up facility as required by section [3734.23](#) of the Revised Code.

If the director determines that any facility so cleaned up is suitable, because of its condition as cleaned up, for restricted or unrestricted use, the director may, with the approval of the attorney general, sell the facility if the sale is advantageous to the state. Prior to selling the cleaned-up facility, the director shall, when necessary to protect public health or safety, enter into an environmental covenant in accordance with sections [5301.80](#) to [5301.92](#) of the Revised Code. When selling any such cleaned-up facility, the director shall retain the right to enter upon the facility, in person or by an authorized agent, to provide for the post-closure care, maintenance, and monitoring of the facility. The director shall provide for the post-closure care, maintenance, and monitoring of any such facility sold as required by section [3734.23](#) of the Revised Code.

With the approval of the attorney general, the director may grant easements or leases on any such cleaned-up facility if the director determines that the use of the facility under the easement or lease is compatible with its condition as cleaned up.

Any moneys derived from the sale of such cleaned-up facilities or from payments from easements or leases shall be credited to the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code, the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code, or the environmental protection remediation fund created in section [3734.281](#) of the Revised Code, as applicable.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985; 12-30-2004

3734.25 Paying portion of costs of closing facility or abating pollution.

(A) The director of environmental protection may make grants of moneys from the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code or the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code for payment by the state of up to two-thirds of the reasonable and necessary expenses incurred by a municipal corporation, county, or township for the proper closure of or abatement of air or water pollution or soil contamination from a solid waste facility in which significant quantities of hazardous waste were disposed of and that the political subdivision owns and once operated.

(B) A municipal corporation, county, or township shall submit an application for a grant on forms provided by the director, together with detail plans and specifications indicating the measures to be performed, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the director prescribes. The plan for closure or abatement of air or water pollution or soil contamination may be prepared in consultation with the director or the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only if the director finds that the proposed measures will provide for the proper closure of the facility and will abate or prevent air or water pollution or soil contamination, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility at which land burial of hazardous waste occurred, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface waters and to prevent air emissions of hazardous waste from the facility;

- (2) Collect and treat contaminated surface water runoff from the facility;
 - (3) Collect and treat leachate produced at the facility;
 - (4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;
 - (5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;
 - (6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to prevent or abate air or water pollution or soil contamination.
- (C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the prevention or elimination of air or water pollution or soil contamination from the facility. In making a grant, the director shall enter into a contract with the municipal corporation, county, or township that owns the facility to ensure that the moneys granted are used for the purposes of this section and that measures performed are properly done. The final payment under a grant may not be made until the director inspects and approves the completed cleanup.

The contract shall require the municipal corporation, county, or township to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the director may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the political subdivision and the director.

When necessary to protect public health or safety, the contract may require the municipal corporation, county, or township to enter into an environmental covenant with the director in accordance with sections [5301.80](#) to [5301.92](#) of the Revised Code.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985; 12-30-2004

3734.26 Grants to and contracts with owner of facility.

(A) The director of environmental protection may make grants of moneys from the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code or the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code to the owner, other than a political subdivision, of a solid waste facility in which significant quantities of hazardous waste were disposed of or a hazardous waste facility for up to fifty per cent of the cost of the reasonable and necessary expenses incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility and for developing the land on which it was located for use in industry, commerce, distribution, or research.

The director shall not make grants to the owner of any land on which such facilities are located if the owner at any time owned or operated the facility located thereon for profit or in conjunction with any profit-making enterprise located in this state or to any person who at any time owned or operated a facility concerning which the director has taken action under section [3734.20](#), [3734.22](#), or [3734.23](#) of the Revised Code. However, the director may make grants under this section to any subsequent owner of the land, provided that the person has no affiliation with any person who owned or operated the facility located on the land for profit or in conjunction with any profit-making enterprise located in this state or who owned or operated a facility concerning which the director has taken action under section [3734.20](#), [3734.22](#), or [3734.23](#) of the Revised Code.

(B) The owner shall submit an application for a grant on forms furnished by the director, together with detail plans and specifications for the measures to be performed to close the facility properly or to abate or prevent air or water pollution or soil contamination from the facility, an itemized estimate of the project's cost, a description of the project's estimated benefits, and such other information as the director

prescribes. The plan may be prepared in consultation with the director or with the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only after finding that the proposed measures will provide for the proper closure of the facility or will abate or prevent air or water pollution or soil contamination from the facility, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility.

In making a grant, the director shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purpose of this section and that the measures performed are properly performed. The final payment under a grant may not be made until the director inspects and approves the completed cleanup and the plans for developing the land for use in industry, commerce, distribution, or research.

Each contract for funding shall contain provisions for the reimbursement of the state of a portion of the costs of the cleanup that is commensurate with the increase in the market value of the property attributable to the cleanup thereon, as determined by appraisals made before and after cleanup in the manner stated in the contract. For reimbursement of that portion, the contract may include provisions for:

(1) Payment to the state of the share of the income derived from the productive use of the land;

(2) Imposition of a lien in the amount of the increase in fair market value payable upon the transfer or conveyance to a new owner;

(3) Waiver of all reimbursement if the determination discloses an increase in value that is insubstantial in comparison to the benefits to the public from the abatement of threats to public health or safety or from the abatement or prevention of pollution or contamination, considering the applicant's share of the cleanup cost.

All reimbursements and payments shall be credited to the hazardous waste facility management fund or the hazardous waste clean-up fund , as applicable.

(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the contract may require the owner to enter into an environmental covenant with the director in accordance with sections [5301.80](#) to [5301.92](#) of the Revised Code.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985; 12-30-2004

3734.27 Application and survey to precede grant.

Before making grants from the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code or the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code, the director of environmental protection shall consider each project application submitted by a political subdivision under section [3734.25](#) of the Revised Code, each application submitted by the owner of a facility under section [3734.26](#) of the Revised Code, and each facility surveyed under section [3734.19](#) of the Revised Code and, based upon the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration, establish priorities for awarding grants from the fund.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 07-01-1985 .

3734.28 Hazardous waste clean-up fund.

Except as otherwise provided in sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et seq., as amended, including moneys recovered under division (B)(1) of this section, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, both of the following shall be credited to the fund:

(A) Moneys recovered for costs paid from the fund for activities described in divisions (A)(1) and (2) of section 3745.12 of the Revised Code;

(B) Natural resource damage assessment costs recovered under any of the following:

(1) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et seq., as amended;

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701, et seq., as amended;

(3) The "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C. 1321, et seq., as amended;

(4) Any other applicable federal or state law.

The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, and Chapter 3746. of the Revised Code, including any related enforcement expenses and administrative expenses of any related closure or corrective action program. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 06-26-2003; 09-29-2005

3734.281 Environmental protection remediation fund.

Except as otherwise provided in section [3734.282](#) of the Revised Code, moneys collected from judgements for the state or settlements with the director of environmental protection, including those associated with bankruptcies, related to actions brought under Chapter 3714. and section [3734.13](#), [3734.20](#), [3734.22](#), [6111.03](#), or [6111.04](#) of the Revised Code; and moneys received under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, may be paid into the state treasury to the credit of the environmental protection remediation fund, which is hereby created. The environmental protection agency shall use the moneys in the fund only for the purpose of remediating conditions at a hazardous waste facility, a solid waste facility, a construction and demolition debris facility licensed under Chapter 3714. of the Revised Code, or another location at which the director has reason to believe there is a substantial threat to public health or safety or the environment. Remediation may include the direct and indirect costs associated with the overseeing, supervising, performing, verifying, or reviewing of remediation activities by agency employees. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 03-30-2000; 12-22-2005

3734.282 Natural resource damages fund.

Except for natural resource damage assessment costs recovered by the state that are required by section [3734.28](#) of the Revised Code to be credited to the hazardous waste clean-up fund created in that section, all money collected by the state for natural resources damages under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et seq., as amended, the Federal Water Pollution Control Act as defined in section [6111.01](#) of the Revised Code, or any other applicable federal or state law shall be paid into the state treasury to the credit of the natural resource damages fund, which is hereby created. The director of environmental protection shall use money in the fund only in accordance with the purposes of and the limitations on natural resources damages set forth in the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended, the "Oil Pollution Act of 1990," as amended, the Federal Water Pollution Control Act, or another applicable federal or state law. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the director's responsibilities for which money may be expended from the fund.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Added by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009. .

3734.29 Claim for personal injuries or real property damage resulting from violation.

Notwithstanding any other provision of the Revised Code that limits the time within which an action shall be commenced, a cause of action for personal injury or real property damage resulting from a civil violation of the hazardous waste provisions of this chapter shall not be deemed to have accrued or arisen until the plaintiff discovers or reasonably should have discovered the injuries or damage, provided that this section shall not be construed to affect in any way causes of action that might otherwise be deemed to accrue or arise as a direct or proximate result of acts performed or omitted on or before October 9, 1980, regardless of the date that suit upon those causes of action is commenced or tried.

Effective Date: 08-01-1984.

3734.30 State's liability for injury or damage.

The state is immune from liability for any injury or damage resulting from any of the following:

(A) Operation of a hazardous waste facility, solid waste facility, or construction and demolition debris facility by a person other than an agency, department, or institution of the state;

(B) Conditions present at a facility that is acquired by the state by gift or devise;

(C) Activities conducted pursuant to section [3734.20](#) or [3734.21](#) of the Revised Code, remediation activities for which money may be expended pursuant to section [3734.281](#) of the Revised Code, or activities for which money may be expended pursuant to section [3714.071](#) or [3734.85](#). provided that those activities do not constitute reckless, willful, or wanton misconduct.

The liability of the state, if any, in other circumstances regarding hazardous waste, solid waste, or construction and demolition debris shall be determined in accordance with Chapter 2743. of the Revised Code.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Effective Date: 09-28-1994.

3734.31 Inspecting and monitoring facilities.

(A) The director of environmental protection shall employ and equip such individuals as are needed to adequately and regularly inspect and monitor operating hazardous waste facilities, infectious waste treatment facilities, or solid waste facilities located off the premises where hazardous waste, infectious waste, or solid waste is generated.

(B) The director may employ and equip such individuals as are necessary to inspect and monitor operating hazardous waste facilities, infectious waste treatment facilities, or solid waste facilities other than those described in division (A) of this section.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Effective Date: 07-01-1993.

3734.35 Affected community may request compensation agreement.

(A) As used in this section, "affected community" means any municipal corporation, township, or county that meets all of the following conditions with respect to a proposed publicly owned sanitary landfill or proposed modification to a publicly owned sanitary landfill as provided in division (A)(2)(d)(i) of section [3734.05](#) of the Revised Code;[:]

- (1) All or part of it is located one kilometer or less from the property boundary of the landfill;
- (2) It is not the municipal corporation, township, or county in which the landfill is located;
- (3) It is not located in the same solid waste management district as the landfill.

(B) If, upon the issuance of a permit for a new publicly owned sanitary landfill under division (A) of section 3734.05 of the Revised Code or for a modification of such a landfill under division (A)(2)(d)(i) of that section, there is only one affected community in a county with respect to that landfill, that community shall represent itself in any negotiations under division (C) of this section, any arbitration under division (D) of this section, or any court proceeding under division (E) or (H) of this section. If, upon the issuance of a permit for such a new landfill or for a modification of such a landfill, there is more than one affected community in a county with respect to that landfill, all the affected communities in that county shall be represented in any negotiations under division (C) of this section, any arbitration under division (D) of this section, or any court proceeding under division (E) or (H) of this section by the board of county commissioners of the county in which those affected communities are located.

(C) On or after the effective date of this section and not later than fifteen days after a permit for a new publicly owned sanitary landfill or modification of a publicly owned sanitary landfill as provided in division (B) of this section is issued, the environmental protection agency shall deliver written notice of the issuance of the permit to the solid waste management district in which the landfill or proposed landfill is or is to be located. Not later than thirty days after receiving the notice, the solid waste management district shall deliver written notice of the issuance of the permit to each affected community and to the board of county commissioners of each county in which there is more than one affected community. Not later than forty-five days after receiving notification from the solid waste management district, an affected community or a board of county commissioners representing affected communities, as applicable, may deliver to the solid waste management district in which the landfill or proposed landfill is or is to be located a written request to negotiate an agreement to compensate the affected community or communities for any or all of the following expenses that have been or will be incurred by the affected community or communities as a result of the siting, operation, or closure of the landfill:

- (1) Road improvements and maintenance;
- (2) Emergency services;
- (3) Litter prevention and reduction;
- (4) Collection and analysis of samples from public or private water wells;
- (5) Enforcement of applicable public health codes;
- (6) Enforcement of applicable environmental laws.

The request shall state with particularity the nature and extent of the alleged impacts upon the affected community or communities for which compensation is sought, the amount of compensation sought, and the terms of payment of compensation sought. The affected community or board of county commissioners representing affected communities shall deliver a copy of the request to the solid waste management district in which the affected community or communities are located.

If a mutually acceptable agreement is entered into under this division, it may include a provision requiring the agreement to be renegotiated beginning on a specified date, or at intervals, as agreed by the affected community or board of county commissioners representing affected communities, as applicable, and the solid waste management district.

(D) If the solid waste management district in which a publicly owned sanitary landfill or proposed publicly owned sanitary landfill as provided in division (B) of this section is or is to be located and an affected community or board of county commissioners representing affected communities fail to reach a mutually acceptable agreement on compensation not later than ninety days after the affected community or board of county commissioners submits a request for compensation to the district under division (C) of this section, not later than thirty days thereafter either party may deliver to the other party a written request for binding arbitration. A party that requests binding arbitration shall deliver a copy of the request to the solid waste management district in which the affected community or communities are located.

Within thirty days after a request for binding arbitration is first delivered by one party to the other party, each party shall select an arbitrator. Within ten days after the arbitrators are selected, they shall select a third arbitrator. If they are unable to agree on a third arbitrator, they shall so notify the director of environmental protection in writing. Not later than thirty days after receiving the notice, the director shall select the third arbitrator. The selection of the third arbitrator by the director is not appealable and is not a final action under Chapter 3745. of the Revised Code. An arbitrator chosen by the director shall not be a state employee. Serving as an appointed member of an arbitration team under this section does not constitute holding a public office or position of employment under the laws of this state and does not confer a right to compensation from the environmental protection agency or any other agency of this state.

Not later than thirty days after selection of the arbitration team, each party to the arbitration shall deliver to the team a recommendation for compensation of the affected community or communities, as applicable. Not later than sixty days after selection of the arbitration team, the team, by a majority vote, shall approve one of the recommendations submitted by the parties.

The arbitration team shall deliver to each party, and to the solid waste management district in which the affected community or communities are located, a written statement of the arbitration award that sets forth with particularity the nature and extent of the impacts upon the affected community or communities for which compensation is awarded, the amount of compensation awarded, and the terms upon which compensation shall be paid.

The parties shall abide by the arbitration award unless it is appealed under division (E) of this section and one of the parties delivers to the other party a written request to stay the arbitration award pending the appeal. If such a request is delivered, the arbitration award shall be suspended pending the appeal. The arbitration award otherwise shall be enforced, upon petition by either party, by the court of common pleas in the county in which the affected community or communities are located. A party that requests a stay of an arbitration award shall file a copy of the request with the court to which the award has been appealed and deliver a copy of the request to the solid waste management district in which the affected community or communities are located.

(E) Within thirty days after the arbitration team renders its decision, either party to the arbitration may appeal the arbitration award to the court of common pleas in the county in which the affected community or communities are located. A party that appeals an arbitration award shall deliver a copy of its notice of appeal to the solid waste management district in which the affected community or communities that are party to the appeal are located. The arbitration award shall be stayed pending appeal if either party requests a stay under division (D) of this section. The court shall uphold the arbitration award if it is supported by substantial evidence. If the court finds that the arbitration award is not supported by substantial evidence, the court shall order an award that is equitable to the parties. The court shall deliver a copy of its order to the solid waste management district in which the affected community or communities that are party to the appeal are located.

If the affected community or board of county commissioners representing affected communities, as applicable, prevails on appeal and the arbitration award has been stayed pending appeal at the request of the solid waste management district in which the landfill or proposed landfill is or is to be located, the court shall award interest at the rate specified under division (A) of section [1343.03](#) of the Revised Code, based upon the amount of compensation that would have been payable to the affected community or communities under the arbitration award under division (D) of this section or a judicial order under this division during the time the stay was in effect.

(F) A solid waste management district and an affected community or board of county commissioners representing affected communities, as applicable, by mutual consent, may modify an agreement between them entered into under division (C) of this section, an arbitration award rendered under division (D) of this section, or a judicial order rendered under division (E) of this section with respect to compensation of the affected community or communities by the district for impacts described in divisions (C)(1) to (6) of this section. Any modification shall be in writing, and a copy of it shall be delivered to the solid waste management district in which the affected community or communities are located. If the parties agree to modify a judicial order with respect to compensation of the affected community or communities, the affected community or board of county commissioners, as applicable, shall file a copy of the modified agreement with the court that issued the order.

(G) The parties to an arbitration under division (D) of this section shall share equally the cost of the arbitration and each shall bear the cost of its own attorney's fees and other expenses related to the

arbitration.

(H) If a solid waste management district that is subject to an agreement under division (C) of this section, an arbitration award under division (D) of this section, or a judicial order under division (E) of this section is not in compliance with the requirements of the agreement, award, or order, or any modification thereto agreed to under division (F) of this section, any affected community or board of county commissioners representing affected communities, as applicable, may deliver to the district written notice of noncompliance. The notice shall specify the nature of the noncompliance, including, but not limited to, the provisions of the agreement, award, or order, or modification thereto, with which the district is not complying.

If the district has not complied with the agreement, award, or order, or modification thereto, not later than thirty days after receiving notice of noncompliance, the affected community or board of county commissioners, as applicable, may deliver a copy of the notice of noncompliance to the court of common pleas in the county where the affected community or communities are located and request the court to hold a hearing to determine if the district is in compliance with the agreement, award, or order, or modification thereto. The affected community or board also shall deliver a copy of the notice and request to the solid waste management district in which the affected community or communities are located. As promptly as reasonably practicable after receiving a notice of noncompliance and a request for a hearing, the court shall hold a hearing to determine if the district is in compliance with the agreement, award, or order, or modification thereto. The district and the affected community or board of county commissioners, as applicable, shall be parties to the hearing.

The court shall issue written findings of fact and conclusions of law with respect to the hearing and shall deliver a copy of them to the district, the affected community or board of county commissioners, as applicable, and the solid waste management district in which the affected community or communities are located.

If the court determines as a result of the hearing that the district is not in compliance with the agreement, award, or order, or modification thereto, the court shall issue an order directing the district to comply. The court shall deliver a copy of any order issued under this division to the district, the affected community or board of county commissioners, as applicable, and the solid waste management district in which the affected community or communities are located.

The party that does not prevail in a hearing under this division shall bear the costs of the hearing and pay reasonable attorney's fees incurred by the prevailing party as a result of the hearing.

Effective Date: 10-31-1996.

3734.40 Policy as to off-site treatment, storage and disposal of wastes.

The general assembly hereby finds and declares the following to be the public policy of this state:

(A) That the off-site treatment, storage, and disposal of hazardous waste and the off-site disposal of solid wastes, including incineration, and transfer of solid wastes are critical components of the economic structure of this state and, when properly controlled and regulated, make substantial contributions to the general welfare, health, and prosperity of the state and its inhabitants by minimizing the serious health and environmental threats inherent in the management of these wastes;

(B) That the regulatory provisions of this chapter are designed to extend strict state regulation to those persons involved in the operations of these permitted activities so as to foster and justify the public confidence and trust in the credibility and integrity of the conduct of these activities;

(C) That the solid and hazardous waste management industries in this state can attain, maintain, and retain integrity, public confidence, and trust, and promote the general public interest, only under a system of control and regulation that precludes the participation therein of persons with known criminal records and excludes or removes from any position of authority or responsibility any person known to be so deficient in reliability, expertise, or competence with specific reference to the solid or hazardous waste management

industries that his participation in them would create or enhance the danger of unsound, unfair, or illegal practices, methods, and activities in the conduct of the business of the industries;

(D) That strict licensing standards will help ensure that members of the waste management industry in this state will continue to maintain standards of professionalism and responsibility;

(E) That it therefore is vital to the interests of this state to prevent either direct or indirect entry into the operations of the off-site solid waste disposal and transfer and the off-site hazardous waste treatment, storage, and disposal, industries of persons who are not competent and reliable or who have pursued economic gains in an occupational manner or context violative of the criminal code or civil public policies of this state, and it is to the end of excluding such persons from those industries that the regulatory and investigatory powers and duties provided in sections [3734.41](#) to [3734.47](#) of the Revised Code shall be exercised to the fullest extent consistent with law.

Effective Date: 06-24-1988.

3734.41 Qualifications of licensees and related persons definitions.

As used in sections 3734.41 to [3734.47](#) of the Revised Code:

(A) "Applicant" means any person seeking a permit or license for an off-site facility and any person or business concern operating such a facility for an applicant.

(B) "Application" means the forms and accompanying documents filed in connection with the applicant's request for a permit.

(C) "Business concern" means any corporation, association, firm, partnership, trust, or other form of commercial organization.

(D) "Disclosure statement" means a statement submitted to the director of environmental protection and the attorney general by an applicant. The statement shall include all of the following:

(1) The full name, business address, and social security number of the applicant or, if the applicant is a business concern, of all officers, directors, partners, or key employees thereof and all individuals or business concerns holding any equity in or debt liability of that business concern or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(2) The full name, business address, and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or debt liability of any business concern so disclosed or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(3) The full name and business address of any company in which the applicant holds an equity interest and that collects, transfers, transports, treats, stores, or disposes of solid wastes, infectious wastes, or hazardous waste or processes solid wastes that consist of scrap tires;

(4) A description of the experience and credentials, including any past or present permits or licenses, for the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, or the processing of solid wastes that consist of scrap tires, possessed by the applicant or, if the applicant is a business concern, by the officers, directors, partners, or key employees thereof;

(5) A listing and explanation of any civil or criminal prosecution by government agencies, administrative enforcement actions resulting in the imposition of sanctions, or license revocations or denials issued by any state or federal authority in the ten years immediately preceding the filing of the application, that are pending or have resulted in a finding or a settlement of a violation of any law or rule or regulation relating to the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, or the processing of solid wastes that consist of scrap tires, or of any other

environmental protection statute, by the applicant or, if the applicant is a business concern, by the business concern or any officer, director, partner, or key employee thereof. For the purposes of division (D)(5) of this section, violations of any law or rule relating to the transportation of solid wastes, infectious wastes, or hazardous waste do not include violations that also apply to the transportation of commodities that are not wastes.

(6) A listing and explanation of any judgment of liability or conviction that was rendered pursuant to any state or federal law or local ordinance resulting in the imposition of a sanction against the applicant or, if the applicant is a business concern, against the business concern or any officer, director, partner, or key employee thereof;

(7) A listing of any agency outside this state that has or has had regulatory responsibility over the applicant in connection with its collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste or processing of solid wastes that consist of scrap tires

(E) "Key employee" means any individual, other than a public official or employee as defined in division (B) of section [102.01](#) of the Revised Code who is required to file a statement under section [102.02](#) of the Revised Code, employed by the applicant or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste, infectious waste, or hazardous waste operations of the business concern, but does not include any employee exclusively engaged in the physical or mechanical collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste or processing of solid wastes that consist of scrap tires. If the applicant or permittee has entered into a contract with another person to operate the facility that is the subject of the permit or license or application for a permit or license, "key employee" also includes those employees of the contractor who act in a supervisory capacity, or are empowered to make discretionary decisions, with respect to the operation of the solid, infectious, or hazardous waste facility. An officer or director of a business concern required to file a disclosure statement under section [3734.42](#) of the Revised Code who meets the definition of "key employee" shall be considered a key employee for purposes of the filing and disclosure requirements of sections [3734.42](#) to [3734.47](#) of the Revised Code.

(F) "License" means the annual license required by section [3734.05](#) of the Revised Code for an off-site solid waste disposal or transfer facility or an off-site infectious waste treatment facility.

(G) "Off-site facility" means a facility that is located off the premises where the solid wastes, infectious wastes, or hazardous waste is generated, but does not include any such facility that exclusively disposes 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 or any such facility that is owned and operated by the generator of the waste and that exclusively stores, processes, or disposes of or transfers solid wastes, exclusively treats infectious wastes, or exclusively disposes of hazardous waste, generated at one or more premises owned by the generator.

(H) "Permit" means a permit to install a new off-site solid waste disposal facility, including an incineration facility, or a new transfer facility issued under section [3734.05](#) of the Revised Code; a permit to install a new off-site solid waste facility that is a scrap tire storage, monocell, monofill, or recovery facility issued under section [3734.76](#), [3734.77](#), or [3734.78](#) of the Revised Code, as applicable; a permit to install a new off-site infectious waste treatment facility issued under section [3734.05](#) of the Revised Code; and a permit to install and operate a new off-site hazardous waste treatment, storage, or disposal facility issued under section [3734.05](#) of the Revised Code.

(I) "Permittee" means any person who has received a permit or license for an off-site facility.

Amended by 129th General Assembly File No. 123, SB 302, §1, eff. 9/6/2012.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Effective Date: 10-29-1993 .

3734.42 Disclosure statement.

(A)

(1) Every applicant for a permit shall file a disclosure statement, on a form developed by the attorney general, with the director of environmental protection and the attorney general at the same time the applicant files an application for the permit with the director.

(2) Any individual required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures established by the attorney general. An individual required to be fingerprinted under this section shall not be required to be fingerprinted more than once under this section.

(3) The attorney general, within one hundred eighty days after receipt of the disclosure statement from an applicant for a permit, shall prepare and transmit to the director an investigative report on the applicant, based in part upon the disclosure statement, except that this deadline may be extended for a reasonable period of time, for good cause, by the director or the attorney general. In preparing this report, the attorney general may request and receive criminal history information from the federal bureau of investigation and any other law enforcement agency or organization. The attorney general may provide such confidentiality regarding the information received from a law enforcement agency as may be imposed by that agency as a condition for providing that information to the attorney general.

(4) The review of the application by the director shall include a review of the disclosure statement and investigative report.

(B) All applicants and permittees shall provide any assistance or information requested by the director or the attorney general and shall cooperate in any inquiry or investigation conducted by the attorney general and any inquiry, investigation, or hearing conducted by the director. If, upon issuance of a formal request to answer any inquiry or produce information, evidence, or testimony, any applicant or permittee, any officer, director, or partner of any business concern, or any key employee of the applicant or permittee refuses to comply, the permit of the applicant or permittee may be denied or revoked by the director.

(C) The attorney general may charge and collect such fees from applicants and permittees as are necessary to cover the costs of administering and enforcing the investigative procedures authorized in sections [3734.41](#) to [3734.47](#) of the Revised Code. The attorney general shall transmit moneys collected under this division to the treasurer of state to be credited to the solid and hazardous waste background investigations fund, which is hereby created in the state treasury. Moneys in the fund shall be used solely for paying the attorney general's costs of administering and enforcing the investigative procedures authorized in sections [3734.41](#) to [3734.47](#) of the Revised Code.

(D) An appropriate applicant, a permittee, or a prospective owner shall submit to the attorney general, on a form provided by the attorney general, the following information within the periods specified:

(1) Information required to be included in the disclosure statement for any new officer, director, partner, or key employee, to be submitted within ninety days from the addition of the officer, director, partner, or key employee;

(2) Information required to be included in a disclosure statement regarding the addition of any new business concern to be submitted within ninety days from the addition of the new business concern.

(E)

(1) The attorney general shall enter in the database established under section [109.5721](#) of the Revised Code the name, the fingerprints, and other relevant information concerning each officer, director, partner, or key employee of an applicant, permittee, or prospective owner.

(2) For purposes of section [109.5721](#) of the Revised Code, annually on a date assigned by the attorney general, an applicant, permittee, or prospective owner shall provide the attorney general with a list of both of the following:

(a) Each officer, director, partner, or key employee of the applicant, permittee, or prospective owner and the person's address and social security number;

(b) Any officer, director, partner, or key employee of the applicant, permittee, or prospective owner who has left a position previously held with the applicant, permittee, or prospective owner during the previous one-year period and the person's social security number.

(3) Annually, the attorney general shall update the database established under section [109.5721](#) of the Revised Code to reflect the information provided by an applicant, permittee, or prospective owner under divisions (E)(2)(a) and (b) of this section.

(4) Notwithstanding division (C) of this section, the attorney general shall charge and collect fees from an applicant, permittee, or prospective owner that is required to submit information under this division in accordance with rules adopted under section [109.5721](#) of the Revised Code. The fees shall not exceed fees that are charged to any other person who is charged fees for purposes of the database established under that section and who is not an officer, director, partner, or key employee of an applicant, permittee, or prospective owner under this section.

(F)

(1) Every five years, the attorney general shall request from the federal bureau of investigation any information regarding a criminal conviction with respect to each officer, director, partner, or key employee of an applicant, permittee, or prospective owner. The attorney general may take any actions necessary for purposes of this division, including, as necessary, requesting the submission of any necessary documents authorizing the release of information.

(2) Every five years, an applicant, permittee, or prospective owner shall submit an affidavit listing all of the following regarding a business concern required to be listed in the applicant's, permittee's, or prospective owner's disclosure statement:

(a) Any administrative enforcement order issued to the business concern in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous five-year period;

(b) Any civil action in which the business concern was determined to be liable or was the subject of injunctive relief or another type of civil relief in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous five-year period;

(c) Any criminal conviction for a violation of any federal or state environmental protection laws, rules, or regulations that has been committed knowingly or recklessly by the business concern during the previous five-year period.

(G) With respect to an applicant, permittee, or prospective owner, the attorney general shall notify the director of environmental protection of any crime ascertained under division (E) or (F) of this section that is a disqualifying crime under section [3734.44](#) of the Revised Code. The attorney general shall provide the notification not later than thirty days after the crime was ascertained.

(H) The failure to provide information under this section may constitute the basis for the revocation of a permit or license, the denial of a permit or license application, the denial of a renewal of a permit or license, or the disapproval of a change in ownership as described in division (I) of this section. Prior to a denial, revocation, or disapproval, the director shall notify the applicant, permittee, or prospective owner of the director's intention to do so. The director shall give the applicant, permittee, or prospective owner fourteen days from the date of the notice to explain why the information was not provided. The director shall consider the explanation when determining whether to revoke the permit or license, deny the permit or license application or renewal, or disapprove the change in ownership.

Nothing in this section affects the rights of the director or the attorney general granted under sections [3734.40](#) to [3734.47](#) of the Revised Code to request information from a person at any other time.

(I)

(1) Whenever there is a change in ownership of any operating off-site solid waste facility, any operating off-site infectious waste facility, or any operating off-site hazardous waste facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership. In addition, whenever there is a change in ownership of any operating on-site solid waste facility, any operating on-site infectious waste facility, or any operating on-site hazardous waste facility and the prospective owner intends to operate the facility as an off-site facility by accepting wastes other than wastes generated by the facility owner, the prospective owner shall file a disclosure statement with the attorney general and the director. The prospective owner shall file the disclosure statement at least one hundred eighty days prior to the proposed change in ownership.

Upon receipt of the disclosure statement, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section [3734.44](#) of the Revised Code. If the director determines that the statement or report contains such information, the director shall disapprove the change in ownership.

(2) If the parties to a change in ownership decide to proceed with the change prior to the action of the director on the disclosure statement and investigative report, the parties shall include in all contracts or other documents reflecting the change in ownership language expressly making the change in ownership subject to the approval of the director and expressly negating the change if it is disapproved by the director pursuant to division (I)(1) of this section.

(3) As used in this section, "change in ownership" includes a change of the individuals or entities who own a solid waste facility, infectious waste facility, or hazardous waste facility. "Change in ownership" does not include a legal change in a business concern's name when its ownership otherwise remains the same. "Change in ownership" also does not include a personal name change of officers, directors, partners, or key employees contained in a disclosure statement.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 123, SB 302, §1, eff. 9/6/2012.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Effective Date: 09-26-2003 .

3734.43 Investigative demand by attorney general.

(A) As used in this section, "documentary material" means the original or any copy of any writings, drawings, graphs, charts, photographs, phonorecords, and other data compilation from which intelligence, relevant to any investigation conducted to determine if any person is or has been engaged in a violation of this chapter, may be perceived with or without the use of detection devices.

(B) Whenever the attorney general has reasonable cause to believe that any individual or business concern may be in possession, custody, or control of any documentary material or may have knowledge of any fact relevant to any investigation of an applicant or permittee authorized in sections [3734.41](#) to [3734.47](#) of the Revised Code, the attorney general or his designated representative may issue in writing and cause to be served upon any individual or business concern or the representative or agent of the individual or business concern an investigative demand requiring the individual or business concern to produce the documentary material for inspection and copying or reproduction, to answer under oath and in writing written interrogatories, or to appear and testify under oath before the attorney general or his duly authorized representative, or requiring the individual or business concern to do any combination of these three demands.

(C) Each investigative demand shall:

(1) Describe the conduct under investigation and state the provisions of law applicable thereto;

(2) If it is a demand for production of documentary material:

(a) Describe with reasonable particularity the documentary material to be produced;

(b) Prescribe a return date that will provide a reasonable period of time within which the material may be assembled and made available for inspection and copying or reproduction;

(c) Identify the custodian to whom the material shall be made available and the location at which the material is to be produced.

(3) If it is a demand for answers to written interrogatories:

(a) Identify the representative of the attorney general to whom such answers shall be made;

(b) Prescribe a date by which the answers shall be presented.

(4) If it is a demand for the giving of oral testimony:

(a) Prescribe a date, time, and place at which oral testimony will be taken;

(b) Identify the representative of the attorney general who will conduct the oral examination.

(D) No investigative demand shall:

(1) Contain any requirement that would be unreasonable if contained in a subpoena or subpoena duces tecum issued by a court in aid of a grand jury investigation;

(2) Except as provided in division (H) of this section, require any answers to written interrogatories, the giving of any oral testimony, or the production of any documentary material that would be privileged from disclosure if demanded by a subpoena or subpoena duces tecum issued by a court in aid of a grand jury investigation.

(E) Service of any investigative demand may be made and is complete by either of the following:

(1) Mailing a copy of the demand by certified mail addressed to the individual or business concern to be served at his or its principal office, place of business, or residence;

(2) Delivering a copy of the demand to the individual or business concern or the representative or agent of the individual or business concern.

(F) Any individual or business concern served with a demand under this section may be represented by counsel at the taking of that individual's or business concern's testimony.

(G) Except as otherwise provided in this section, the taking of oral testimony, answering of written interrogatories, and production of documentary material under this section shall in all respects follow the procedures established by the discovery provisions of the Rules of Civil Procedure.

(H)

(1) Whenever an individual or business concern served with a demand under this section refuses on the basis of the individual's privilege against self-incrimination to provide any oral testimony, to answer any written interrogatories, or to produce any documentary material, the attorney general or his designated representative may file a written request with a court of common pleas, and the court, unless it finds that to do so would not further the administration of justice, shall compel that individual to provide the oral testimony, to answer the written interrogatories, or to produce the documentary material if all of the following apply:

(a) The attorney general or his designated representative makes a written request to the court of common pleas to order the individual to provide oral testimony, to answer written interrogatories, or produce documentary material, notwithstanding his claim of privilege;

(b) The written request is made to a court of common pleas in the county in which the individual resides, transacts business, or is otherwise found, except that if the individual transacts business in more than one county, the request shall be made in the county in which the individual maintains his principal place of business;

(c) The court of common pleas informs the individual that by providing oral testimony, answering written interrogatories, or producing documentary material he will receive immunity under division (H)(2) of this section.

(2) If, but for division (H) of this section, the individual would have been privileged to withhold any oral testimony, answers to written interrogatories, or documentary material given in these proceedings and he complies with an order under division (H)(1) of this section compelling him to provide testimony, answers, or material, that answer, testimony, or evidence or any evidence directly or indirectly derived therefrom may not be used against him in any prosecution for a crime or offense concerning which he gave the answer, testified, or produced evidence if the answer, testimony, or evidence is responsive to the question propounded.

(3) An individual granted immunity under division (H) of this section may be subjected to a criminal penalty for any violation of section [2921.11](#), [2921.12](#), or [2921.13](#) of the Revised Code, or for contempt committed in providing oral testimony, answers to written interrogatories, or documentary material in compliance with the order.

(I) Within twenty days after service of an investigative demand upon any individual or business concern under this section or at any time before the compliance date specified in the demand, whichever period is shorter, the individual or business concern may file in the court of common pleas in the county in which he resides, transacts business, or is otherwise found, and serve upon the attorney general, a request for an order of the court modifying or setting aside the demand, except that if the individual or business concern transacts business in more than one county, the request shall be filed in the county in which the individual or business concern maintains his principal place of business or in any other county that may be agreed upon by the individual or business concern and the attorney general or his designated representative. If the court finds that the noncompliance was in bad faith or for the purpose of delay, it may order the individual or business concern to pay to the attorney general the reasonable expenses incurred in defending the investigative demand, including attorneys' fees, and may invoke the sanctions provided by Civil Rule 37.

(J) No individual or business concern shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any individual or business concern with any investigative demand made under this section, remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any documentary material that is the subject of any investigative demand served upon any individual or business concern.

(K) The attorney general is responsible for the custody, use, and necessary preservation of the documentary material made available pursuant to a demand and for its return as provided by this section.

(L) All documentary material, answers to written interrogatories, and transcripts of oral testimony that are provided pursuant to any investigative demand are compiled as if in reasonable anticipation of a civil or criminal action or proceeding and shall be confidential and not subject to disclosure. Unless otherwise ordered by a court of common pleas, no such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for examination or copying by, nor shall the contents thereof be disclosed to, any individual other than an authorized representative of the attorney general without the consent of the individual or business concern that provided the material, answers, or testimony, except that the documentary material, answers to written interrogatories, or oral testimony may be used in any grand jury investigation or in the conduct of any case or other official proceeding involving the issuance of a license or permit required under this chapter or involving an alleged violation of this chapter. Materials compiled pursuant to investigative procedures under this section are discoverable only to the extent authorized by the rules of any administrative or judicial tribunal in which any proceeding under this chapter is pending. No employee of the office of the attorney general shall purposely make available for examination or copying documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to an investigative demand, nor disclose the contents thereof, except as provided by this section.

(M) When copies of documentary material made available pursuant to an investigative demand are no longer required for use in a pending proceeding or, absent any pending proceeding, are no longer required in connection with the investigation for which they were demanded, or at the end of twenty-four months after the date when the material was made available, whichever is earlier, all copies of the material shall be returned unless a request to extend the period beyond twenty-four months has been filed in the court of common pleas in which a request for an order compelling compliance pursuant to division (H) of this section could be filed. This division does not require the return of any copies of the documentary material that have passed into the control of any court or grand jury.

(N) Notwithstanding any provision of the Revised Code, public officers and their deputies, assistants, clerks, subordinates, and employees shall render and furnish to the attorney general or his designated representatives when so requested all information and assistance in their possession or within their power. The attorney general or his authorized representatives shall provide the same degree of confidentiality for any information received under this section as the public officer or employee from whom it is obtained is required by law to provide with respect to the information.

(O) When any request is filed in any court of common pleas under this section, the court shall have jurisdiction to hear and determine the matter presented. In any proceeding brought pursuant to this section, upon a showing by the attorney general that the information sought is potentially relevant to an

investigation authorized herein, the court shall order the individual or business concern to provide the information requested by the attorney general.

(P) Nothing in this section impairs the authority of the attorney general to file any complaint alleging a violation of this chapter that is not described in the demand, nor prevents the use of any evidence obtained through this section or otherwise in such an action.

(Q) Nothing in this section impairs the authority of the attorney general or his representatives to lay before any grand jury impaneled in this state any evidence obtained through this section or otherwise concerning any alleged violation of this chapter, to invoke the power of the courts to compel the production of any evidence before any such grand jury, to institute any proceeding for the enforcement of any order or process issued in execution of such power, or to punish disobedience of any such order or process by any person.

(R) Any judicial proceeding to challenge or enforce an investigative demand made by the attorney general against an individual or business concern who neither resides in nor transacts business in this state shall be initiated in the court of common pleas of Franklin county.

Effective Date: 06-24-1988.

3734.44 Issuance or renewal of permit or license.

Notwithstanding the provisions of any law to the contrary, no permit or license shall be issued or renewed by the director of environmental protection or a board of health:

(A) Unless the director or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record exists, that the applicant is likely to exhibit that reliability, expertise, and competence;

(B) If any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof, has been convicted of any of the following crimes under the laws of this state or equivalent laws of any other jurisdiction:

- (1) Murder;
- (2) Kidnapping;
- (3) Gambling;
- (4) Robbery;
- (5) Bribery;
- (6) Extortion;
- (7) Criminal usury;
- (8) Arson;
- (9) Burglary;
- (10) Theft and related crimes;
- (11) Forgery and fraudulent practices;
- (12) Fraud in the offering, sale, or purchase of securities;
- (13) Alteration of motor vehicle identification numbers;

- (14) Unlawful manufacture, purchase, use, or transfer of firearms;
- (15) Unlawful possession or use of destructive devices or explosives;
- (16) A violation of section [2925.03](#), [2925.04](#), [2925.05](#), [2925.06](#), [2925.11](#), [2925.32](#), or [2925.37](#) or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;
- (17) Engaging in a pattern of corrupt activity under section [2923.32](#) of the Revised Code;
- (18) A violation of the criminal provisions of Chapter 1331. of the Revised Code;
- (19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section [2901.22](#) of the Revised Code;
- (20) A violation of any provision of Chapter 2909. of the Revised Code;
- (21) Any offense specified in Chapter 2921. of the Revised Code.

(C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a community control sanction imposed under section [2929.15](#) of the Revised Code, from a post-release control sanction imposed under section [2967.28](#) of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to July 1, 1996. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

- (1) The nature and responsibilities of the position a convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions that may have contributed to the offense;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision;
- (9) In the instance of an applicant that is a business concern, rehabilitation shall be established if the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in permit or license denial or revocation or if the applicant has formalized those controls as a result of a revocation or denial of a permit or license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern.

(D) Unless the director or the board of health finds that the applicant has a history of compliance with environmental laws in this state and other jurisdictions and is presently in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions;

(E) With respect to the approval of a permit, if the director determines that current prosecutions or pending charges in any jurisdiction for any of the offenses enumerated in division (B) of this section against any individual or business concern required to be listed in the disclosure statement or shown by the investigation to have a beneficial interest in the business of the applicant other than an equity interest or debt liability are of such magnitude that they prevent making the finding required under division (A) of this section, provided that at the request of the applicant or the individual or business concern charged, the director shall defer decision upon the application during the pendency of the charge.

Effective Date: 01-01-2004.

3734.45 Causes for revocation.

Any permit or license may be revoked by the director of environmental protection or board of health for any of the following causes, in addition to other causes for revocation authorized by this chapter:

(A) Any cause that would require disqualification pursuant to division (A), (B), (D), or (E) of section [3734.44](#) of the Revised Code from receiving a permit upon original application;

(B) Fraud, deceit, or misrepresentation in securing the permit or in the conduct of the permitted or licensed activity;

(C) Offering, conferring, or agreeing to confer any benefit to induce any other individual or business concern to violate the provisions of this chapter, of any rule adopted thereunder, or of any other law relating to the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste;

(D) Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any permittee;

(E) Preventing, without authorization of the director, any individual or business concern from transferring or disposing of solid wastes or hazardous waste at a permitted treatment, transfer, storage, or disposal facility other than a facility owned or operated by the applicant or permittee, or preventing, without authorization of the director, any individual or business concern from treating infectious waste at a licensed infectious waste treatment facility other than a facility owned and operated by the applicant or licensee.

Effective Date: 06-24-1988.

3734.46 Effect of disqualification.

Notwithstanding the disqualification of the applicant or permittee pursuant to this chapter, the director of environmental protection or the board of health may issue or renew a permit or license if the applicant or permittee severs the interest of or affiliation with the individual or business concern that would otherwise cause that disqualification or may issue or renew a license on a temporary basis for a period not to exceed six months if the director or the board of health determines that the issuance or renewal of the permit or license is necessitated by the public interest.

Effective Date: 09-26-2003.

3734.47 Investigations and review of applications for permits and licenses.

The director of environmental protection and the attorney general may adopt, in accordance with Chapter 119. of the Revised Code, rules necessary to implement the investigations and review of applications for permits and licenses as required under sections [3734.40](#) to 3734.47 of the Revised Code.

Effective Date: 06-24-1988.

3734.49 Materials management advisory council.

(A) There is hereby created within the environmental protection agency the materials management advisory council consisting of the following thirteen members who shall be appointed by the governor with the advice and consent of the senate:

- (1) One member who is an employee of a health district whose duties include enforcement of the solid waste provisions of this chapter;
- (2) One member representing the interests of counties;
- (3) One member representing the interests of municipal corporations;
- (4) One member representing the interests of townships;
- (5) One member representing the interests of solid waste management districts;
- (6) One member representing a statewide environmental advocacy organization;
- (7) One member representing the public;
- (8) Six members, representing private industry, with knowledge of or experience in waste management, recycling, or litter prevention programs. Those members also shall represent a broad range of interests, including manufacturing, wholesale, retail, labor, raw materials, commercial recycling, and solid waste management.

(B)

(1) The governor shall make initial appointments to the advisory council not later than forty-five days after the effective date of this section.

(2) The following initial members of the advisory council each shall be appointed for a term ending July 1, 2016:

- (a) The member representing the interests of counties;
- (b) The member representing the interests of solid waste management districts;
- (c) Three of the members with knowledge of or experience in waste management, recycling, or litter prevention programs.

(3) The following initial members of the advisory council each shall be appointed for a term ending July 1, 2017:

- (a) The member who is an employee of a health district whose duties include enforcement of the solid waste provisions of this chapter;
- (b) The member representing the interests of municipal corporations;
- (c) Three of the members with knowledge of or experience in waste management, recycling, or litter prevention programs.

(4) The following initial members of the advisory council each shall be appointed for a term ending July 1, 2018:

- (a) The member representing the interests of townships;

(b) The member representing a statewide environmental advocacy organization;

(c) The member representing the public.

Thereafter, terms of office shall be for three years. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In the event of death, removal, resignation, or incapacity of a member, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members may be reappointed. The governor at any time may remove a member for misfeasance, nonfeasance, or malfeasance in office.

(C) The advisory council shall hold at least two meetings each year. Special meetings may be held at the request of the chairperson or a majority of the members. The director of environmental protection shall select from among the advisory council's members a chairperson. The advisory council annually shall select from among its members a vice-chairperson and a secretary to keep a record of its proceedings. Not later than two hundred days after the selection of the first chairperson of the advisory council, the advisory council shall adopt bylaws governing its procedural operations. A majority vote of the members of the advisory council is necessary to take action on any matter.

(D) Membership on the advisory council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(E) A member of the advisory council shall serve without compensation for attending advisory council meetings, but shall be reimbursed for all ordinary and necessary expenses incurred in the performance of duties as a member.

(F) The advisory council shall do all of the following:

(1) Advise and assist the director with preparation of the state solid waste management plan and periodic revisions to the plan under section [3734.50](#) of the Revised Code;

(2) Approve or disapprove the draft state solid waste management plan and periodic revisions prior to adoption of the plan under section [3734.50](#) of the Revised Code;

(3) Annually review implementation of the state solid waste management plan;

(4) Prepare and submit an annual report to the general assembly on the state's solid waste management system and efforts towards achieving the goals, restrictions, and objectives established under divisions (A) to (C) of section [3734.50](#) of the Revised Code. The report may recommend legislative action.

(5) Triennially advise the director in conducting a review of the progress made toward achieving the objectives, restrictions, and goals established under divisions (A) to (C) of section [3734.50](#) of the Revised Code;

(6) With the approval of the director, establish criteria by which to certify, and certify, agencies of the state and political subdivisions for receipt of grants for activities or projects that are intended to accomplish the purposes of any of the programs established under section [3736.02](#) or [3736.05](#) of the Revised Code;

(7) Advise the director on establishing and implementing statewide source reduction, recycling, recycling market development, and litter prevention programs;

(8) Research and respond to questions posed to the advisory council by the director;

(9) Establish and develop formal and informal partnerships with other entities that foster a productive marketplace for the collection and use of recycled materials.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

3734.50 State solid waste management plan.

The director of environmental protection, with the advice of the materials management advisory council created in section 3734.49 of the Revised Code, shall prepare a state solid waste management plan to do all of the following:

- (A) Reduce reliance on the use of landfills for management of solid wastes;
- (B) Establish objectives for solid waste reduction, recycling, reuse, and minimization and a schedule for implementing those objectives;
- (C) Establish restrictions on the types of solid wastes disposed of by landfilling for which alternative management methods are available, such as yard wastes, and a schedule for implementing those restrictions. The objectives under division (B) of this section and restrictions under this division need not be of uniform application throughout the state or as to categories of solid waste generators. Rather, in establishing those objectives and restrictions, the director shall take into consideration the feasibility of waste reduction, recycling, reuse, and minimization measures and landfilling restrictions in urban, suburban, and rural areas and also shall take into consideration the extent to which those measures have been implemented by specific categories of solid waste generators and political subdivisions prior to June 24, 1988.
- (D) Establish revised general criteria for the location of solid waste facilities;
- (E) Examine alternative methods for disposal of fly ash and bottom ash resulting from the burning of mixed municipal solid wastes;
- (F) Establish a statewide strategy for managing scrap tires, which shall include identification of locations within the state that qualify as scrap tire facilities and accumulations. In developing the strategy, the director shall examine the feasibility of recycling or recovering materials or energy from scrap tires and landfilling scrap tires in abandoned coal strip mines as well as other methods for managing scrap tires.
- (G) Establish a strategy that contains specific recommendations for legislative and administrative action to promote markets for products containing recycled materials generally and for promoting the use by state government of products containing recycled materials;
- (H) Establish a program for the proper separation and disposal of hazardous waste generated by households.

The director shall adopt the state solid waste management plan within one year after June 24, 1988. After completion of a draft plan, the director shall hold a public hearing on the draft plan at each of five different locations within the state. After receiving public comments on the draft plan, the director may make such revisions to it as the director considers appropriate based on the comments received and shall submit the draft plan with any revisions to the advisory council for approval. If the advisory council approves the draft plan, the director shall adopt it as the state solid waste management plan. If the advisory council disapproves the draft plan, the director, with the advice of the advisory council, shall prepare a new draft plan and proceed in the same manner as for the initial draft plan to hold hearings on, revise, and submit the new draft plan to the advisory council for approval, and adopt the new draft plan.

Not later than one year after adoption of the plan, the director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the objectives and restrictions of the state plan, and schedules for implementing them, under divisions (B) and (C) of this section as mandatory elements of the solid waste management plans of county and joint solid waste management districts under division (A) of section [3734.53](#) of the Revised Code. Within one year after adoption of the plan, the director shall adopt rules in accordance with Chapter 119. of the Revised Code, which rules are hereby deemed to constitute rules adopted under division (A) of section [3734.02](#) of the Revised Code, establishing revised general location criteria for solid waste facilities, other than solid waste transfer facilities, and standards for the disposal of fly ash and bottom ash resulting from the burning of mixed municipal solid waste.

Triennially the director, with the advice of the advisory council, shall conduct a thorough review of the progress made toward achieving the goals set forth in divisions (A) to (H) of this section. Based upon the findings of the review, the director, in accordance with the procedures of this section, may prepare and adopt a revised state solid waste management plan. If the revised plan modifies any of the objectives, restrictions, or implementation schedules established under division (B) or (C) of this section, the director, not later than one year after adoption of the revised plan, shall amend the existing rules adopted under this section in a manner consistent with those revisions.

If any revision to the plan or enactment or amendment of a statute by the general assembly that takes effect on or after April 16, 1993, establishes a restriction on the landfilling or burning or other thermal processing in an incinerator or energy recovery facility of any type of solid waste with mixed municipal solid waste, or prescribes for a type of solid waste a management method alternative to landfilling or thermal processing with mixed municipal solid waste, the estimated reduction in the quantity of solid wastes being disposed of by landfilling or thermal processing that results from the implementation of the restriction or alternative management method within a county or joint solid waste management district constitutes a reduction in solid waste generation within the district for purposes of determining the district's compliance with the waste reduction objective established under division (C) of this section and any revisions thereof and the rules and amendments thereto adopted under this section to implement that objective.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Effective Date: 03-30-1995 .

3734.501 Annual review of solid waste management in state.

The standing committees of the house of representatives and senate that are primarily responsible for considering environmental matters shall conduct an annual review of solid waste management in this state. In conducting such an annual review, the committees may consider any topics pertaining to solid waste management, and may make any recommendations, they consider necessary or appropriate.

Effective Date: 10-29-1993.

3734.51 [Repealed].

Repealed by 131st General Assembly File No. TBD, HB 64, §105.01, eff. 9/29/2015.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 04-16-1993 .

3734.52 Establishing county or joint solid waste management districts.

(A) In order to prepare, adopt, submit, and implement a solid waste management plan that complies with section [3734.55](#) of the Revised Code, the board of county commissioners of each county either shall establish and maintain a solid waste management district under Chapter 343. of the Revised Code, or shall participate in establishing and maintaining a joint solid waste management district with one or more other such boards under that chapter, in compliance with division (B) of this section. Except as otherwise provided in this division, all of the incorporated and unincorporated territory of the county shall be under the jurisdiction of the county or joint solid waste management district for the purposes of preparing, adopting, submitting, and implementing the solid waste management plan for the county or joint district and for the purposes of providing for, or causing to be provided for, the safe and sanitary management of solid wastes within all of the incorporated and unincorporated territory of the county or joint solid waste management district.

If a municipal corporation is located in more than one solid waste management district, the entire municipal corporation shall be considered to be included in and shall be under the jurisdiction of the district in which a majority of the population of the municipal corporation resides.

(B) Not later than March 24, 1989, the board of county commissioners of each county shall do one of the following:

(1) Establish a county solid waste management district under Chapter 343. of the Revised Code;

(2) With the boards of county commissioners of one or more other counties, establish a joint solid waste management district under that chapter.

Upon adoption of the resolution establishing a county district, or upon entering into an agreement with one or more other such boards to establish a joint district, the board of county commissioners shall mail a copy of the resolution or agreement to the director of environmental protection. Each county and joint solid waste management district established to comply with this division shall have a population of not less than one hundred twenty thousand unless an exemption has been granted under division (C)(1) or (2) of this section.

(C)

(1) The board of county commissioners of a county with a population of fewer than one hundred twenty thousand in which one or more solid waste facilities are located that have sufficient remaining capacity to dispose of all solid wastes generated within the county, or that has entered into a firm agreement that provides for the disposal of all solid wastes generated within the county whether within or outside the county or state, for a period of not less than ten years after June 24, 1988, may apply to the director for an exemption from the requirement under division (B) of this section that each district have a population of at least one hundred twenty thousand. The exemption application shall be accompanied by the board's certification and demonstration of access to sufficient solid waste management facility capacity to provide for the disposal of the solid wastes generated in the county during that ten-year period.

If the director finds that the board has made the demonstration required by this division, he shall issue an order under division (G) of section [3734.02](#) of the Revised Code exempting the board from that requirement of division (B) of this section.

(2) The board of county commissioners of a county with a population of less than one hundred twenty thousand that does not have sufficient solid waste management facility capacity within the county or access to sufficient capacity by contract to make the demonstrations required by division (C)(1) of this section may submit to the director, not later than December 24, 1988, a statement of how the board will provide for sufficient solid waste facility capacity within the county or for access to sufficient solid waste management facility capacity to dispose of all solid wastes generated within the county during the subsequent ten-year period. The statement shall be accompanied by a study of the financial feasibility of the measures proposed in the statement that shall contain an inventory of all existing solid waste disposal, transfer, and resource recovery facilities and recycling activities in the county and estimates of the remaining capacity available at each such facility; estimates of the amounts of solid wastes that will be generated within the county during each year of the subsequent ten-year period; an identification of the additional solid waste management facilities and capacity the county intends to provide to dispose of those estimated amounts of solid wastes; and a schedule for implementation of the measures proposed in the statement and estimates of the capital and operating costs, and rates that will be charged to meet those costs, for those additional facilities, or contracts for access to solid waste management facility capacity, identified in the study. Within sixty days after receiving the statement and financial feasibility study from any such board of county commissioners, the director shall approve or disapprove the statement and study. The director shall approve such a statement and financial feasibility study only if they demonstrate a technically and economically feasible means of providing for the environmentally sound management of solid wastes generated in the county during the subsequent ten-year period. If the director approves the statement and financial feasibility study of a county, he shall issue an order under division (G) of section [3734.02](#) of the Revised Code exempting the board from the requirement of division (B) of this section that each county or joint district have a population of at least one hundred twenty thousand.

(D) Upon expiration of the nine-month period under division (B) of this section, the director shall determine which counties failed to submit a copy of the resolution or agreement required by that division or, for those that filed a resolution or agreement, which of them failed either to establish a county or joint solid waste management district having a population of at least one hundred twenty thousand or to obtain an exemption order under division (C)(1) or (2) of this section. Within twelve months after June 24, 1988, the director shall issue to the board of county commissioners of each county having a population of at least one hundred twenty thousand that failed to comply with division (B) of this section or that obtained an exemption order under division (C)(1) or (2) of this section an order in accordance with Chapter 3745. of the Revised Code directing the board to submit a copy of the resolution or agreement or to establish a county or joint solid waste management district within thirty days after issuance of the order and, upon adoption of the resolution, to mail a copy of it to the director.

With respect to those counties having a population of fewer than one hundred twenty thousand that either failed to comply with division (B) of this section or submitted a resolution or agreement for establishment of a county or joint solid waste management district and failed to obtain an exemption under division (C)(1) or (2) of this section, the director shall make a determination as to how one or more of those counties should be combined with one another, with the county solid waste management district of a county that complied with division (B) of this section regardless of whether the complying county obtained an exemption under division (C)(1) or (2) of this section, or with a joint district formed by counties that complied with division (B) of this section, to form a joint district with a population of at least one hundred twenty thousand that, in the director's judgment, will be most conducive to achievement of the objectives of the state solid waste management plan adopted under section [3734.50](#) of the Revised Code and of this chapter. After making any such determination, the director shall mail notice of the determination to the board of county commissioners of each county named in it. Within thirty days after mailing notice of the determination, the director shall hold a public meeting in each of the counties named in the determination. Thereafter, the director shall issue an order in accordance with Chapter 3745. of the Revised Code to each board of county commissioners named in the determination directing the boards to enter into an agreement to establish a joint solid waste management district under Chapter 343. of the Revised Code within a specified reasonable period of time and to mail a copy of the agreement to the director.

Notwithstanding section [119.06](#) of the Revised Code, the director may issue orders under this division without the necessity for holding an adjudication hearing in connection with the order and without first issuing a proposed action under section [3745.07](#) of the Revised Code.

(E) Sections 3734.52 to [3734.57](#) and Chapter 343. of the Revised Code do not prohibit any person, municipal corporation, or township from providing solid waste collection services; establishing, enlarging, modifying, or replacing a solid waste facility; or establishing and collecting rates or charges for the use of those facilities or services that are in compliance with sections [3734.01](#) to [3734.13](#) of the Revised Code, rules adopted under those sections, the solid waste management plan of the county or joint solid waste management district having territorial jurisdiction over the facility or service area approved or ordered under section [3734.521](#) or [3734.55](#) of the Revised Code, amendments to the plan approved or ordered under section [3734.521](#) or [3734.56](#) of the Revised Code, and rules adopted under division (G) of section [343.01](#) of the Revised Code. In the instance of a solid waste facility for or on behalf of which general obligation or revenue bonds were issued or a loan was made under Chapter 133., 343., or 6123. of the Revised Code on or before the effective date of the solid waste management plan of the county or joint district in which the facility is located, nothing in this section, in Chapter 343. of the Revised Code, or in the plan or amended plan of the district prohibits or limits the construction, operation, use, repair, or maintenance of the facility or the establishment and collection of rates or charges for use of the facility, regardless of whether the facility complies with the district's plan or amended plan, until such time as the principal of and interest on any such bonds or loan have been paid in full or until the owner abandons the facility.

The solid waste management plan or amended plan of each county or joint district shall provide for the maximum feasible utilization of solid waste facilities that were in operation within the district, or for which permits were issued under section [3734.05](#) of the Revised Code, on or before the effective date of the plan or amended plan and that are in compliance with sections [3734.01](#) to [3734.13](#) of the Revised Code and rules adopted under those sections. The plan or amended plan shall incorporate all solid waste recycling activities that were in operation within the district on the effective date of the plan or amended plan.

Effective Date: 04-16-1993.

3734.521 Change in district composition.

(A) As used in this section and sections [3734.531](#) and [3734.57](#) of the Revised Code, "change in district composition" or "change" includes the withdrawal of a county from a joint solid waste management district, the establishment of a new county or joint district, the joinder of a county to an existing joint district, the union of two or more joint districts, or any combination thereof.

(B) In addition to the requirements under Chapter 343. of the Revised Code, the requirements of this section govern a change in district composition when any of the districts involved are operating under a solid waste management plan or amended plan approved or ordered to be implemented under this section or section [3734.55](#) or [3734.56](#) of the Revised Code.

(C) For purposes of preparing the initial and amended solid waste management plans for the county and joint districts resulting from any proposed change in district composition, the solid waste management policy committee for the proposed resulting districts shall consist of the members prescribed in division (B) of section [3734.54](#) of the Revised Code from each county within the proposed district and shall include an additional public member only when one is required to be appointed under division (C) of section [3734.54](#) of the Revised Code.

(D) In the case of a proposed establishment of a new joint district, joinder of a county to an existing joint district, or union of existing joint districts that only involves existing county or joint districts that are operating under solid waste management plans or amended plans approved under this section or section [3734.55](#) or [3734.56](#) of the Revised Code and that does not involve the withdrawal of a county from an existing joint district, the solid waste management policy committee of the proposed joint district resulting from the change shall do all of the following:

(1) Prepare a draft initial or amended solid waste management plan for the proposed joint district that complies with divisions (A), (B), (D), and (E)(1) of section [3734.53](#) of the Revised Code;

(2) Upon completion of the draft initial or amended plan for the proposed joint district, proceed to adopt and obtain approval of it in accordance with divisions (A), (B), and (C)(1) to (3) of section [3734.55](#) of the Revised Code;

(3) Submit the initial or amended plan for the proposed joint district to the director of environmental protection for approval not earlier than one hundred eighty days and not later than ninety days before the date that one of the existing districts involved in the proposed change is required to submit an amended plan under section [3734.56](#) of the Revised Code.

If any such proposed joint district fails to submit its plan or amended plan, as appropriate, to the director on or before the date required under division (D)(3) of this section, the proposed change shall not occur, and the director shall proceed in accordance with division (D) of section [3734.55](#) of the Revised Code to prepare an amended plan for each of the existing districts and order the implementation of the amended plans. If the proposed joint district fails to obtain approval of its initial or amended plan, as appropriate, within eighteen months after the date for submission of its initial or amended plan required under division (D)(3) of this section, the director shall proceed in accordance with division (D) of section [3734.55](#) of the Revised Code to prepare a plan or amended plan, as appropriate, for the proposed joint district and to order the implementation of the plan or amended plan.

(E) In the case of a proposed change in district composition that involves an existing district that is operating under a solid waste management plan or amended plan prepared and ordered to be implemented by the director under this section or section [3734.55](#) or [3734.56](#) of the Revised Code or that involves the withdrawal of a county from an existing joint district, the solid waste management policy committee of each of the districts resulting from the proposed change, not later than twenty months before one of the existing districts is required to submit an amended solid waste management plan under section [3734.56](#) of the Revised Code or twenty months before the triennial anniversary of the issuance of the order under division (D) or (F)(1) or (2) of this section or division (D) of section [3734.55](#) of the Revised Code requiring one of the districts involved to implement a plan prepared and ordered to be implemented under any of those divisions, shall submit to the director a preliminary demonstration of the availability of or access to solid waste management facility capacity under division (E)(1) or (2) of this section, as appropriate. The preliminary demonstrations of each of the proposed districts shall be submitted to the director at the same time.

As used in divisions (E) and (F) of this section, "preliminary demonstration of capacity" means the certification and demonstration required to be submitted under division (E)(1) of this section or the statement and financial feasibility study required to be submitted under division (E)(2) of this section, as appropriate.

(1) If a proposed district has located within its boundaries one or more solid waste facilities that have sufficient remaining capacity to dispose of all the solid waste generated within its boundaries during the subsequent ten-year period, or if the county or counties proposing to form the district have entered into one or more firm contracts or agreements that in the aggregate provide for the disposal of all the solid wastes generated within the proposed district during the subsequent ten-year period at facilities located outside the district or this state, the solid waste management policy committee of the proposed district shall submit to the director a certification and demonstration by the committee of the availability of or

access to sufficient solid waste management facility capacity to provide for the disposal of all the solid wastes generated within the proposed district during that ten-year period.

The director shall approve or disapprove a preliminary demonstration of capacity within sixty days after receiving it. If the director finds that the policy committee has made the demonstration required by division (E)(1) of this section, he shall approve the preliminary demonstration. Otherwise, the director shall disapprove the preliminary demonstration.

(2) If a proposed district does not have sufficient solid waste management facility capacity within its boundaries or access to sufficient capacity by contract or agreement to make the demonstration required by division (E)(1) of this section, the solid waste management policy committee of the proposed district shall submit to the director a statement as to how the proposed district will provide for sufficient solid waste management facility capacity to dispose of all solid wastes generated within its boundaries during the subsequent ten-year period. The statement shall be accompanied by a study of the financial feasibility of the measures proposed in the statement. The statement and financial feasibility study shall contain an inventory of all existing solid waste disposal, transfer, and resource recovery facilities and recycling activities within the proposed district and estimates of the remaining capacity available at each such facility; estimates of the amounts of solid wastes that will be generated within the proposed district during each year of the subsequent ten-year period; an identification of the additional solid waste management facilities and capacity that the proposed district intends to provide to dispose of the estimated amounts of solid wastes; a schedule for implementation of the measures proposed in the statement; if appropriate, estimates of the capital and operating costs of the additional facilities that the district intends to provide and of the rates to be charged to meet those costs; and, if appropriate, rates to be charged to meet the costs of capacity that the district intends to provide by contract or agreement.

The director shall approve or disapprove a statement and financial feasibility study within sixty days after receiving them. The director shall approve a statement and financial feasibility study only if they demonstrate a technically feasible and economically reasonable means of providing for the environmentally sound management of solid wastes generated in the district during the subsequent ten-year period. Otherwise, the director shall disapprove the statement and financial feasibility study.

(3) Upon approving or disapproving a preliminary demonstration of capacity under division (E)(1) or (2) of this section, the director shall provide written notice of his decision to the solid waste management policy committee that submitted it. If the director disapproves the preliminary demonstration of any of the proposed districts, the change in district composition shall not occur. The solid waste management policy committee of each of the existing districts operating under a solid waste management plan approved under this section or section [3734.55](#) of the Revised Code or an amended plan approved under this section or section [3734.56](#) of the Revised Code then shall proceed to adopt and obtain approval of an amended plan in accordance with division (A) of section [3734.56](#) of the Revised Code. If any of the existing districts is operating under a plan or an amended plan ordered to be implemented under this section or section [3734.55](#) or [3734.56](#) of the Revised Code, the director then shall proceed in accordance with division (B) of section [3734.56](#) of the Revised Code to prepare an amended plan for each such district and order the implementation of the amended plan. Division (E)(3) of this section does not preclude an existing district that is operating under a plan or amended plan prepared and ordered to be implemented by the director from proceeding under division (C) of section [3734.56](#) of the Revised Code to prepare and obtain approval of a plan to replace the initial or amended plan prepared by the director.

(4) If the director approves the preliminary demonstration of each of the proposed districts resulting from the change in district composition under division (E)(1) or (2) of this section, the solid waste management policy committee of each of the proposed districts shall begin preparing a draft initial solid waste management plan for the district, and the committee of the remaining joint district, if any, shall begin preparing a draft amended plan for the joint district. The initial or amended plan and certification of capacity shall comply with divisions (A), (B), (D), and (E)(1) of section [3734.53](#) of the Revised Code. Upon completion of the draft initial or amended plan for the proposed district, the committee shall proceed to adopt and obtain approval of it in accordance with divisions (A), (B), and (C)(1) to (3) of section [3734.55](#) of the Revised Code. The initial plans of the proposed districts and the amended plan of the remaining joint district, if any, shall be submitted to the director at the same time and shall be submitted not later than twenty months after the proposed districts submitted their preliminary demonstrations of capacity under division (E)(1) or (2) of this section. If any of the proposed districts fails to submit its plan or amended plan to the director on or before the required date, the proposed change shall not occur, and the director then shall proceed in accordance with division (D) of section [3734.55](#) of the Revised Code to prepare an amended plan for each of the existing districts and to order the implementation of the amended plans.

(F) If any of the proposed districts resulting from a change in district composition, or the remaining joint district, if any, that is required to submit a preliminary demonstration of capacity under division (E)(1) or (2) of this section fails to obtain approval of its plan or amended plan within thirty-eight months after the submission of its preliminary demonstration of capacity, the director shall determine what actions are necessary to ensure that each county involved in the proposed change will be included in a district that either will have within its boundaries sufficient solid waste management facility capacity to provide for the disposal of all of the solid wastes generated within its boundaries during the subsequent ten-year period or will have access to sufficient capacity at facilities located outside the district or this state by contract or agreement to dispose of all of the solid wastes generated within the district during that ten-year period. Based upon that determination, the director shall do either of the following, as appropriate:

(1) If the director determines that the solid waste management needs of each of the counties involved can be met if the proposed change were to occur, he shall prepare an initial or amended plan that complies with divisions (A) and (D) of section [3734.53](#) of the Revised Code for each of the proposed or existing districts that failed to obtain approval of its plan or amended plan within thirty-eight months after the districts were required to submit their preliminary demonstrations of capacity under division (E)(1) or (2) of this section. None of the plans or amended plans prepared by the director shall contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of section [3734.53](#) of the Revised Code. Upon completion of each such plan or amended plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or directors of the district for which the plan or amended plan was prepared to implement it in compliance with the implementation schedule contained in it.

(2) If the director determines that the solid waste management needs of each of the counties involved cannot be met if the proposed change in district composition were to occur, he shall make a determination as to how county or joint districts should be formed from among those counties to ensure that each will be included in a district that either will have within its boundaries sufficient solid waste management facility capacity to provide for the disposal of all the solid wastes generated within the district during the subsequent ten-year period or will have access to sufficient capacity at facilities located outside the district or this state by contract or agreement to dispose of all the solid wastes generated within the district during that ten-year period. After making his determination, the director shall prepare an initial or amended solid waste management plan for each of them. If the director determines that any existing district involved in the proposed change should be retained without a modification in its composition, the director shall prepare an amended plan for the district. The director shall prepare an initial or amended plan for each district whose composition would be changed under his determination. Each such plan or amended plan shall comply with divisions (A) and (D) of section [3734.53](#) of the Revised Code. None of the plans or amended plans shall contain any of the provisions required or authorized to be included in plans under division (B), (C), or (E) of that section.

If a plan prepared under this division provides for the establishment of a joint district by two or more counties that had each previously formed a county district, the director, in accordance with Chapter 3745. of the Revised Code, shall issue an order to the board of county commissioners of each of the counties directing them to enter into an agreement to form a joint district under division (A) of section [343.01](#) of the Revised Code within thirty days after the issuance of the order. If a plan or amended plan prepared by the director provides for the withdrawal of one or more counties from an existing joint district, the establishment of a new joint district, the joinder of one or more counties to an existing joint district, or the union of two or more existing joint districts, the director, in accordance with Chapter 3745. of the Revised Code, shall issue appropriate orders to the board of county commissioners of each county or existing county district and to the board of directors of each joint district that will be affected by the plan directing the board of county commissioners or directors, within thirty days after the issuance of the order, to adopt the appropriate resolutions and enter into any necessary agreements under division (B) of section [343.01](#) of the Revised Code to effect the changes provided for in the plan. The requirements and procedures for approval of the withdrawal from, establishment of, joinder to, or union of districts under section [343.012](#) of the Revised Code do not apply to changes ordered under division (F)(2) of this section. The other provisions of that section do apply to changes ordered under division (F)(2) of this section.

Any order issued by the director under division (F)(2) of this section also shall require the district to be formed pursuant to the order to implement the plan or amended plan prepared by the director in compliance with the implementation schedule contained in the plan.

(G) No proposed change in district composition shall become final until one of the following has occurred:

(1) The director has approved the solid waste management plan of each newly formed district under section [3734.55](#) of the Revised Code and the amended plan of the remaining joint district, if any, under section [3734.56](#) of the Revised Code;

(2) In the case of a joint district subject to division (D) of this section that failed to obtain approval of its plan or amended plan on or before the date required under that division, the director has prepared a plan or amended plan for the district and has issued an order to the district directing it to implement the plan or amended plan prepared by the director;

(3) If the circumstances described in division (F)(1) of this section apply, the director has prepared a plan or amended plan for each of the districts involved that failed to obtain approval of its plan or amended plan on or before the date required under that division and has issued an order to each of them under that division directing the district to implement the plan prepared by the director, and the director has approved the plan or amended plan of each of the other proposed districts;

(4) If the circumstances described in division (F)(2) of this section apply, the director has prepared a plan or amended plan for each of the districts set forth in the determination made under that division and has issued an order under that division directing each of the districts to implement the initial or amended plan prepared for it by the director.

(H) In addition to the requirements of division (G) of this section, if a change in district composition involves the withdrawal of a county from a joint district, it shall not become final until the county ceases to be a part of the joint district from which it is withdrawing pursuant to division (B) of section [343.012](#) of the Revised Code.

Effective Date: 10-29-1993.

3734.53 Contents of county or joint solid waste management district plan.

(A) The solid waste management plan of any county or joint solid waste management district shall be prepared in a format prescribed by the director of environmental protection and shall provide for compliance with the objectives of the state solid waste management plan and rules adopted under section [3734.50](#) of the Revised Code. The plan shall provide for, demonstrate, and certify the availability of and access to sufficient solid waste management facility capacity to meet the solid waste management needs of the district for the ten-year period covered by the plan. The solid waste management policy committee of a county or joint district created in section [3734.54](#) of the Revised Code may prepare and submit a solid waste management plan that covers and makes the required demonstration for a longer period of time.

The solid waste management plan shall contain all of the following:

(1) An inventory of the sources, composition, and quantities of solid wastes generated in the district during the current year;

(2) An inventory of all existing facilities where solid wastes are being disposed of, all resource recovery facilities, and all recycling activities within the district. The inventory shall identify each such facility or activity and, for each disposal facility, shall estimate the remaining disposal capacity available at the facility. The inventory shall be accompanied by a map that shows the location of each such existing facility or activity.

(3) An inventory of existing solid waste collection systems and routes, transportation systems and routes, and transfer facilities within the district. The inventory shall identify the entities engaging in solid waste collection within the district.

(4) An inventory of open dumping sites for solid wastes, including solid wastes consisting of scrap tires, and facilities for the disposal of fly ash and bottom ash, foundry sand, and slag within the district. The inventory shall identify each such site or facility and shall be accompanied by a map that shows the location of each of them.

(5) A projection of population changes within the district during the next ten years;

(6) For each year of the forecast period, projections of the amounts and composition of solid wastes that will be generated within the district, the amounts of solid wastes originating outside the district that will be brought into the district for disposal or resource recovery, the nature of industrial activities within the district, and the effect of newly regulated waste streams, solid waste minimization activities, and solid waste recycling and reuse activities on solid waste generation rates. For each year of the forecast period, projections of waste quantities shall be compiled as an aggregate quantity of wastes.

(7) An identification of the additional solid waste management facilities and the amount of additional capacity needed to dispose of the quantities of wastes projected in division (A)(6) of this section;

(8) A strategy for identification of sites for the additional solid waste management facilities and capacity identified under division (A)(7) of this section;

(9) An analysis and comparison of the capital and operating costs of the solid waste disposal facilities, solid waste resource recovery facilities, and solid waste recycling and reuse activities necessary to meet the solid waste management needs of the district, projected in five- and ten-year increments;

(10) An analysis of expenses for which the district is liable under section [3734.35](#) of the Revised Code;

(11) A projection of solid waste transfer facilities that will be needed in conjunction with existing solid waste facilities and those projected under division (A)(7) of this section;

(12) Such other projections as the district considers necessary or appropriate to ascertain and meet the solid waste management needs of the district during the period covered by the plan;

(13) A schedule for implementation of the plan that, when applicable, contains all of the following:

(a) An identification of the solid waste disposal, transfer, and resource recovery facilities and recycling activities contained in the plan where solid wastes generated within or transported into the district will be taken for disposal, transfer, resource recovery, or recycling. An initial or amended plan prepared and ordered to be implemented by the director under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code may designate solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section [505.28](#) of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding where solid wastes generated within or transported into the district shall be taken for disposal, transfer, resource recovery, or recycling.

(b) A schedule for closure of existing solid waste facilities, expansion of existing facilities, and establishment of new facilities. The schedule for expansion of existing facilities or establishment of new facilities shall include, without limitation, the approximate dates for filing applications for appropriate permits to install or modify those facilities under section [3734.05](#) of the Revised Code.

(c) A schedule for implementation of solid waste recycling, reuse, and reduction programs needed to meet the waste reduction, recycling, reuse, and minimization objectives of the state solid waste management plan and rules adopted by the director under section [3734.50](#) of the Revised Code;

(d) The methods of financing implementation of the plan and a demonstration of the availability of financial resources for that purpose.

(14) A program for providing informational or technical assistance regarding source reduction to solid waste generators, or particular categories of solid waste generators, within the district. The plan shall set forth the types of assistance to be provided by the district and the specific categories of generators that are to be served. The district has the sole discretion to determine the types of assistance that are to be provided under the program and the categories of generators to be served by it.

(B) In addition to the information, projections, demonstrations, and certification required by division (A) of this section, a plan shall do all of the following:

(1) Establish the schedule of fees, if any, to be levied under divisions (B)(1) to (3) of section [3734.57](#) of the Revised Code;

(2) Establish the fee, if any, to be levied under division (A) of section [3734.573](#) of the Revised Code;

(3) Contain provisions governing the allocation among the purposes enumerated in divisions (G)(1) to (10) of section [3734.57](#) of the Revised Code of the moneys credited to the special fund of the district under division (G) of that section that are available for expenditure by the district under that division. The plan shall do all of the following:

(a) Ensure that sufficient of the moneys so credited to and available from the special fund are available for use by the solid waste management policy committee of the district at the time the moneys are needed to monitor implementation of the plan and conduct its periodic review and amendment as required under section [3734.56](#) of the Revised Code;

(b) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to health districts within the county or joint district that have approved programs under section [3734.08](#) of the Revised Code for the purposes of division (G)(3) of section [3734.57](#) of the Revised Code;

(c) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to the county in which solid waste facilities are or are to be located and operated under the plan for the purposes of division (G)(4) of section [3734.57](#) of the Revised Code;

(d) Contain provisions governing the allocation and distribution, pursuant to contracts entered into for that purpose, of moneys credited to and available from the special fund of the district to boards of health within the district in which solid waste facilities contained in the district's plan are located for the purposes of division (G)(5) of section [3734.57](#) of the Revised Code.

(4) Incorporate all solid waste recycling activities that were in operation within the district on the effective date of the plan.

(C) The solid waste management plan of a county or joint district may provide for the adoption of rules under division (G) of section [343.01](#) of the Revised Code after approval of the plan under section [3734.521](#) or [3734.55](#) of the Revised Code doing any or all of the following:

(1) Prohibiting or limiting the receipt at facilities located within the solid waste management district of solid wastes generated outside the district or outside a prescribed service area consistent with the projections under divisions (A)(6) and (7) of this section. However, rules adopted by a board under division (C)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section [3745.04](#) of the Revised Code.

In addition, the director of environmental protection may issue an order modifying a rule authorized to be adopted under division (C)(1) of this section to allow the disposal in the district of wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section [343.02](#) of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (C)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years. Any order issued under division (C)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection, storage, disposal, transfer, recycling, processing, and resource recovery facilities within the district and requiring the submission of general plans and specifications for the construction, enlargement, or modification of any such facility to the board of county commissioners or board of directors of the district for review and approval as complying with the plan or amended plan of the district;

(3) Governing development and implementation of a program for the inspection of solid wastes generated outside the boundaries of the state that are being disposed of at solid waste facilities included in the district's plan;

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan from compliance with any amendment to a township zoning resolution adopted under section [519.12](#) of the Revised Code or to a county rural zoning resolution adopted under section [303.12](#) of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section [3734.05](#) of the Revised Code to open a new or modify an existing solid waste facility.

(D) Except for the inventories required by divisions (A)(1), (2), and (4) of this section and the projections required by division (A)(6) of this section, neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes 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.

(E)

(1) The initial solid waste management plans prepared by county or joint districts under section [3734.521](#) of the Revised Code and the amended plans prepared under section [3734.521](#) or [3734.56](#) of the Revised Code shall contain a clear statement as to whether the board of county commissioners or directors is authorized to or precluded from establishing facility designations under section [343.014](#) of the Revised Code.

(2) A policy committee that is preparing a draft or revised draft plan under section [3734.55](#) of the Revised Code on October 29, 1993, may include in the draft or revised draft plan only one of the following pertaining to the solid waste facilities or recycling activities where solid wastes generated within or transported into the district are to be taken for disposal, transfer, resource recovery, or recycling:

(a) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993;

(b) The identifications required in division (A)(12)(a) of this section and the statement required under division (E)(1) of this section;

(c) Both of the following:

(i) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993, except that those designations only shall pertain to solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under

section [505.28](#) of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding;

(ii) The identifications required under division (A)(12)(a) of this section, and the statement required under division (E)(1) of this section, pertaining to the solid waste facilities and recycling activities described in division (A) of section [343.014](#) of the Revised Code.

(F) Notwithstanding section [3734.01](#) of the Revised Code, "solid wastes" does not include scrap tires and "facility" does not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

(1) For the purposes of an initial plan prepared and ordered to be implemented by the director under section [3734.55](#) of the Revised Code;

(2) For the purposes of an initial or amended plan prepared and ordered to be implemented by the director under division (D) or (F)(1) or (2) of section [3734.521](#) of the Revised Code in connection with a change in district composition as defined in that section that involves an existing district that is operating under either an initial plan approved or prepared and ordered to be implemented under section [3734.55](#) of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section [3734.521](#) of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities.

(G) Notwithstanding section [3734.01](#) of the Revised Code, and except as provided in division (A)(4) of this section, "solid wastes" need not include scrap tires and "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

(1) For the purposes of an initial plan prepared under sections [3734.54](#) and [3734.55](#) of the Revised Code unless the solid waste management policy committee preparing the initial plan chooses to include the management of scrap tires and scrap tire facilities in the plan;

(2) For the purposes of a preliminary demonstration of capacity as defined in section [3734.521](#) of the Revised Code, if any, and an initial or amended plan prepared under that section by the solid waste management policy committee of a solid waste management district resulting from proceedings for a change in district composition under sections [343.012](#) and [3734.521](#) of the Revised Code that involves an existing district that is operating either under an initial plan approved or prepared and ordered to be implemented under section [3734.55](#) of the Revised Code or under an initial or amended plan approved or prepared and ordered to be implemented under section [3734.521](#) of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities unless the solid waste management policy committee of the district resulting from the change chooses to include the management of scrap tires and scrap tire facilities in the preliminary demonstration of capacity, if any, and the initial or amended plan prepared under section [3734.521](#) of the Revised Code in connection with the change proceedings.

If a policy committee chooses to include the management of scrap tires and scrap tire facilities in an initial plan pursuant to division (G)(1) of this section, the initial plan shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. If a policy committee chooses to provide for the management of scrap tires and scrap tire facilities pursuant to division (G)(2) of this section, the preliminary demonstration of capacity, if one is required, shall incorporate all of the elements required under division (E)(1) or (2) of section [3734.521](#) of the Revised Code, as appropriate, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. The initial or amended plan also shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

(H) Neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of any compost facility that exclusively composts raw rendering material.

Effective Date: 10-31-1996 .

3734.531 Effect of failure of district to add members to policy committee or board of trustees.

(A)

(1) Except as otherwise provided in division (A)(2) of this section, the validity of any action taken prior to the date ninety days after October 29, 1993, under this chapter or Section 5 of Sub. H.B. 723 of the 119th general assembly by a solid waste management policy committee or the board of trustees of a regional solid waste management authority formed under section [343.011](#) of the Revised Code is not affected by the failure of the district to add the members to the policy committee or board of trustees required by the amendments to section [343.011](#) or [3734.54](#) of the Revised Code, as appropriate, made by AM. Sub. S.B. 153 of the 120th general assembly. Any action taken on or after the date ninety days after October 29, 1993, by a policy committee or board of trustees that does not include the required additional members is void.

(2) Any action taken on or after October 29, 1993, under division (I)(2) of section [343.01](#), section [343.013](#), [343.014](#), or [343.015](#), division (B) of section [3734.57](#), or section [3734.573](#) or [3734.574](#) of the Revised Code by a policy committee or board of trustees that does not include the required additional members is void.

(B) The amendments to sections [3734.53](#), [3734.55](#), [3734.56](#), and [3734.57](#) of the Revised Code made by AM. Sub. S.B. 153 of the 120th general assembly apply to the amended solid waste management plans that policy committees commenced preparing under section [3734.56](#) of the Revised Code, and to the initial plans that the director of environmental protection commenced preparing under division (D) of section [3734.55](#) of the Revised Code, prior to October 29, 1993.

(C) The amendments to sections [3734.521](#), [3734.53](#), [3734.55](#), and [3734.57](#) of the Revised Code made by AM. Sub. S.B. 153 of the 120th general assembly apply to the preparation, contents, adoption, ratification, or submission, as appropriate, of initial and, if any, amended solid waste management plans required to be submitted in connection with change in district composition proceedings that were initiated prior to October 29, 1993, under Section 5 of Sub. H.B. 723 of the 119th general assembly.

Effective Date: 03-30-1995.

3734.54 Preparing and submitting solid waste management plan.

(A) Each county and joint solid waste management district established under Chapter 343. of the Revised Code shall prepare, adopt, submit to the director of environmental protection for review and approval, and implement a solid waste management plan for the district. The plan shall be prepared and submitted to the director in accordance with the following schedule:

(1) Within twenty-four months after June 24, 1988, in the instance of a county or joint district with a population of not more than two hundred thousand;

(2) Within thirty months after June 24, 1988, in the instance of a district with a population of more than two hundred thousand, but not more than two hundred seventy thousand;

(3) Within forty-two months after June 24, 1988, in the instance of a district with a population of more than two hundred seventy thousand.

The solid waste management policy committee of a county or joint district may request in writing that the director extend the applicable date for submission of the district's plan under divisions (A)(1) to (3) of this section by not more than six months. The director may grant such an extension of the submission date if the request demonstrates to the director's satisfaction that granting the extension will not adversely affect the ability of the district to provide for the environmentally sound management of solid wastes generated within its boundaries during the period of the extension and provides a specific schedule of actions leading to the preparation, adoption, and submission of the district's plan on or before the date for submission proposed by the request.

(B) Within twelve months after June 24, 1988, the board of county commissioners of the county or the board of directors of the joint solid waste management district, as appropriate, shall establish and convene a solid waste management policy committee to prepare the solid waste management plan of the district. The solid waste management policy committee for a county district shall consist of the following members:

(1) The president of the board of county commissioners or his designee;

(2) The chief executive officer of the municipal corporation having the largest population within the boundaries of the county or his designee. A municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of the county solid waste management district in accordance with division (A) of section [3734.52](#) of the Revised Code shall be considered to be within the boundaries of the county for the purposes of this division.

(3) A member representing the townships within the county chosen by a majority of the boards of township trustees within the county;

(4) The health commissioner of the health district having the largest territorial jurisdiction within the county or his designee;

(5) One member representing industrial, commercial, or institutional generators of solid wastes within the district to be appointed by the four members of the committee specified in divisions (B)(1) to (4) of this section;

(6) One member representing the general interests of citizens who shall have no conflict of interest through affiliation with a waste management company or with any entity that is a significant generator of solid wastes to be appointed by the four members of the committee specified in divisions (B)(1) to (4) of this section;

(7) One member representing the public, to be appointed by the four members of the committee specified in divisions (B)(1) to (4) of this section. The members representing generators and the general interests of citizens shall be appointed within ninety days after the effective date of this amendment. The members representing generators and the general interests of citizens and the public member shall serve for a term of two years, with each term ending on the same day of the same month of the term that it succeeds. A member representing a generator or the general interests of citizens or the public member shall hold office from the date of his appointment until the end of the term for which he was appointed. A vacancy in the office of a member representing a generator or the general interests of citizens or the public member shall be filled in the same manner as the original appointment. A member representing a generator or the general interests of citizens or a public member appointed to fill a vacancy occurring prior to the expiration date of the term for which his predecessor was appointed shall hold office for the remainder of that term. A member representing a generator or the general interests of citizens or the public member shall continue in office subsequent to the expiration date of his term until his successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) The solid waste management policy committee for a joint district shall consist of the members specified in divisions (B)(1) to (4) of this section from each county within the joint district, one member representing industrial, commercial, or institutional generators of solid wastes from each county within the joint district, one member representing the general interests of citizens from each county within the joint district, and one member representing the public from each county within the joint district. The members representing generators and the general interests of citizens and the public member from each such county shall be appointed by the members of the committee specified in divisions (B)(1) to (4) of this section from the county that the members representing generators and the general interests of citizens and the public member, respectively, represents. The members representing generators and the general interests of citizens and the public member shall serve in accordance with division (B)(5) of this section. The members representing generators and the general interests of citizens shall be appointed within ninety days after the effective date of this amendment. If there is an even number of counties in the joint district, the committee shall include one additional public member who shall be appointed by all the other members of the committee and shall serve in accordance with division (B)(7) of this section. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of the joint solid waste management district in accordance with division (A) of section [3734.52](#) of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

Except for the purposes of Chapters 102., 2744., and 2921. of the Revised Code, serving as a member of the solid waste management policy committee of a county or joint solid waste management district does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(D) If a body existing within a county or joint solid waste management district on June 24, 1988, has duties and responsibilities that involve planning for solid waste management within the district or advising the board of county commissioners or directors of the district regarding the operation of the district, the board of county commissioners or directors of the district, at any time before the date required for convening a solid waste management policy committee under division (B) of this section, may request the director to issue a waiver from the requirements of division (B) or (C) of this section establishing the composition of the solid waste management policy committee of a county or joint district that authorizes the existing body to exercise the duties and responsibilities of the solid waste management policy committee of the district under sections [3734.52](#) to [3734.575](#) of the Revised Code. The board shall request such a waiver by adopting and sending to the director a resolution requesting the waiver and setting forth the composition of the existing body, including, without limitation, the political subdivisions and other interests represented on it. The director shall approve a request for a waiver under this division unless he considers issuance of the waiver to be inappropriate under the circumstances.

Upon issuance of a waiver under this division, the existing body described in the resolution requesting the waiver constitutes the solid waste management policy committee of the county or joint district for the purposes of sections [3734.52](#) to [3734.575](#) of the Revised Code. After issuance of the waiver, the composition of the political subdivisions and other interests represented on the policy committee shall remain the same as that described in the resolution requesting the waiver, except as otherwise provided in this division.

On the effective date of this amendment, any waiver issued under this division to the board of county commissioners of a county district is hereby amended to require that one member be added to the policy committee authorized by the waiver to represent industrial, commercial, or institutional generators of solid wastes within the district and one member be added to the policy committee to represent the general interests of citizens, and any such waiver issued to the board of directors of a joint district is hereby amended to require that one member be added to the policy committee authorized by the waiver from each county forming the joint district to represent industrial, commercial, or institutional generators of solid wastes within the county and one member be added to the policy committee from each county forming the district to represent the general interests of citizens. The additional members shall be appointed within ninety days after the effective date of this amendment in the same manner as the other members of the policy committee authorized by the waiver are appointed and shall serve for terms of the same length as the other members.

At any time after issuance of a waiver under this division, the board of county commissioners or directors of the district, and the solid waste management policy committee authorized by the waiver, by adoption of a resolution by the board and the policy committee, may request the director to vacate the waiver. After receiving both resolutions, the director shall vacate the waiver and notify the board of that fact. Within thirty days after receiving the director's notice, the board of county commissioners or directors of the district shall convene a solid waste management policy committee for the district consisting of the members prescribed by division (B) or (C) of this section, as appropriate.

(E) The committee shall select a chairman and vice-chairman from among its members. The committee may retain consultants and may request and accept assistance and staff support from persons or political subdivisions located within the district to assist it with preparation of the plan.

(F) The solid waste management policy committee of a county or joint district may establish and appoint a technical advisory council to assist it in the preparation of the plan or subsequent amended plans or in annual reviews of the implementation of the plan or amended plans. The technical advisory council shall consist of at least one person representing solid waste hauling and disposal industries and may consist of such other members as the policy committee considers appropriate, including, without limitation, health commissioners of any health districts having jurisdiction within the county or joint district that are not represented by members serving on the policy committee, representatives of any political subdivisions within the district that are not represented by members serving on the policy committee, persons representing environmental advocacy organizations, persons representing the private recycling industry, and persons representing industrial generators of solid wastes. The technical advisory council shall exercise no administrative functions.

Serving as a member of the technical advisory council of a county or joint solid waste management district does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(G) The solid waste management policy committee of a county or joint solid waste management district may request the divisions of geological survey and water in the department of natural resources to provide the committee with available information regarding the geology, hydrogeology, and hydrology of the district or portions thereof in order to assist the committee in performing its duties under Chapter 343. and sections [3734.52](#) to [3734.575](#) of the Revised Code. Upon receipt of a request for such information, those divisions shall endeavor to provide the requested information promptly.

(H) If a regional solid waste management authority is formed under section [343.011](#) of the Revised Code for the purpose of managing a county or joint solid waste management district, all the duties and responsibilities imposed on or granted to a solid waste management policy committee under sections [3734.52](#) to [3734.575](#) of the Revised Code shall be vested in and exercised by the board of trustees of the regional authority. As used in those sections, any reference to a solid waste management policy committee is deemed to include the board of trustees of a regional solid waste management authority.

Effective Date: 10-29-1993.

3734.55 Preliminary review of draft plan.

(A) Upon completion of its draft solid waste management plan under section [3734.54](#) of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district shall send a copy of the draft plan to the director of environmental protection for preliminary review and comment. Within forty-five days after receiving the draft plan, the director shall provide the committee with a written, nonbinding advisory opinion regarding the draft plan and any recommended changes to it that the director considers necessary to effect its approval. After receipt of the director's written opinion, the committee may make such revisions to the draft plan based on the director's opinion as it considers appropriate. Upon receipt of the director's opinion and after making any such revisions to the draft plan, the committee shall prepare and publish in at least one newspaper of general circulation within the county or joint district a public notice that describes the draft plan, specifies the location where it is available for review, and establishes a period of thirty days for comments concerning the draft plan. The committee shall send written notice of the draft plan to adjacent county and joint districts and shall make it available for review by those districts, by the board of county commissioners of each county forming the district, by all municipal corporations and townships within the county or joint district, and by the public. The committee also shall send written notice of the plan to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the board, and their local trade associations. The board shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular industrial, commercial, or institutional generator or local trade association does not invalidate the proceedings under this section. All such written notices shall include the date, time, and location of the public hearing; the dates when the comment period begins and ends; and a description of the plan that includes, without limitation, the proposed amount of the fees to be levied under the plan pursuant to division (B) of section [3734.57](#) or division (A) of section [3734.573](#) of the Revised Code, if any, and an indication as to whether the provision required to be included in the plan under division (E)(1) of section [3734.53](#) of the Revised Code authorizes the board of county commissioners or directors of the district to establish, or precludes the board from establishing, facility designations under section [343.014](#) of the Revised Code. Within fifteen days after expiration of the comment period, the committee shall conduct a public hearing concerning the draft plan and, at least fifteen days before the hearing, shall publish in at least one newspaper of general circulation within the county or joint district a notice containing the time and place of the hearing and the location where the draft plan is available for review.

(B) After the public hearing, the committee may modify the draft plan based upon the public's comments and shall adopt or reject it by a majority vote. Within thirty days after adoption of the draft plan, the committee shall deliver a copy of it to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within ninety days after receiving a copy of the draft plan adopted by the committee, each

such board and legislative authority shall approve or disapprove the draft plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee.

The solid waste management policy committee of a county district or a joint district formed by two or three counties shall declare the draft plan to be ratified as the solid waste management plan of the district upon determining that the board of county commissioners of each county forming the district has approved the draft plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the county or joint district comprising at least sixty per cent of the total population of the district have approved the draft plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. The solid waste management policy committee of a joint district formed by four or more counties shall declare the draft plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft plan; that, in each of a majority of the counties forming the joint district, the draft plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft plan.

For the purposes of this division and division (C)(2) of this section, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division and division (C)(2) of this section, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section [3734.52](#) of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

(C)

(1) Upon ratification of the draft plan under division (B) of this section, the committee shall submit it to the director for review and approval for compliance with the requirements of divisions (A), (B), (D), and (E)(1) of section [3734.53](#) of the Revised Code. The director, by order, shall approve or disapprove the plan within ninety days after its submission. The director shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the committee to submit, within ninety days after issuance of the order, a revised plan that remedies those deficiencies, except that if the committee, by resolution, requests an extension of the time for submission of a revised plan, the director, for good cause shown, may grant one such extension for a period of not more than sixty additional days.

(2) Within sixty days after issuance of the order disapproving its plan, the committee shall prepare a draft revised plan, adopt a draft revised plan by a majority vote, and deliver a copy of the draft revised plan to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within twenty-one days after the delivery of the draft revised plan, each such board and legislative authority shall approve or disapprove the draft revised plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee. In the case of a county district or a joint district formed by two or three counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the county or joint district upon determining that the board of county commissioners of each county forming the district has approved the draft revised plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the draft revised plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft revised plan; that, in each of a majority of the counties forming the joint district, the draft revised plan has been approved by the municipal corporation having the largest

population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft revised plan. Upon ratification of the draft revised plan, the committee shall submit it to the director for approval in accordance with division (C)(1) of this section. The director, by order, shall approve or disapprove the draft revised plan within thirty days after receiving it.

(3) Notwithstanding section [119.06](#) of the Revised Code, the director may approve or disapprove a plan or revised plan submitted under division (C)(1) or (2) of this section by issuance of a final order that is effective upon issuance, without the necessity to hold any adjudication hearing in connection with the order and without issuance of a proposed action under section [3745.07](#) of the Revised Code. In any appeal taken under section [3745.04](#) of the Revised Code pertaining to the director's disapproval of the solid waste management plan or revised plan of a county or joint district, the solid waste management policy committee of the county or joint district and the director shall be the parties. Upon a showing by the policy committee that there is a substantial likelihood that it will prevail on the merits, the environmental review appeals commission, within thirty days after filing of the notice of appeal under that section and pending final determination of the appeal, may grant temporary relief from the director's order disapproving the district's plan, including the issuance of appropriate orders to the director to refrain from acting under division (D) of this section.

(4) After approval of the plan or revised plan by the director, the board of county commissioners of a county district or board of directors of a joint district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

The committee annually shall review implementation of the plan approved under this section or section [3734.521](#) of the Revised Code and subsequent amended plans approved under section [3734.521](#) or [3734.56](#) of the Revised Code and report its findings and recommendations regarding implementation of the plan to the board of county commissioners or board of directors of the district.

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section [3734.54](#) of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section [3734.53](#) of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to implement the plan, the board of county commissioners or board of directors of the district shall determine whether the solid waste management policy committee of the district should continue to exist to monitor implementation of the plan or for the purposes of division (B) of section [3734.57](#) or section [3734.574](#) of the Revised Code. The board, by resolution, may abolish the committee if it determines that the committee is not necessary for any of those purposes. If the board of county commissioners or directors of a district that has so abolished the policy committee of the district finds that it is necessary or appropriate for the district to consider levying fees under section [3734.574](#) of the Revised Code, the board shall reestablish and convene the policy committee to initiate proceedings to levy the fees. If the fees are levied, the policy committee shall continue to exist for as long as the district is levying the fees. If, after a policy committee is convened to initiate proceedings to levy those fees, the fees are not levied or are abolished under section [3734.574](#) of the Revised Code, the board, by resolution, may abolish the committee if it determines that the committee is not necessary to monitor implementation of the plan.

(E) If the director finds that the board of county commissioners or the board of directors of a district has materially failed to implement the district's plan or amended plan approved under division (C) of this section or section [3734.521](#) or [3734.56](#) of the Revised Code, or prepared and ordered to be implemented under division (D) of this section or section [3734.521](#) or [3734.56](#) of the Revised Code, in compliance with the implementation schedule contained in the plan or amended plan, the director shall issue an enforcement order under division (A) of section [3734.13](#) of the Revised Code directing the board to comply with the implementation schedule in the plan or amended plan within a specified, reasonable time. If the director finds that the board of county commissioners or directors of a district for which the provision included in the

district's initial or amended plan approved under section [3734.521](#), 3734.55, or [3734.56](#) of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section [3734.53](#) of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section [3734.56](#) of the Revised Code, precludes the board from establishing facility designations under section [343.014](#) of the Revised Code has initiated proceedings to establish facility designations in violation of that section and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section [3734.13](#) of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or suspend them until after the board has adopted and obtained ratification of an amendment to the district's initial or amended plan under division (F) of section [3734.56](#) of the Revised Code that authorizes the board to establish facility designations under section [343.014](#) of the Revised Code. If the director finds that a board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section [3734.521](#), 3734.55, or [3734.56](#) of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section [3734.53](#) of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section [3734.56](#) of the Revised Code, authorizes the board to establish facility designations under section [343.014](#) of the Revised Code has established facility designations under section [343.014](#) of the Revised Code or continued facility designations under section [343.015](#) of the Revised Code and subsequently has initiated proceedings to terminate any such facility designations in violation of section [343.014](#) of the Revised Code and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section [3734.13](#) of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or adopt and obtain ratification of an amendment to the district's initial or amended plan under division (F) of section [3734.56](#) of the Revised Code that precludes the board from establishing facility designations under section [343.014](#) of the Revised Code.

(F) The director shall maintain a record of the county and joint solid waste management district solid waste management plans and amended plans that the director has approved or ordered to be implemented under this section, section [3734.521](#), and section [3734.56](#) of the Revised Code.

(G)

(1) As used in divisions (C)(4), (D)(1) and (2), and (E) of this section and section [3734.521](#) of the Revised Code, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority formed under section [343.011](#) of the Revised Code.

(2) As used in this section and sections [3734.521](#) and [3734.57](#) of the Revised Code, "deliver" includes mailing as well as delivery by a means other than mailing.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 12-02-1996 .

3734.551 Reimbursement of director for expenses of preparing and ordering implementation of plan or amended plan.

(A) The board of county commissioners of a county or board of directors of a joint solid waste management district that is ordered to implement an initial or amended solid waste management plan prepared by the director of environmental protection under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code and that is levying fees under division (A) or (B) of section [3734.574](#) of the Revised Code shall reimburse the director from moneys in the special fund of the district created in division (G) of section [3734.57](#) of the Revised Code for the expenses incurred by the director in preparing and ordering the implementation of the plan or amended plan for all of the following purposes, as applicable:

- (1) Postage;
- (2) Copying and duplicating;
- (3) Notices published in newspapers;
- (4) A court reporter to record testimony at public hearings and transcribe the record of those hearings;

- (5) Facility rental for holding public information sessions or public hearings;
- (6) Conducting a survey of industrial solid waste generators within the district and other primary data collection activities when the necessary data are not available from the district, including, without limitation, the costs of conducting the survey or data collection by contract;
- (7) Fuel, meals, and lodging for the staff of the environmental protection agency when travel to the district is necessary to conduct data collection and other plan preparation activities;
- (8) Necessary long-distance telephone calls.

(B) Upon ordering a district to implement a plan or amended plan under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code, the director shall send to the board of county commissioners or directors an itemized demand for the expenses enumerated in division (A) of this section that were incurred by the director in preparing and ordering the implementation of the plan or amended plan. The board of county commissioners or directors shall pay to the director the amount stated in the demand within sixty days after receiving it. Moneys received by the director under this division shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Effective Date: 10-29-1993 .

3734.56 Submission of amended plan and certification.

(A) Each county and joint solid waste management district having a solid waste management plan approved under section [3734.521](#) or [3734.55](#) of the Revised Code with a planning period of less than fifteen years shall submit triennially, on or before the anniversary date of the approval of the initial plan, to the director of environmental protection an amended plan and certification for the subsequent ten-year period or longer period on which the district's initial plan was based. If the district's initial plan as approved by the director contained a planning period of fifteen or more years, the district shall submit such an amended plan and certification to the director every five years on or before the anniversary date of the approval of the initial plan of the district.

The amended plan and certification shall comply with divisions (A), (B), (D), and (E)(1) of section [3734.53](#) of the Revised Code. An amended plan may incorporate any of the elements under division (C) of that section that are not included in the district's initial plan or previous amended plans and may delete any of those elements that were contained in the initial plan or previous amended plans. An amended plan shall incorporate all of the elements required under section [3734.53](#) of the Revised Code, and may incorporate any of the elements authorized under that section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

Not later than fifteen months before the required date for submission of the amended plan for the district under this section, the solid waste management policy committee of the county or joint district established under section [3734.54](#) of the Revised Code shall begin preparation of the draft amended plan for the district. The committee shall proceed to adopt and obtain approval of the amended plan of the district in accordance with divisions (A) to (C) of section [3734.55](#) of the Revised Code.

If a county or joint district fails to submit an amended plan in accordance with this division or fails to obtain approval of the amended plan within eighteen months after the required date for its submission under this division, the director shall proceed in accordance with division (D) of section [3734.55](#) of the Revised Code. An amended plan prepared by the director under this division or division (B) of this section shall incorporate all of the elements required under section [3734.53](#) of the Revised Code for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities, except that for that purpose the amended plan shall not incorporate any of the elements required or authorized under division (B) or (C) of that section.

(B) If the solid waste management plan of a county or joint district was initially prepared and ordered to be implemented by the director under division (D) of section [3734.55](#) of the Revised Code or division (D) or (F) of section [3734.521](#) of the Revised Code, the director shall review the plan triennially and prepare for the

district an amended plan that complies with divisions (A) and (D) of section [3734.53](#) of the Revised Code and is applicable to the subsequent ten-year period. An amended plan prepared by the director shall not contain any provisions required or authorized to be included in plans submitted by districts under divisions (B), (C), or (E) of section [3734.53](#) of the Revised Code. Upon completion of the amended plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the amended plan in compliance with the implementation schedule contained in it.

(C) A county or joint district that is operating under a solid waste management plan prepared and ordered to be implemented by the director under division (D) of section [3734.55](#) of the Revised Code or division (D) or (F) of section [3734.521](#) of the Revised Code may establish, under division (B) of section [3734.54](#) of the Revised Code, a solid waste management policy committee and prepare, adopt, and submit its own solid waste management plan to replace the initial or an amended plan prepared by the director. Any such district may submit its plan to the director only within the one hundred eighty days immediately preceding a triennial anniversary of the date on which the director issued the initial order under division (D) of section [3734.55](#) of the Revised Code or division (D) or (F) of section [3734.521](#) of the Revised Code requiring the district to implement the plan prepared by the director.

Upon approval of the solid waste management plan of the county or joint district under division (C) of section [3734.55](#) of the Revised Code, the director shall issue an order in accordance with Chapter 3745. of the Revised Code revoking the earlier orders issued to the district under division (D) of that section or division (D) or (F)(1) or (2) of section [3734.521](#) of Revised Code, as appropriate.

(D) When the board of county commissioners of a county district or the board of directors of a joint district determines that circumstances materially changed from those addressed in the approved initial or amended plan of the district require submission of an amended plan prior to the time required under division (A) of this section, the board shall request the solid waste management policy committee of the district to prepare a draft amended plan. Upon receipt of the board's request, the committee shall begin preparing a draft amended plan for the district and shall proceed to adopt and obtain approval of the amended plan in accordance with divisions (A) to (C) of section [3734.55](#) of the Revised Code.

(E) The board of county commissioners of a county district or board of directors of a joint district may request the solid waste management policy committee of the district to prepare and adopt amendments to any provisions of the district's plan or amended plan required to be included under division (B) of section [3734.53](#) of the Revised Code at any time and without obtaining approval of the amendments from the director. The committee shall adopt a resolution setting forth the proposed amendments to the plan and shall proceed in accordance with division (B) of section [3734.57](#) of the Revised Code to conduct a public hearing on the proposed amendments and obtain their approval and ratification.

(F) The board of county commissioners of a county district or board of directors of a joint district may request the solid waste management policy committee of the district to prepare and adopt an amendment to the provision required to be included in the district's plan or amended plan under division (E) of section [3734.53](#) of the Revised Code at any time and without the necessity of obtaining approval of the amendment from the director. The policy committee shall adopt a resolution setting forth the proposed amendment to the plan. Upon adopting the resolution, it shall proceed in accordance with divisions (A) and (B) of section [3734.55](#) of the Revised Code to adopt and obtain ratification of the proposed amendment in the same manner as a plan, except that the board need not submit a copy of the resolution to the director for review and comment under division (A) of that section. An amendment to a plan or amended plan that is proposed and ratified in accordance with this division shall take effect when the policy committee declares the amendment to be ratified pursuant to division (B) of section [3734.55](#) of the Revised Code.

Effective Date: 10-29-1993.

3734.57 Fees for waste disposal.

(A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) Ninety cents per ton through June 30, 2020, twenty cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section [3734.18](#) of the Revised Code and seventy cents of the proceeds of which shall be deposited in the

state treasury to the credit of the hazardous waste clean-up fund created in section [3734.28](#) of the Revised Code;

(2) An additional seventy-five cents per ton through June 30, 2020, the proceeds of which shall be deposited in the state treasury to the credit of the waste management fund created in section [3734.061](#) of the Revised Code.

(3) An additional two dollars and eighty-five cents per ton through June 30, 2020, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section [3745.015](#) of the Revised Code;

(4) An additional twenty-five cents per ton through June 30, 2020, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section [940.15](#) of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section [3734.02](#) of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to

collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal 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.

The fees levied under this division and divisions (B) and (C) of this section 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 transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after October 16, 2009. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

- (1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;
- (2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;
- (3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section [3734.521](#) or [3734.55](#) of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section [3734.55](#) of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location

where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section [3734.55](#) of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections [3734.55](#) and [3734.56](#) of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section [3734.521](#) of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section [3734.521](#) of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section [3734.521](#) of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied

under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section [3734.521](#) of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section [343.012](#) of the Revised Code and the agreements entered into under division (B) of section [343.01](#) of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section [3734.573](#) or [3734.574](#) of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section [343.011](#) of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)

(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(c) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(2) Except as provided in section [3734.571](#) of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are 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 county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section 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 fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and 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 solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section 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 of environmental protection, or the director of administrative services on behalf of the director of environmental protection 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 of environmental protection 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. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management 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. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section [3734.571](#), [3734.572](#), [3734.573](#), or [3734.574](#) of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section [343.011](#) of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section [3734.573](#) of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code exclusively for the following purposes:

- (1) Preparation of the solid waste management plan of the district under section [3734.54](#) of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section [3734.56](#) of the Revised Code by the solid waste management policy committee;
- (2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;
- (3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;
- (4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;
- (5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;
- (6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;
- (7) Providing financial assistance to boards of health within the district for the enforcement of section [3734.03](#) of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;
- (8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section [3734.08](#) of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those

provisions in the training and certification program as required by rules adopted under division (L) of section [3734.02](#) of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section [3734.35](#) of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section [3734.55](#) of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section [3734.53](#) of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 6/30/2013.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01. See act for effective dates.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 7/17/2009 and 10/16/2009.

Effective Date: 06-29-2004; 06-30-2005; 12-20-2005; 12-22-2005; 03-30-2006; 2007 HB119 09-29-2007

3734.571 Disposal fees where district has no facilities.

If no solid waste disposal facilities are located within a county or joint solid waste management district that has entered into, or proposes to enter into, an agreement with another county or joint solid waste management district under section [343.02](#) of the Revised Code for the joint use of solid waste facilities, the latter district may levy fees under division (B)(2) of section [3734.57](#) of the Revised Code on the disposal of solid wastes at solid waste disposal facilities within its boundaries that were generated within the former district. Such a district may levy those fees regardless of whether it is levying fees under division (B) of section [3734.57](#) of the Revised Code pursuant to that division or division (A) or (D) of section [3734.574](#) of the Revised Code. Moneys so collected that equal the difference between the fees that the receiving district otherwise would have levied on the disposal of those wastes under division (B)(1) of section [3734.57](#) of the Revised Code and the fees that it levies on the disposal of those wastes under

division (B)(2) of that section shall be used by the generating district for the purposes specified in divisions (G)(1) and (2) of that section.

The agreement between the districts for the joint use of solid waste facilities shall provide or shall be amended to provide for all of the following, without limitation:

(A) Responsibility for monitoring the amount of solid wastes disposed of in the receiving district that were generated in the district without disposal facilities;

(B) Levying and collection of the fees authorized under this section in accordance with section [3734.57](#) of the Revised Code;

(C) A schedule for the remission to the generating district of the portion of the disposal fees that are due it under this section;

(D) Interest to be paid by the receiving district to the generating district if the former fails to remit the disposal fees in accordance with the schedule required under division (B) of this section;

(E) Periodic review of the amount of moneys collected in accordance with this section and the provisions of the agreement required under this section to determine their adequacy.

Effective Date: 03-30-1995.

3734.572 Disposal fee to defray costs of initial plan of district without disposal facility.

(A) For the purpose of defraying the cost of preparing, adopting, submitting, and implementing the initial solid waste management plan and subsequent amended plans of a solid waste management district that are required to be prepared, adopted, and submitted to the director of environmental protection under sections [3734.54](#) and [3734.56](#) of the Revised Code, respectively, and for paying the costs incurred by a board of health in inspecting any solid waste transfer facility located in the district, the solid waste management policy committee of the district established in accordance with section [3734.54](#) of the Revised Code may levy a fee of not more than fifty cents per ton on the disposal of solid wastes generated within the district that are disposed of at any solid waste disposal facility, located in another solid waste management district, that the former district has notified under division (B) of this section if no solid waste disposal facilities are located within the former district.

The committee may levy a disposal fee under this division by adopting a resolution establishing the proposed fee. The resolution shall contain a proposed budget showing by major expenditure categories the uses of all of the moneys that will be generated by the proposed fee. The resolution shall be approved or disapproved and, if the resolution is approved, the fee shall be ratified in accordance with the procedures established under division (B) of section [3734.57](#) of the Revised Code governing resolutions levying disposal fees under that division.

(B) A solid waste management policy committee that is levying a fee under division (A) of this section, immediately following ratification of the resolution levying the fee, may notify by certified mail the owner or operator of any solid waste disposal facility where those wastes will be disposed of that the district is levying that fee. An owner or operator receiving notice under this division shall monitor the amount of solid wastes disposed of at his facility that were generated in the district levying that fee and shall collect and forward the fee in accordance with section [3734.57](#) of the Revised Code. Collection of the fee shall commence not sooner than fifteen days after notification is sent to the owner or operator.

An owner or operator that collects a fee under this division may retain one per cent of the moneys so collected to pay administrative costs incurred under this section. Any owner or operator who chooses to retain those moneys shall so notify the board of county commissioners or board of directors of the district in which his facility is located.

A solid waste management policy committee that is levying a fee under division (A) of this section shall so notify the solid waste management policy committee of each solid waste management district in which any solid waste disposal facility that has been notified under this division is located.

(C) Moneys received by a district levying a fee under division (A) of this section shall be credited to the fund of the district created in division (G) of section [3734.57](#) of the Revised Code and shall be used exclusively for the purpose of defraying the cost of preparing, adopting, submitting, and implementing the initial solid waste management plan and subsequent amended plans of the district, including, without limitation, any costs incurred by the committee for that purpose prior to the collection of fees under this section, and for paying the costs incurred by a board of health in inspecting any solid waste transfer facility located in the district.

(D) If a solid waste disposal facility commences operation within a district levying a fee under division (A) of this section, collection of that fee shall cease on the date on which the facility commences operation.

(E) If a regional solid waste management authority has been formed under section [343.011](#) of the Revised Code for the purpose of managing a solid waste management district, all the duties and responsibilities imposed on or granted to a solid waste management policy committee under this section shall be vested in or exercised by the board of trustees of the regional authority. Any reference in this section to a solid waste management policy committee or to a board of county commissioners or directors of a county or joint district is deemed to include the board of trustees of a regional solid waste management authority.

Effective Date: 04-06-1993.

3734.573 Fee for generation of solid wastes within district.

(A) For the purposes specified in division (G) of section [3734.57](#) of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district may levy a fee on the generation of solid wastes within the district.

The initial or amended solid waste management plan of the county or joint district approved under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code, an amendment to the district's plan adopted under division (E) of section [3734.56](#) of the Revised Code, or the resolution adopted and ratified under division (B) of this section shall establish the rate of the fee levied under this division and shall specify whether the fee is levied on the basis of tons or cubic yards as the unit of measurement.

(B) Prior to the approval under division (A) of section [3734.56](#) of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section [3734.521](#) of the Revised Code, the approval of an amended plan under section [3734.521](#) or division (D) of section [3734.56](#) of the Revised Code, or the amendment of the district's plan under division (E) of section [3734.56](#) of the Revised Code, the solid waste management policy committee of a county or joint district that is operating under an initial plan approved under section [3734.55](#) of the Revised Code, or one for which approval of its initial plan is pending before the director of environmental protection on October 29, 1993, under section [3734.55](#) of the Revised Code, may levy a fee under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the fee. A policy committee that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of this section and to amend the fees levied by the district under divisions (B)(1) to (3) of section [3734.57](#) of the Revised Code may adopt and obtain ratification of one resolution proposing to do both. The requirements and procedures set forth in division (B) of section [3734.57](#) of the Revised Code governing the adoption, amendment, and repeal of resolutions levying fees under divisions (B)(1) to (3) of that section, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees levied under those divisions govern the adoption of the resolutions authorized to be adopted under this division, the ratification thereof, and the notification of owners and operators required to collect the fees, except as otherwise specifically provided in division (C) of this section.

(C) Any initial or amended plan of a district adopted under section [3734.521](#) or [3734.56](#) of the Revised Code, or resolution adopted under division (B) of this section, that proposes to levy a fee under division (A) of this section that exceeds five dollars per ton shall be ratified in accordance with the provisions of section [3734.55](#) or division (B) of section [3734.57](#) of the Revised Code, as applicable, except that such an initial or amended plan or resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section [3734.57](#) of the Revised Code. If a district is levying a fee under section [3734.572](#) of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section [3734.57](#) of the Revised Code.

(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or disposal facility who is required to collect the fee shall collect and forward the fee to the district in accordance with section [3734.57](#) of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section [3734.57](#) of the Revised Code and shall be used exclusively for the purposes specified in that division. Prior to the approval under division (A) of section [3734.56](#) of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section [3734.521](#) of the Revised Code, the approval of an amended plan under that section or division (D) of section [3734.56](#) of the Revised Code, or the amendment of the district's plan under division (E) of section [3734.56](#) of the Revised Code, moneys credited to the special fund arising from the fee levied pursuant to a resolution adopted and ratified under division (B) of this section shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

(H) The fee levied under division (A) of this section does not apply to the management of solid wastes that:

(1) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes were generated;

(2) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(3) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(I) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the transfer facility.

(J) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are not delivered to a solid waste transfer facility prior to being transported to the incinerator or energy

recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the incinerator or energy recovery facility.

(K) The fee levied under division (A) of this section does not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(L) The fee levied under division (A) of this section does not apply to solid waste delivered to a solid waste composting facility for processing. If any unprocessed solid waste or compost product is transported off the premises of a composting facility for disposal at a landfill, the fee levied under division (A) of this section applies and shall be collected by the owner or operator of the landfill.

(M) The fee levied under division (A) of this section does not apply to materials separated from a mixed waste stream for recycling by the generator or materials removed from the solid waste stream as a result of recycling, as "recycling" is defined in rules adopted under section [3734.02](#) of the Revised Code.

(N) The director of environmental protection may issue an order exempting from the fees levied under this section 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 of environmental protection, or the director of administrative services on behalf of the director of environmental protection 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 of environmental protection 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. An order issued by the director of environmental protection under this division shall include a determination that the amount of fees not received by a solid waste management 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. Such an order is a final action of the director of environmental protection.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-31-1996; 09-29-2005; 09-29-2005

3734.574 Generation and disposal fees.

(A)

(1) A county or joint solid waste management district that is levying fees under division (B) of section [3734.57](#) of the Revised Code on October 29, 1993, pursuant to a resolution adopted under that division and former Section 25 of Am. Sub. S.B. 359 of the 119th general assembly, or one that is levying those fees pursuant to such a resolution and for which the director of environmental protection disapproves the initial solid waste management plan of the district under section [3734.55](#) of the Revised Code on or after October 29, 1993, may continue to levy those fees until the district abolishes them under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan under section [3734.521](#) or [3734.56](#) of the Revised Code and collection of the fees established in the approved plan commences in accordance with division (B) of section [3734.57](#) of the Revised Code.

(2) A county or joint solid waste management district that is levying fees under division (B) of section [3734.57](#) of the Revised Code or division (A) of section [3734.573](#) of the Revised Code under an initial or amended solid waste management plan approved under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code when the director issues an order under division (D) or (F) of section [3734.521](#) of the Revised Code or division (A) or (B) of section [3734.56](#) of the Revised Code requiring the district to implement an amended plan prepared by the director, may continue to levy those fees until the district abolishes them under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan or amended plan under

section [3734.521](#) or [3734.56](#) of the Revised Code and collection of the fees established in the approved plan or amended plan commences in accordance with division (B) of section [3734.57](#) of the Revised Code.

(B) The solid waste management policy committee of a county or joint district described in division (A)(1) of this section may a levy fee under division (A) of section [3734.573](#) of the Revised Code by adopting and obtaining ratification of a resolution establishing the amount of the fee. The policy committee of such a district that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of section [3734.573](#) of the Revised Code and to amend the fees that the district is levying under division (B) of section [3734.57](#) of the Revised Code may adopt and obtain ratification of one resolution to do both. A county or joint district that is ordered under division (D) or (F) of section [3734.521](#) of the Revised Code to implement an initial plan prepared by the director may levy fees under division (B) of section [3734.57](#) of the Revised Code or division (A) of section [3734.573](#) of the Revised Code by adopting and obtaining ratification of a resolution specifying which of the fees are to be levied and their amounts. The requirements and procedures set forth in division (B) of section [3734.57](#) of the Revised Code governing the adoption of resolutions levying fees under that division, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees under those divisions govern the adoption and ratification of resolutions levying fees under this division and the notification of owners and operators required to collect the fees levied under this division, except as otherwise specifically provided in division (C) of this section. Any such district may levy fees under this division until the district abolishes the fees under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan or amended plan under section [3734.521](#) or [3734.56](#) of the Revised Code and collection of the fees established in the approved plan or amended plan commences in accordance with division (B) of section [3734.57](#) of the Revised Code.

(C) Any resolution adopted under division (B) of this section that proposes to levy a fee under division (A) of section [3734.573](#) of the Revised Code that exceeds five dollars per ton shall be ratified in accordance with the provisions of division (B) of section [3734.57](#) of the Revised Code, except that such a resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend fees levied by the district under division (A) or (B) of this section by adopting and obtaining ratification of a resolution establishing the proposed amount of the amended fees. The committee may abolish any of those fees or any amended fees established under this division by adopting and obtaining ratification of a resolution repealing them. A district that is proposing at the same time to amend or abolish the fees levied under divisions (A) and (B) of this section may adopt one resolution proposing the amendment or repeal of all of the fees. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees. Collection of the fees so amended or abolished commences or ceases in accordance with division (B) of section [3734.57](#) of the Revised Code.

(E) Not later than thirty days before the beginning of each calendar quarter, the board of county commissioners or board of directors of a district that is levying fees under division (A) or (B) of this section shall submit to the director a proposed budget for the expenditure of moneys from the special fund of the district created under division (G) of section [3734.57](#) of the Revised Code. The proposed budget shall be submitted on a form prescribed by the director.

The director may disapprove in whole or in part such a proposed quarterly budget for any of the following reasons:

- (1) The proposed budget includes expenditures for any purpose other than those authorized under divisions (G)(1) to (10) of section [3734.57](#) of the Revised Code;
- (2) The director reasonably estimates that there will be insufficient moneys in the special fund created to meet the proposed expenditures;
- (3) The board failed to submit the proposed budget to the director at least thirty days prior to the beginning of the calendar quarter to which it pertains;
- (4) The board failed to submit the latest report of quarterly expenditures from the fund that it was required to submit under section [3734.575](#) of the Revised Code within thirty days after the end of the calendar quarter to which it pertains;

(5) The district is materially failing to comply with the implementation schedule contained in the plan or amended plan of the district prepared and ordered to be implemented under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code;

(6) There have been repeated inconsistencies between the expenditures projected in the proposed budgets submitted under division (E) of this section and actual expenditures from the fund.

If the director does not disapprove a proposed quarterly budget prior to the first day of the calendar quarter to which it pertains, it is conclusively presumed that the proposed budget has not been disapproved.

Nothing in division (E) of this section precludes the board of county commissioners or directors of a district from making necessary expenditures to meet unforeseen circumstances that occur during a calendar quarter that were not provided for in the proposed budget for that quarter. Prior to making any such expenditure, the board shall notify the director of the nature of the unforeseen circumstances and of the amount of the expenditure needed to meet them. The board shall include an explanation of the nature of the unforeseen circumstances and of the necessity and amount of the expenditures to meet them in the quarterly expenditure report for the quarter in which the expenditures were made that is submitted to the director under section [3734.575](#) of the Revised Code.

(F) If the director finds that the board of county commissioners or directors of a district that is levying fees under division (A) or (B) of this section is in material and continued noncompliance with the implementation schedule contained in the plan or amended plan of the district prepared and ordered to be implemented under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code, or if repeated whole or partial disapprovals of the proposed quarterly budgets of the district have occurred under division (E) of this section, the director may issue an order to the board terminating the collection of all of the fees levied by the district under division (A) or (B) of this section.

Notwithstanding section [119.06](#) of the Revised Code, the director may issue an order under this division or disapprove in whole or in part a proposed budget under division (E) of this section by issuance of a final action that is effective upon issuance without the necessity to hold any adjudication hearing in connection with the order or disapproval and without the issuance of a proposed action under section [3745.07](#) of the Revised Code.

(G) The director, in accordance with Chapter 119. of the Revised Code, may adopt, amend, suspend, and rescind such rules as the director considers to be necessary or appropriate to implement or administer this section or division (D) of section [3734.55](#) of the Revised Code.

(H) Moneys received by a district levying fees under division (A) or (B) of this section shall be credited to the special fund of the district created in division (G) of section [3734.57](#) of the Revised Code and shall be used exclusively for the purposes set forth in divisions (G)(1) to (10) of that section in the manner prescribed by the solid waste management policy committee of the district by resolution and for the purposes of section [3734.551](#) of the Revised Code.

Effective Date: 10-31-1996.

3734.575 Report of fees and accounts.

(A) The board of county commissioners of a county solid waste management district and the board of directors of a joint solid waste management district that is levying fees or amended fees or receiving fee revenue under division (B) of section [3734.57](#) ; section [3734.571](#), [3734.572](#), or [3734.573](#) ; or division (A), (B), or (D) of section [3734.574](#) of the Revised Code, within thirty days after the end of each calendar quarter, shall submit to the director of environmental protection a report containing all of the following information for that preceding quarter:

- (1) The specific fees levied by the district;
- (2) Revenues received by the district during the quarter from each of those sources, as applicable;
- (3) All district planning account balances;
- (4) The amount and use of revenues spent;

(5) A certification statement that the information in the report is true and accurate.

A board shall submit each report on forms prescribed by the director and by computer disk as prescribed by him. A board is responsible for the accuracy of the information contained in each report and for providing it to the director not later than the deadline established in this division.

Annually by not earlier than the first day of April, the director shall submit a compilation of the individual district reports received during the preceding calendar year to the speaker of the house of representatives and the president of the senate. In submitting the compilation, the director's sole responsibility shall be to compile the information submitted by the boards under this division.

(B) If changes in the 1994 budget of a county or joint district result from the required change in the fees levied by the district under division (B) of section [3734.57](#) of the Revised Code, the levying of the fees under section [3734.573](#) of the Revised Code, or the levying of fees under division (A) or (B) of section [3734.574](#) of the Revised Code, the board of county commissioners or directors of the district shall include a description of the changes in the annual report of the district required to be submitted to the director pursuant to rules adopted under section [3734.50](#) of the Revised Code.

Effective Date: 03-30-1995.

3734.576 Exemption of automotive shredder residue from generation fee.

(A) As used in this section:

(1) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the materials.

(2) "Automotive shredder residue" means the nonrecyclable residue that is generated as a direct result of processing automobiles, appliances, sheet steel, and other ferrous and nonferrous scrap metals through a hammermill shredder for purposes of recycling and that meets all of the following requirements:

(a) The residue is solid waste.

(b) The residue is not hazardous waste.

(c) The residue created during the recycling process comprises not more than thirty-five per cent of the total weight of material that is processed for recycling.

(d) The residue is generated by processing recycled materials that are to be sold, used, or reused within ninety days of the time when the material is processed.

(B)

(1) The solid waste management policy committee of a solid waste management district that is levying a solid waste generation fee under section [3734.573](#) of the Revised Code may adopt a resolution exempting automotive shredder residue from that fee without the necessity for ratification of the resolution or may include the exemption in an amended solid waste management plan of the district adopted under section [3734.56](#) of the Revised Code at the time when adoption of an amended plan is required. Not later than seven days after the adoption of such a resolution or the approval of an amended plan, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility or transfer facility that is required to collect generation fees on behalf of the district of the exemption. The exemption shall take effect on the first day of the first month following the month in which notification is sent to each disposal facility and transfer facility, as applicable.

The policy committee of a solid waste management district may establish procedures and requirements, including record-keeping procedures and requirements, that are necessary for the administration and enforcement of an exemption established under division (B)(1) of this section.

(2) If the policy committee of a solid waste management district has adopted a resolution under division (B)(1) of this section and the committee seeks to continue exempting automotive shredder residue from the

district's generation fee at the time when the district is required to adopt an amended solid waste management plan under section [3734.56](#) of the Revised Code, the committee shall include the exemption in the amended plan of the district. If the exemption is not included in the amended plan of the district, the exemption shall expire and shall cease to apply as provided in division (C) of this section.

(C) If the policy committee of a solid waste management district seeks to eliminate an exemption of automotive shredder residue from the district's generation fee that was established under division (B)(1) of this section, the committee shall adopt a resolution eliminating the exemption without the necessity for ratification of the resolution. After adoption of the resolution and if the district has included the exemption in its amended solid waste management plan in accordance with either division (B)(1) or (2) of this section, the committee shall subsequently amend the plan to reflect the elimination of the exemption at the time when the adoption of an amended plan is required under section [3734.56](#) of the Revised Code.

Upon expiration of the exemption or adoption of a resolution eliminating the exemption, the policy committee shall notify by certified mail the owner or operator of each solid waste disposal facility or transfer facility that is required to collect generation fees on behalf of the district of the expiration or elimination of the exemption, as applicable. The exemption shall cease to apply on the first day of the first month following the month in which notification is sent to each disposal facility and transfer facility, as applicable.

Effective Date: 03-29-2006.

3734.577 Exemption from fees prohibited.

Notwithstanding any section of the Revised Code to the contrary, no solid waste management district shall exempt a public sector commercial licensed hauler from a fee that is charged to private sector commercial licensed haulers by the solid waste management district.

Added by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

3734.578 Fees inapplicable to solid waste used as alternative daily cover.

Fees applicable to solid waste under this chapter do not apply to solid waste that the director of environmental protection approves for use as alternative daily cover in accordance with rules adopted under section [3734.02](#) of the Revised Code and that is used as alternative daily cover in accordance with those rules.

Added by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

3734.60 Plastic containers labeled with code for basic material used in bottle or container.

(A) As used in this section:

(1) "Label" means a molded imprint or raised symbol that includes a code consisting of letters and numbers and is placed on or near the bottom of a plastic bottle or rigid plastic container to indicate the plastic resin used to produce the bottle or container.

(2) "Plastic" means any material made of polymeric organic compounds and additives that can be shaped by means of the flowing of the material.

(3) "Plastic bottle" means a plastic container that has a neck that is smaller than the body of the container; that accepts a screw-type cap, snap cap, or other closure; and that has a capacity of at least sixteen ounces but less than five gallons.

(4) "Rigid plastic container" means any formed or molded container, other than a plastic bottle, that is intended for a single use, is composed primarily of plastic resin, has a relatively inflexible finite shape or form, and has a capacity of at least eight ounces but less than five gallons.

(B) On and after January 1, 1991, no person shall either manufacture or distribute for use in this state any new, unfilled plastic bottle or rigid plastic container unless it bears a label with the appropriate code as prescribed in this section that indicates the plastic resin used to produce the bottle or container. A plastic bottle or rigid plastic container having a label or basecup composed of material different from that comprising the rest of the bottle or container shall be labeled with the code for the basic material used in the bottle or container.

The label required by this section shall consist of an equilateral triangle formed by three curved arrows of short radius with the apex of each point of the triangle at the midpoint of each arrow. The head of each arrow shall be at the midpoint of each side of the triangle with a short gap between the head of the arrow and the base of the succeeding arrow. The triangle formed by the three curved arrows shall depict a clockwise path around the code number, which shall be placed at the center of the triangle. The code letters shall be placed immediately below the triangle. The following code numbers and letters shall be used on the labels:

(1) For polyethylene terephthalate, the letters "PETE" and the number "1";

(2) For high density polyethylene, the letters "HDPE" and the number "2";

(3) For vinyl, the letter "V" and the number "3";

(4) For low density polyethylene, the letters "LDPE" and the number "4";

(5) For polypropylene, the letters "PP" and the number "5";

(6) For polystyrene, the letters "PS" and the number "6";

(7) For any plastic material named in rules adopted under division (C) of this section, the code letter and code number prescribed for the plastic material in those rules;

(8) For any other plastic, including, without limitation, multilayer materials, the word "OTHER" and the number "7".

(C) When the director of environmental protection considers it appropriate, he may adopt rules in accordance with Chapter 119. of the Revised Code listing plastic materials in addition to those listed in divisions (B)(1) to (6) of this section and prescribing a code letter and code number for each of those additional plastic materials. When labeling requirements similar to those established by this section have been established pursuant to the laws of other states for any such additional material, the code number and code letter for that material established under this division shall be consistent with the code number and code letter for that material established pursuant to the laws of those other states.

(D) The environmental protection agency shall maintain a list of the codes prescribed in divisions (B)(1) to (8) of this section and shall provide a copy of the list to any person upon request.

Effective Date: 11-02-1989.

3734.61 Mercury devices definitions.

As used in sections 3734.61 to [3734.65](#) of the Revised Code:

(A) "Manufacturer" means any person that produces a mercury-containing thermometer or serves as an importer or domestic distributor of a mercury-containing thermometer that is produced outside the United States. In the case of a multicomponent mercury-containing thermometer, "manufacturer" means the last manufacturer to produce or assemble the thermometer unless the multicomponent mercury-containing thermometer is produced outside the United States, in which case "manufacturer" means the importer or domestic distributor.

(B) "Mercury" means elemental mercury and mercury compounds.

(C) "Mercury-added measuring device" means an instrument containing mercury that is designed to measure an amount or quantity of humidity, pressure, temperature, or vacuum or the force of wind, including, but not limited to, anemometers, barometers, flow meters, hydrometers, hygrometers, manometers, sphygmomanometers, and thermometers.

(D) "Mercury-added novelty" means a product in which mercury is present and that is intended mainly for personal or household enjoyment or adornment, including, but not limited to, products intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, footwear, other items of apparel, or similar products. "Mercury-added novelty" does not include a product that solely includes a fluorescent light bulb.

Effective Date: 04-06-2007.

3734.62 Purchase of mercury-added measuring device for classroom use.

On and after the effective date of this section, no school district or educational service center established under Chapter 3311. of the Revised Code, community school established under Chapter 3314. of the Revised Code, or nonpublic school for which the state board of education prescribes standards under section [3301.07](#) of the Revised Code and no employee of such a school district, educational service center, community school, or nonpublic school shall purchase mercury or a mercury-added measuring device for classroom use.

If a school district, educational service center, community school, or nonpublic school or an employee of a school district, educational service center, community school, or nonpublic school purchases mercury or a mercury-added measuring device for classroom use on or after the effective date of this section in violation of this section, but properly recycles or disposes of the mercury or mercury-added measuring device upon learning of or being informed of the violation and creates and implements a mercury reduction plan, the director of environmental protection shall consider the recycling or disposal of the mercury or mercury-added measuring device and the implementation of and compliance with the mercury reduction plan as mitigating circumstances for purposes of enforcement of a violation of this section.

Effective Date: 04-04-2007.

3734.63 Sale of mercury-containing thermometer for promotional purposes.

(A)

(1) Beginning six months after the effective date of this section, and except as otherwise provided in division (A)(2) of this section, no manufacturer shall offer a mercury-containing thermometer for sale or distribute a mercury-containing thermometer for promotional purposes in this state unless the sale or distribution of a mercury-containing thermometer is required in order to comply with federal law, a person demonstrates to the director that a mercury-containing thermometer is the only temperature measuring device that is feasible for a research, quality control, or manufacturing application, or the only component of the thermometer that contains mercury is a button cell battery.

(2) Division (A)(1) of this section does not apply to the sale of a mercury-containing thermometer to a person who purchases a mercury-containing thermometer pursuant to a valid prescription.

(B) Beginning six months after the effective date of this section, a manufacturer of a mercury-containing thermometer that lawfully offers for sale or distributes such a thermometer in this state shall do both of the following:

(1) Provide notice in a conspicuous manner on the packaging of the thermometer that the thermometer contains mercury;

(2) Provide clear instructions with the thermometer regarding careful handling of the thermometer to avoid breakage, proper cleanup of mercury if the thermometer breaks, and proper management and disposal of the thermometer.

Effective Date: 04-06-2007.

3734.64 Sale of mercury-added novelty for promotional purposes.

Beginning six months after the effective date of this section, no person shall offer a mercury-added novelty for sale or distribute such a novelty for promotional purposes in this state unless the only mercury in the mercury-added novelty is a removable button cell battery. Beginning January 1, 2011, no person shall offer any mercury-added novelty for sale or distribute any mercury-added novelty for promotional purposes in this state.

Effective Date: 04-06-2007.

3734.65 Sale or installation of mercury-containing thermostat.

Beginning one year after the effective date of this section, no person shall offer a mercury-containing thermostat for sale in this state or install a mercury-containing thermostat in this state unless the mercury-containing thermostat is installed in the residence of a visually impaired person or the thermostat is used to sense and control temperatures as a part of a manufacturing process.

Effective Date: 04-06-2007.

3734.70 Scrap tire collection facilities rules.

(A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules having uniform application throughout the state governing scrap tire collection facilities and the inspection of and issuance of registration certificates and licenses for those facilities in order to ensure that the facilities are located, maintained, operated, and closed in a manner that does not create a nuisance, hazard to public health or safety, or fire hazard.

(B) The rules adopted under this section shall prohibit the owner or operator of a scrap tire collection facility from arranging the transportation or delivery to, or receipt of scrap tires by, any facilities or premises other than any of the following:

- (1) A scrap tire recovery facility licensed under section [3734.81](#) of the Revised Code;
- (2) A scrap tire monocell or monofill facility licensed under section [3734.81](#) of the Revised Code;
- (3) A scrap tire storage facility licensed under section [3734.81](#) of the Revised Code;
- (4) A solid waste incineration or energy recovery facility subject to regulation under this chapter;
- (5) A facility located in this state that will beneficially use the scrap tires collected at the facility;
- (6) A scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility that is authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of that state.

(C) The rules adopted under this section and sections [3734.71](#), [3734.72](#), and [3734.73](#) of the Revised Code shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating scrap tire collection, storage, monocell, monofill, or recovery facilities, respectively.

Effective Date: 10-29-1993.

3734.71 Scrap tire storage facilities rules.

The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules having uniform application throughout the state governing scrap tire storage facilities and the inspection of and issuance of registration certificates and permits, as applicable, and licenses for those facilities in order to ensure that the facilities are located, maintained, operated, and closed in a manner that does not create a nuisance, hazard to public health or safety, or fire hazard. The rules shall do all of the following:

(A) Establish standards governing the location, design, construction, operation, and closure of scrap tire storage facilities, including, without limitation, standards governing facilities for the storage of scrap tires by submergence in a body of water;

(B) Specify the criteria that the owner or operator of an existing or proposed scrap tire storage facility shall consider in determining whether to apply for a registration certificate or a permit for the facility, which shall be based on the approximate number or quantity in weight or volume of scrap tires stored or to be stored at the facility and the potential for an adverse effect on the environment;

(C) Limit the land area of a scrap tire storage facility on which scrap tires actually are stored to ten thousand square feet unless the owner or operator of the storage facility also owns or operates either of the following to which the tires stored at the storage facility will be transported:

(1) A scrap tire monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code, in which case the land area on which scrap tires actually are stored at the scrap tire storage facility shall be limited to three acres;

(2) A scrap tire monocell, monofill, or recovery facility, or any other solid waste disposal facility authorized to dispose of scrap tires, that is located in another state and is operating in compliance with the laws of that state, in which case the land area on which scrap tires actually are stored at the scrap tire storage facility in this state shall be limited to three acres.

(D) Require submission to the director of a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount established by the director as necessary for the removal and proper disposal of scrap tires from such a facility, fire suppression, or other measures to abate hazards to public health or safety or the environment occurring at such a facility;

(E) Require the development and maintenance of contingency plans to minimize unanticipated damage to public health or safety or the environment from fire or other sudden accidental occurrences at scrap tire storage facilities;

(F) Require the maintenance of records and submission to the director of periodic reports regarding the number or quantity in weight or volume of scrap tires received at and shipped from scrap tire storage facilities, the disposition of scrap tires shipped from the facilities, and the number or quantity in weight or volume of scrap tires present at the facilities;

(G) Prohibit the owner or operator of a scrap tire storage facility from arranging the transportation or delivery to, or receipt of scrap tires by, any facilities or premises other than any of the following:

(1) A scrap tire recovery facility licensed under section [3734.81](#) of the Revised Code;

(2) A scrap tire monocell or monofill facility licensed under section [3734.81](#) of the Revised Code;

(3) A solid waste incineration or energy recovery facility subject to regulation under this chapter;

(4) A facility located in this state that will beneficially use the scrap tires stored at the facility;

(5) A scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility that is authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of that state.

Effective Date: 03-30-1995.

3734.72 Scrap tire monocell and monofill facilities rules.

The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules having uniform application throughout the state governing scrap tire monocell and monofill facilities and the inspection of and issuance of permits and licenses for those facilities in order to ensure that they are located, maintained, operated, and closed in a manner that does not create a nuisance or a hazard to public health or safety or the environment. The rules shall do all of the following:

(A) Establish standards governing the location, design, construction, operation, closure, and post-closure care of scrap tire monocell and monofill facilities, including, without limitation, standards governing facilities for the storage or disposal of whole scrap tires by submergence in a body of water;

(B) Require submission to the director of a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount established by the director as necessary for the closure and post-closure care of such a facility, fire suppression, or other measures to abate hazards to public health or safety or the environment occurring at such a facility;

(C) Require the development and maintenance of contingency plans to minimize unanticipated damage to public health or safety or the environment from fire or other sudden accidental occurrences at scrap tire monocell and monofill facilities;

(D) Require the maintenance of records and submission to the director of periodic reports regarding the number or quantity in weight or volume of scrap tires received at and shipped from scrap tire monocell and monofill facilities, the disposition of scrap tires received at the facilities, and the number or quantity in weight or volume of scrap tires present at the facilities.

Effective Date: 03-30-1995.

3734.73 Scrap tire recovery facilities rules.

The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules having uniform application throughout the state governing scrap tire recovery facilities and the inspection of and issuance of registration certificates and permits, as applicable, and licenses for those facilities in order to ensure that the facilities are located, maintained, operated, and closed in a manner that does not create a nuisance, hazard to public health or safety, or fire hazard. The rules shall do all of the following:

(A) Require that the facilities comply with applicable requirements established under this chapter and Chapters 3704. and 6111. of the Revised Code and rules adopted under those chapters with respect to the management of any other solid wastes or any hazardous waste resulting from the operation of the facilities;

(B) Establish standards governing the location, design, construction, operation, and closure of scrap tire recovery facilities;

(C) Specify the criteria that the owner or operator of an existing or proposed scrap tire recovery facility shall consider in determining whether to apply for a registration certificate or a permit for the facility, which shall be based on the approximate number or quantity in weight or volume of scrap tires processed or to be processed at the facility and the potential for an adverse effect on the environment;

(D) Require submission to the director of a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount established by the director as necessary for the closure of such a facility, removal and proper management of scrap tires and scrap tire processing residues from such a facility, fire suppression, or other measures to abate hazards to public health or safety or the environment occurring at such a facility;

(E) Require the development and maintenance of contingency plans to minimize unanticipated damage to public health or safety or the environment from a fire in scrap tires stored at scrap tire recovery facilities and other sudden accidental occurrences at those facilities;

(F) Require the maintenance of records and submission to the director of periodic reports regarding the number or quantity in weight or volume of scrap tires received at, shipped from, or processed at scrap tire recovery facilities and the number or quantity in weight or volume of scrap tires stored at the facilities.

Effective Date: 03-30-1995.

3734.74 Scrap tire transportation rules.

The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules governing the transportation of scrap tires and the registration of persons engaged in the transportation of scrap tires. The rules shall do all of the following:

(A) Require that, before being issued a registration certificate under section [3734.83](#) of the Revised Code, a transporter submit a surety bond, a letter of credit, or other financial assurance acceptable to the director, as specified by the director in the rules, in an amount of not less than twenty thousand dollars as the director considers necessary to cover the costs of cleanup of tires improperly accumulated or discarded by the transporter and to cover liability for sudden accidental occurrences that result in damage or injury to persons or property or to the environment;

(B) Establish a system of shipping papers to accompany shipments of scrap tires. The shipping paper for each shipment shall include at least all of the following information:

(1) The name and address of each transporter who transported the shipment of scrap tires;

(2) The number of the registration certificate issued under section [3734.83](#) of the Revised Code for each transporter who transported the shipment of scrap tires, the signature of the individual transporting the scrap tires for each transporter, and the date or dates on which they were transported;

(3) The quantity in weight or volume of the scrap tires being transported;

(4) The address of the scrap tire collection, storage, monocell, monofill, or recovery facility, or other premises, where the scrap tires were deposited, or of any other registered transporter with whom the scrap tires were deposited, and the signature of the individual accepting receipt of the scrap tires for the facility or other transporter.

The rules adopted under division (B) of this section shall require that the shipping papers be prepared on a form prescribed by the director and that all shipping papers be retained by a registered transporter for not less than three years.

(C) Require that each registered transporter submit a report to the director not later than the thirty-first day of January of each year concerning all shipments of scrap tires transported by the transporter during the preceding calendar year. The report shall include at least the following information:

(1) The total quantity in weight or volume of scrap tires transported by the registered transporter;

(2) The total quantity in weight or volume of scrap tires transported to each collection, storage, monocell, monofill, or recovery facility, or other premises, or deposited with another registered transporter.

Effective Date: 02-29-1996.

3734.75 Submitting to written notice - collection facility.

(A) The owner or operator of a scrap tire collection facility that is in operation on the effective date of this section, within four months after that date, shall submit written notice to the director of environmental protection of the location of the facility, the land area occupied by the facility, and the approximate number or quantity in weight or volume of scrap tires present at the facility.

No person shall fail to comply with this division.

(B) The owner or operator of a scrap tire collection facility that is in operation on the effective date of the rules adopted under section [3734.70](#) of the Revised Code, in accordance with a schedule established in rules adopted in accordance with Chapter 119. of the Revised Code, shall register with the director by submitting an application for a scrap tire collection facility registration certificate with accompanying information regarding the facility and its method of operation for approval under the rules adopted under section [3734.70](#) of the Revised Code. The director shall issue a registration certificate or deny the registration within ninety days after receiving the application and the accompanying information. The applicant for such a registration certificate concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located. If the director denies such a registration, he shall include in the order denying it the requirement that the owner or operator cease accepting scrap tires at the facility on the effective date of the order.

No person shall fail to comply with this division or an order issued under it.

(C) On and after the effective date of the rules adopted under section [3734.70](#) of the Revised Code, no person shall establish a new, or modify an existing, scrap tire collection facility without first registering with the director by submitting an application for a scrap tire collection facility registration certificate with accompanying information regarding the facility and its method of operation for approval under those rules and receiving a registration certificate issued by the director under this division. The director shall issue a registration certificate or deny the registration within ninety days after receiving the application and the accompanying information. The applicant for such a registration certificate concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located or proposed.

(D) Divisions (A), (B), and (C) of this section and section [3734.81](#) of the Revised Code do not apply to the owner or operator of any of the following:

(1) A premises where tires are sold at retail that meets either of the following criteria:

(a) No more than one thousand scrap tires are present at any time in an unsecured, uncovered outdoor location;

(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.

(2) The premises of a tire retreading business, tire manufacturing finishing center, or tire adjustment center on which is located a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored;

(3) The premises of a business that removes tires from motor vehicles in the ordinary course of business on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;

(4) A premises where scrap tires are beneficially used for which the notice required by rules adopted under section [3734.84](#) of the Revised Code has been given.

(E) This section does not apply to either of the following:

(1) The owner or operator of a scrap tire storage, monocell, monofill, or recovery facility;

(2) A transporter registered under section [3734.83](#) of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.

Effective Date: 10-29-1993.

3734.76 Submitting to written notice - storage facility.

(A) The owner or operator of a scrap tire storage facility that is in operation on the effective date of this section, within four months after that date, shall submit written notice to the director of environmental protection of the location of the facility, the land area occupied by the facility, and the approximate number or quantity in weight or volume of scrap tires present at the facility.

No person shall fail to comply with this division.

(B) The owner or operator of a scrap tire storage facility that is in operation on the effective date of the rules adopted under section [3734.71](#) of the Revised Code, in accordance with a schedule established in rules adopted in accordance with Chapter 119. of the Revised Code, either shall register with the director by submitting an application for a scrap tire storage facility registration certificate with accompanying information regarding the facility and its method of operation or shall submit to the director an application for a scrap tire storage facility permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation, as determined by the applicant in accordance with rules adopted under section [3734.71](#) of the Revised Code, for approval under those rules. The director shall do one of the following:

(1) Issue a registration certificate or deny the registration within ninety days after receiving the application and the accompanying information;

(2) Act on an application for a permit within one hundred eighty days after receiving the application and the accompanying engineering detail plans, specifications, and information.

The applicant for such a registration certificate or permit concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located. If the director denies such a registration or permit application, he shall include in the order denying it the requirement that the owner or operator cease accepting scrap tires at the facility on the effective date of the order.

No person shall fail to comply with this division or an order issued under it.

(C) On and after the effective date of the rules adopted under section [3734.71](#) of the Revised Code, no person shall establish a new, or modify an existing, scrap tire storage facility without first either registering with the director by submitting an application for a scrap tire storage facility registration certificate with accompanying information regarding the facility and its method of operation or submitting to the director an application for a scrap tire storage facility permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation, as determined by the applicant in accordance with rules adopted under section [3734.71](#) of the Revised Code, for approval under those rules and receiving a registration certificate or a permit issued by the director under this division. The director shall do one of the following:

(1) Issue a registration certificate or deny the registration within ninety days after receiving the application and the accompanying information;

(2) Act on an application for a permit within one hundred eighty days after receiving the application and the accompanying engineering detail plans, specifications, and information.

The applicant for such a registration certificate or permit concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located or proposed.

(D) Except as otherwise provided in this division, divisions (A), (B), and (C) of this section and section [3734.81](#) of the Revised Code do not apply to the owner or operator of any of the following:

(1) A premises where tires are sold at retail and on which any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation;

(2) The premises of a tire retreading business, tire manufacturing finishing center, or tire adjustment center on which is located a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored;

(3) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;

(4) A solid waste disposal facility licensed under section [3734.05](#) of the Revised Code that stores tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;

- (5) A scrap tire monocell or monofill facility licensed under section [3734.81](#) of the Revised Code;
 - (6) A scrap tire recovery facility licensed under section [3734.81](#) of the Revised Code;
 - (7) A solid waste incineration or energy recovery facility subject to regulation under this chapter;
 - (8) A premises where scrap tires are beneficially used for which the notice required by rules adopted under section [3734.84](#) of the Revised Code has been given.
- (E) This section does not apply to either of the following:
- (1) The owner or operator of a scrap tire collection, monocell, monofill, or recovery facility;
 - (2) A transporter registered under section [3734.83](#) of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.

Effective Date: 10-29-1993.

3734.77 Notice of operation by owner or operator of a scrap tire monocell or monofill facility.

(A) The owner or operator of a scrap tire monocell or monofill facility that is in operation on the effective date of this section, within four months after that date, shall submit written notice to the director of environmental protection of the location of the facility, the land area occupied by the facility, and the approximate number or quantity in weight or volume of scrap tires present at the facility.

No person shall fail to comply with this division.

(B) The owner or operator of a scrap tire monocell or monofill facility that is in operation on the effective date of the rules adopted under section [3734.72](#) of the Revised Code, in accordance with a schedule established in rules adopted in accordance with Chapter 119. of the Revised Code, shall submit to the director an application for a scrap tire monocell or monofill facility permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under the rules adopted under section [3734.72](#) of the Revised Code. The director shall act on an application within one hundred eighty days after receiving the application and the accompanying engineering detail plans, specifications, and information. The applicant for such a permit concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located. If the director denies such a permit application, he shall include in the order denying it the requirement that the owner or operator cease accepting scrap tires at the facility on the effective date of the order.

No person shall fail to comply with this division or an order issued under it.

(C) On and after the effective date of the rules adopted under section [3734.72](#) of the Revised Code, no person shall establish a new, or modify an existing, scrap tire monocell or monofill facility without first submitting to the director an application for a scrap tire monocell or monofill facility permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules and receiving a permit issued by the director under this division. The director shall act on an application within one hundred eighty days after receiving the application and the accompanying engineering detail plans, specifications, and information. The applicant for such a permit concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located or proposed.

(D) Each permit issued under this section shall set forth in tons the authorized maximum daily waste receipt of scrap tires of the facility for which the permit was issued as that tonnage is contained in the engineering detail plans, specifications, and information regarding the facility and its method of operation approved by the director under this section.

Effective Date: 10-29-1993.

3734.78 Submitting to written notice - restoration facility.

(A) The owner or operator of a scrap tire recovery facility that is in operation on October 29, 1993, within four months after that date, shall submit written notice to the director of environmental protection of the location of the facility, the nature of the scrap tire recovery operations performed at the facility, and the approximate number or quantity in weight or volume of scrap tires present at the facility.

No person shall fail to comply with this division.

(B) The owner or operator of a scrap tire recovery facility that is in operation on the effective date of the rules adopted under section [3734.73](#) of the Revised Code, in accordance with a schedule established in rules adopted in accordance with Chapter 119. of the Revised Code, either shall register with the director by submitting an application for a scrap tire recovery facility registration certificate with accompanying information regarding the facility and its method of operation or shall submit to the director an application for a scrap tire recovery facility permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation, as determined by the applicant in accordance with rules adopted under section [3734.73](#) of the Revised Code, for approval under those rules. The director shall do one of the following:

(1) Issue a registration certificate or deny the registration within ninety days after receiving the application and the accompanying information;

(2) Act on an application for a permit within one hundred eighty days after receiving the application and the accompanying engineering detail plans, specifications, and information.

The applicant for such a registration certificate or permit concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located. If the director denies such a registration or permit application, the director shall include in the order denying it the requirement that the owner or operator cease accepting scrap tires at the facility on the effective date of the order.

No person shall fail to comply with this division or an order issued under it.

(C) On and after the effective date of the rules adopted under section [3734.73](#) of the Revised Code, no person shall establish a new, or modify an existing, scrap tire recovery facility without first either registering with the director by submitting an application for a scrap tire recovery facility registration certificate with accompanying information regarding the facility and its method of operation or submitting to the director an application for a scrap tire recovery facility permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation, as determined by the applicant in accordance with rules adopted under section [3734.73](#) of the Revised Code, for approval under those rules and receiving a registration certificate or a permit issued by the director under this division. The director shall do one of the following:

(1) Issue a registration certificate or deny the registration within ninety days after receiving the application and the accompanying information;

(2) Act on an application for a permit within one hundred eighty days after receiving the application and the accompanying engineering detail plans, specifications, and information.

The applicant for such a registration certificate or permit concurrently shall submit an application for a license under section [3734.81](#) of the Revised Code to the board of health of the health district in which the facility is located or proposed.

(D) Each registration certificate or permit issued under this section shall set forth in tons the daily design input capacity of scrap tires of the facility for which the registration certificate or permit was issued as that tonnage is contained in the accompanying information regarding the facility and its method of operation or in the engineering detail plans, specifications, and information regarding the facility and its method of operation, as applicable, approved by the director under this section.

(E) Nothing in this section precludes the owner or operator of a scrap tire recovery facility from conducting a test burn in accordance with guidelines adopted by the director without the necessity to obtain a

registration certificate or a permit under this section, provided that all such testing shall comply with applicable state and federal statutes, rules, and regulations governing air pollution control.

(F)

(1) Except as otherwise provided in this division, divisions (A) through (E) of this section and section [3734.81](#) of the Revised Code do not apply until March 1, 2001, to the owner or operator of a scrap tire recovery facility that was in operation as of March 1, 1996, and processes not less than seventy-five per cent bias-ply tires. Not later than March 1, 2001, or thirty days after division (F)(1) of this section ceases to apply to such a scrap tire recovery facility, whichever occurs earlier, the owner or operator of the facility shall submit to the director an application for a registration or permit, as applicable, and a license in accordance with this section and section [3734.81](#) of the Revised Code and rules adopted under them. For the purpose of complying with division (C)(1) of section [3734.81](#) of the Revised Code, the number of tires collected or stored at such a scrap tire recovery facility shall be determined as of March 1, 2001, or as of the date on which division (F)(1) of this section ceases to apply to the facility. Division (F)(1) of this section shall apply only if the total weight of bias-ply tires processed at a scrap tire recovery facility equals or exceeds seventy-five per cent of the total weight of all scrap tires and other rubber goods processed at the facility in at least eight months in each calendar year.

(2) The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code that require the owner or operator of a scrap tire recovery facility described in division (F)(1) of this section to maintain information demonstrating the applicability of that division to the facility and to operate the facility in a manner that does not adversely affect public safety and the environment. The owner or operator of such a scrap tire recovery facility shall comply with those rules.

Effective Date: 02-29-1996.

3734.79 Permit application fees.

(A) Except as provided in division (B) of this section, each application for a permit submitted under sections [3734.76](#) to [3734.78](#) of the Revised Code shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the scrap tire management fund created in section [3734.82](#) of the Revised Code. If a permit is issued, the amount of the application fee paid shall be deducted from the amount of the applicable permit fee due under division (R) of section [3745.11](#) of the Revised Code.

(B) Division (A) of this section does not apply to an application for a permit for a scrap tire storage facility submitted under section [3734.76](#) of the Revised Code if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-29-1993 .

3734.80 Municipal corporation, county, or township regulations.

(A) Except as provided in division (B) of this section, no political subdivision shall require any additional approval, consent, permit, certificate, or condition for the construction, modification, or operation of a scrap tire monocell or monofill facility authorized by a permit issued under section [3734.77](#) of the Revised Code or a scrap tire recovery facility registered or authorized by a permit issued under section [3734.78](#) of the Revised Code.

(B)

(1) Division (A) of this section does not prohibit a municipal corporation, county, or township from enforcing a zoning ordinance or resolution, or any amendment thereto, adopted pursuant to the charter of the municipal corporation or county or Chapter 303. or 519., or sections [713.06](#) to [713.15](#), of the Revised Code, whichever is applicable, that became effective prior to two years before the submission of an application for a permit to establish or modify a scrap tire monocell or monofill facility under division (C) of section [3734.77](#) of the Revised Code or an application for a registration certificate or a permit to establish or

modify a scrap tire recovery facility under division (C) of section [3734.78](#) of the Revised Code and that applies to the construction or modification, and operation, of a scrap tire monocell, monofill, or recovery facility.

(2) Division (A) of this section does not prohibit a municipal corporation, county, or township from requiring a zoning certificate for a scrap tire monocell, monofill, or recovery facility that is subject to a zoning ordinance or resolution, or amendment thereto, of a municipal corporation, county, or township described in division (B)(1) of this section.

Effective Date: 10-29-1993.

3734.81 Obtaining license from board of health or director of environmental protection agency.

(A) On and after the effective date of the applicable rules adopted under section [3734.70](#), [3734.71](#), [3734.72](#), or [3734.73](#) of the Revised Code and except as otherwise provided in division (B) of this section, division (D) of section [3734.75](#), or division (D) of section [3734.76](#) of the Revised Code, no person shall operate a scrap tire collection, storage, monocell, monofill, or recovery facility without a license issued under this section by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section [3734.08](#) of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing scrap tire collection, storage, monocell, monofill, or recovery facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section [3734.08](#) of the Revised Code, from the director. The application for any such license shall be submitted to the board of health or the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. Each application for a license submitted under this section shall be accompanied by a nonrefundable application fee of one hundred dollars, except that the application fee does not apply to an application for a license for a scrap tire collection or storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code. In addition to the application fee, if any, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the fee is late. If a license is issued, the amount of the application fee, if any, shall be deducted from the amount of the license fee due under division (A), (B), (C), or (D) of section [3734.82](#) of the Revised Code. If the application for an annual license is submitted to a board of health on the approved list under section [3734.08](#) of the Revised Code, the application fee, if any, and any accompanying late payment fees shall be credited to the special fund of the health district created in division (F) of section [3734.82](#) of the Revised Code. If the application for an annual license is submitted to the director, the application fee, if any, and any accompanying late payment fees shall be credited to the scrap tire management fund created in that section.

The board of health or the director may include such terms and conditions in a license or revision to a license issued under this section as are appropriate to ensure compliance with this chapter and the applicable rules adopted under it. Terms or conditions in a license or revision to a license issued by a board of health shall be consistent with and pertain only to the subjects addressed in the applicable rules adopted under section [3734.70](#), [3734.71](#), [3734.72](#), or [3734.73](#) of the Revised Code.

A person who has received a license, upon sale or disposition of the facility, may have the license transferred to another person with the consent of the board of health or the director. Upon issuance of a license under this section, the board of health shall mail a copy of the license to the director.

(B) The owner or operator of a scrap tire collection, storage, monocell, monofill, or recovery facility that is in operation on the effective date of the applicable rules adopted under section [3734.70](#), [3734.71](#), [3734.72](#), or [3734.73](#) of the Revised Code and who complies with division (B) of section [3734.75](#), division (B) of section [3734.76](#), division (B) of section [3734.77](#), or division (B) of section [3734.78](#) of the Revised Code, whichever is applicable, may continue to operate the facility without a license until the director issues a final action on the application for a registration certificate or permit for the facility submitted thereunder, as applicable.

(C)

(1) Except as otherwise provided in division (C)(2) of this section, the owner or operator of a scrap tire collection, storage, or recovery facility that is in operation on the effective date of the applicable rules adopted under section [3734.70](#), [3734.71](#), or [3734.73](#) of the Revised Code shall submit with his application for an initial license under this section, in addition to any other information required by the board of health or the director, as appropriate, information indicating the number of scrap tires collected or stored at the facility on the effective date of the applicable rules. For each of the five years thereafter, the owner or operator, when submitting an application under this section for an annual license for the facility, shall submit with his application, in addition to any other information required by the board or the director, as appropriate, information demonstrating that the number of scrap tires indicated on the application for the initial license as having been collected or stored at the facility has been or will have been reduced by at least twenty per cent during the current license year or that at least twenty per cent of those tires have been or will have been stored in compliance with applicable requirements established in rules adopted by the director under section [3734.71](#) of the Revised Code during the current license year. If the owner or operator fails to make either demonstration, the board or the director, as appropriate, shall deny the license for the facility in accordance with section [3734.09](#) of the Revised Code.

(2) With respect to a scrap tire collection or storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code and that is in operation on the effective date of this section and of the applicable rules adopted under section [3734.70](#) or [3734.71](#) of the Revised Code, the licensed salvage dealer shall submit with his application for an initial license under this section, in addition to any other information required by the board of health or the director, as appropriate, information indicating the number of scrap tires collected or stored at the facility on the effective date of the applicable rules and a plan for compliance with the requirement of division (C)(2) of this section for either reducing the number of scrap tires collected or stored at the facility or storing the tires in compliance with rules adopted under section [3734.71](#) of the Revised Code. Commencing with the third year after the effective date of the applicable rules and for each of the four years thereafter, the licensed salvage dealer, when submitting his application under this section for an annual license for the facility, shall submit with his application, in addition to any other information required by the board or the director, as appropriate, information demonstrating that the number of scrap tires indicated on the application for the initial license as having been collected or stored at the facility has been or will have been reduced by at least twenty per cent during the current license year or that at least twenty per cent of those tires have been or will have been stored in compliance with applicable requirements established in rules adopted by the director under section [3734.71](#) of the Revised Code during the current license year. If the licensed salvage dealer fails to make either demonstration, the board or the director, as appropriate, shall deny the license for the facility in accordance with section [3734.09](#) of the Revised Code.

(D) The owner or operator of a scrap tire collection, monocell, monofill, or recovery facility licensed under this section need not obtain an additional license under this section for the temporary storage of scrap tires at the facility.

(E) The owner or operator of a scrap tire storage, monocell, monofill, or recovery facility licensed under this section need not obtain an additional license under this section for the temporary collection of scrap tires at the facility.

Effective Date: 03-30-1995.

3734.82 Annual fee for scrap tire recovery facility license - scrap tire management fund.

(A) The annual fee for a scrap tire recovery facility license issued under section [3734.81](#) of the Revised Code shall be in accordance with the following schedule:

Daily Design	Annual
Input Capacity License	
(Tons)	Fee
1 or less	\$ 100

2 to 25	500
26 to 50	1,000
51 to 100	1,500
101 to 200	2,500
201 to 500	3,500
501 or more	5,500

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section [3734.78](#) of the Revised Code.

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule:

Authorized Maximum Annual Daily Waste Receipt (Tons)	License Fee
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under this division, the authorized maximum daily waste receipt shall be the maximum amount of scrap tires the facility is authorized to receive daily that is established in the permit for the facility, and any modification to that permit, issued under section [3734.77](#) of the Revised Code.

(C)

(1) Except as otherwise provided in division (C)(2) of this section, the annual fee for a scrap tire storage facility license shall equal one thousand dollars times the number of acres on which scrap tires are to be stored at the facility during the license year, as set forth on the application for the annual license, except that the total annual license fee for any such facility shall not exceed three thousand dollars.

(2) The annual fee for a scrap tire storage facility license for a storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is one hundred dollars.

(D)

(1) Except as otherwise provided in division (D)(2) of this section, the annual fee for a scrap tire collection facility license is two hundred dollars.

(2) The annual fee for a scrap tire collection facility license for a collection facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is fifty dollars.

(E) Except as otherwise provided in divisions (C)(2) and (D)(2) of this section, the same fees apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after the issuance of a license. The fees include the cost of licensing, all inspections, and other costs associated with the administration of the scrap tire provisions of this chapter and rules adopted under them. Each license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director of environmental protection, as appropriate, within thirty days after the issuance of the license.

(F) The board of health shall retain fifteen thousand dollars of each license fee collected by the board under division (B) of this section, or the entire amount of any such fee that is less than fifteen thousand dollars, and the entire amount of each license fee collected by the board under divisions (A), (C), and (D) of this section. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the scrap tire provisions of this chapter and rules adopted under them. The remainder, if any, of each license fee collected by the board under division (B) of this section shall be transmitted to the director within forty-five days after receipt of the fee.

(G) The director shall transmit the moneys received by the director from license fees collected under division (B) of this section to the treasurer of state to be credited to the scrap tire management fund, which is hereby created in the state treasury. The fund shall consist of all federal moneys received by the environmental protection agency for the scrap tire management program; all grants, gifts, and contributions made to the director for that program; and all other moneys that may be provided by law for that program. The director shall use moneys in the fund as follows:

(1) Expend amounts determined necessary by the director to implement, administer, and enforce the scrap tire provisions of this chapter and rules adopted under them;

(2) During each fiscal year, if the director of environmental protection determines it to be appropriate and advisable, request the director of budget and management to, and the director of budget and management may, transfer up to one million dollars to the scrap tire grant fund created in section [3734.822](#) of the Revised Code for supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. In addition, during a fiscal year, the director of environmental protection may request the director of budget and management to, and the director of budget and management shall, transfer up to an additional five hundred thousand dollars to the scrap tire grant fund for scrap tire amnesty events and scrap tire cleanup events.

(3) After the expenditures and transfers are made under divisions (G)(1) and (2) of this section, expend the balance of the money in the scrap tire management fund remaining in each fiscal year to conduct removal actions under section [3734.85](#) of the Revised Code and to provide grants to boards of health under section [3734.042](#) of the Revised Code.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 09-05-2001 .

3734.821 [Repealed].

Repealed by 132nd General Assembly File No. TBD, HB 49, §105.01, eff. 9/29/2017.

Effective Date: 09-05-2001; 2008 HB562 09-22-2008 .

3734.822 Scrap tire grant fund.

(A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section [3734.82](#) of the Revised Code. The director of environmental protection may make grants from the fund for the following purposes:

(1) Supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes;

(2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts.

Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (F)(6) of section 3734.49 of the Revised Code.

(B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria:

(1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;

(2) The degree of local financial support for a proposed project;

(3) The technical merit and quality of a proposed project.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Renumbered from § 1502.12 and amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 06-06-2001; 12-30-2004; 06-27-2005; 04-06-2007.

3734.83 Registration of transporters.

(A) Except as provided in division (D) of this section, no person shall transport scrap tires anywhere in this state unless the business or governmental entity that employs the person first registers with and obtains a registration certificate from the director of environmental protection. No more than one registration certificate shall be required of any single business or governmental entity. An applicant shall file an application with the director in such form as the director prescribes. The application shall contain such information as the director prescribes, including at least the name and address of the principal office of the applicant in this state, provided that the information shall not include the license plate number or vehicle identification number of any motor vehicle used by the applicant to transport scrap tires. Each application for a registration certificate shall be accompanied by a registration fee of not more than three hundred dollars as established by rules adopted by the director in accordance with Chapter 119. of the Revised Code, except that a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code shall be issued a registration certificate or renewal of a registration certificate under this section without the payment of any registration fee if the salvage dealer transports only scrap tires obtained as a direct consequence of receiving motor vehicles for salvage and transports the tires only on motor vehicles owned or leased by him.

A registration certificate issued under this section is valid for one year from its effective date and may be renewed annually for a term of one year by submission to the director of a renewal application on a form prescribed by the director and payment of the registration fee established in rules adopted under this section. The registration and renewal fees shall be credited to the scrap tire management fund created in section [3734.82](#) of the Revised Code.

A transporter registered under this division shall maintain a copy of the registration certificate in each motor vehicle used by the registrant to transport scrap tires.

(B) The director may issue an order in accordance with Chapter 119. of the Revised Code denying, suspending, or revoking the registration certificate of a person who is registered under this section and who has violated, or whose employee has violated, any of the scrap tire provisions of this chapter or a rule adopted under them while transporting scrap tires. A transporter whose registration certificate has been denied, suspended, or revoked shall immediately notify each of his customers of that fact by certified mail.

(C) Except as provided in division (D) of this section, no person who possesses scrap tires shall cause them to be transported by any person who is not registered as a transporter under this section.

(D) Divisions (A) and (C) of this section do not apply to any person who transports ten or fewer scrap tires in a single load; any person who transports scrap tires for his own use in agriculture or in producing or processing aggregates; any political subdivision engaging in the collection of solid wastes other than scrap tires, or any person engaging in the collection of such solid wastes under a license or franchise from a political subdivision, when ten or fewer scrap tires are transported with any single load of other types of solid wastes; or any person who is engaged primarily in the retail sale of tires for farm machinery, construction equipment, commercial cars, commercial tractors, motor buses, or semitrailers and who transports twenty-five or fewer whole scrap tires in a single load and not more than two hundred fifty scrap tires in a calendar year, all of which tires either are or were used primarily as tires for farm machinery, construction equipment, commercial cars, commercial tractors, motor buses, or semitrailers.

(E) A transporter of scrap tires is liable for the safe delivery of any scrap tires from the time he obtains them until he delivers them to a scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code; delivers them to a solid waste incineration or energy

recovery facility subject to regulation under this chapter; delivers them to a premises where they will be beneficially used; delivers them to another transporter registered under this section; or transports them out of the state. A generator of scrap tires who has complied with division (C) of this section is not liable under statute or common law in his capacity as the generator of the scrap tires for the actions or omissions of any transporter registered under this section or any scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code, or any solid waste incineration or energy recovery facility subject to regulation under this chapter, with respect to the scrap tires transported by the registered transporter and is not liable in his capacity as the generator of the scrap tires for violations of any scrap tire provision of this chapter or rules adopted under those provisions governing scrap tire collection, storage, monocell, monofill, or recovery facilities and the transportation of scrap tires, or any other provision of this chapter and rules adopted under it governing solid waste incineration and energy recovery facilities, with respect to the scrap tires handled by any such licensed facility or transported by the registered transporter.

This division does not apply to a person who transports ten or fewer scrap tires in a single load or who transports any number of scrap tires for his own use in agriculture or in producing or processing aggregates.

(F) A generator of scrap tires who, in good faith and prior to the time when transporters of scrap tires are required to be registered pursuant to rules adopted under section [3734.74](#) of the Revised Code, caused scrap tires generated by him to be transported by another is not liable under statute or common law in his capacity as the generator of the scrap tires for the actions or omissions of the transporter, or of any other person to whom the transporter delivered the scrap tires, with respect to the scrap tires transported by the transporter.

Effective Date: 10-29-1993.

3734.84 Notification requirements for persons who beneficially use scrap tires.

The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code establishing notification requirements for persons who beneficially use scrap tires, including at least rules establishing notification procedures and specifying information to be included in a notification.

Effective Date: 10-29-1993.

3734.85 Enforcement and removal.

(A) On and after the effective date of the rules adopted under sections [3734.70](#), [3734.71](#), [3734.72](#), and [3734.73](#) of the Revised Code, the director of environmental protection may take action under this section to abate accumulations of scrap tires. If the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, the director shall issue an order under section [3734.13](#) of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner.

If the director is unable to ascertain immediately the identity of the person responsible for causing the accumulation of scrap tires, the director shall examine the records of the applicable board of health and law enforcement agencies to ascertain that person's identity. Before initiating any enforcement or removal actions under this division against the owner of the land on which the accumulation is located, the director shall initiate any such actions against the person that the director has identified as responsible for causing the accumulation of scrap tires. Failure of the director to make diligent efforts to ascertain the identity of

the person responsible for causing the accumulation of scrap tires or to initiate an action against the person responsible for causing the accumulation shall not constitute an affirmative defense by a landowner to an enforcement action initiated by the director under this division requiring immediate removal of any accumulation of scrap tires.

Upon the written request of the recipient of an order issued under this division, the director may extend the time for compliance with the order if the request demonstrates that the recipient has acted in good faith to comply with the order. If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was so extended, within that time, the director shall take such actions as the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal.

The director shall enter into contracts for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this section.

If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director shall record the costs at the office of the county recorder of the county in which the accumulation of scrap tires was located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires was located until discharged. Upon the written request of the director, the attorney general shall bring a civil action against the person responsible for the accumulation of the scrap tires that were the subject of the removal operation to recover the costs for which the person is liable under this division. Any money so received or recovered shall be credited to the scrap tire management fund created in section [3734.82](#) of the Revised Code.

If, in a civil action brought under this division, an owner of real property is ordered to pay to the director the costs of a removal action that removed an accumulation of scrap tires from the person's land or if a lien is placed on the person's land for the costs of such a removal action, and, in either case, if the landowner was not the person responsible for causing the accumulation of scrap tires so removed, the landowner may bring a civil action against the person who was responsible for causing the accumulation to recover the amount of the removal costs that the court ordered the landowner to pay to the director or the amount of the removal costs certified to the county recorder as a lien on the landowner's property, whichever is applicable. If the landowner prevails in the civil action against the person who was responsible for causing the accumulation of scrap tires, the court, as it considers appropriate, may award to the landowner the reasonable attorney's fees incurred by the landowner for bringing the action, court costs, and other reasonable expenses incurred by the landowner in connection with the civil action. A landowner shall bring such a civil action within two years after making the final payment of the removal costs to the director pursuant to the judgment rendered against the landowner in the civil action brought under this division upon the director's request or within two years after the director certified the costs of the removal action to the county recorder, as appropriate. A person who, at the time that a removal action was conducted under this division, owned the land on which the removal action was performed may bring an action under this division to recover the costs of the removal action from the person responsible for causing the accumulation of scrap tires so removed regardless of whether the person owns the land at the time of bringing the action.

Subject to the limitations set forth in division (G) of section [3734.82](#) of the Revised Code, the director may use moneys in the scrap tire management fund for conducting removal actions under this division. Any moneys recovered under this division shall be credited to the scrap tire management fund.

(B) The director shall initiate enforcement and removal actions under division (A) of this section in accordance with the following descending listing of priorities:

(1) Accumulations of scrap tires that the director finds constitute a fire hazard or threat to public health;

- (2) Accumulations of scrap tires determined by the director to contain more than one million scrap tires;
 - (3) Accumulations of scrap tires in densely populated areas;
 - (4) Other accumulations of scrap tires that the director or board of health of the health district in which the accumulation is located determines constitute a public nuisance;
 - (5) Any other accumulations of scrap tires present on premises operating without a valid license issued under section [3734.05](#) or [3734.81](#) of the Revised Code.
- (C) The director shall not take enforcement and removal actions under division (A) of this section against the owner or operator of, or the owner of the land on which is located, any of the following:
- (1) A premises where not more than one hundred scrap tires are present at any time;
 - (2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:
 - (a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location.
 - (b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.
 - (3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;
 - (4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;
 - (5) A solid waste facility licensed under section [3734.05](#) of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;
 - (6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use;
 - (7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;
 - (8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section [3734.81](#) of the Revised Code;
 - (9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;
 - (10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section [3734.84](#) of the Revised Code has been given;
 - (11) A transporter registered under section [3734.83](#) of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.
- (D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief.
- (E) An owner of real property upon which there is located an accumulation of not more than five thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met:
- (1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise.

(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property.

(3) The owner of the property did not participate in or consent to the placing of the tires on the property.

(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property.

(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this section.

(6) The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the owner of the property.

Amended by 129th General Assembly File No. 115, SB 294, §1, eff. 9/5/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 03-30-1995; 09-29-2005

3734.86 Disposal of off-road construction and mining equipment tires.

Notwithstanding any provision in this chapter and rules adopted under it to the contrary, the owner of any scrap tires that are off-road construction and mining equipment tires and that have a bead width of at least fourteen inches and a rim or wheel diameter of at least twenty-four inches may dispose of those tires on-site without obtaining a permit under section [3734.77](#) of the Revised Code or a license under section [3734.81](#) of the Revised Code if the owner of the tires owns or leases the site where the tires are disposed of.

Effective Date: 10-29-1993.

3734.87 Report and recommendations of director of environmental protection.

During the years 2002 and 2006, the director of environmental protection shall submit a report to the speaker of the house of representatives and the president of the senate concerning the implementation, administration, and enforcement of the scrap tire provisions of this chapter and rules adopted under them, including at least a discussion of the expenditure of moneys from the scrap tire management fund created in section [3734.82](#) of the Revised Code and recommendations concerning any legislative changes needed to improve that implementation, administration, and enforcement.

Effective Date: 09-29-1999.

3734.90 Tire sales fee definitions.

As used in sections 3734.90 to [3734.9014](#) of the Revised Code:

(A) "Tire" means any tire with a rim or wheel diameter of thirteen inches or more that is designed and manufactured for use on a motor vehicle as "motor vehicle" is defined in section [4511.01](#) of the Revised Code. "Tire" does not include any used or retreaded tire or any tire that is part of a new motor vehicle as defined in section [4517.01](#) of the Revised Code when the motor vehicle is manufactured or initially received in this state.

(B) "Wholesale distributor" means a person who distributes tires to retail dealers in this state or to its own retail establishments in this state. "Wholesale distributor" does not include a person who sells a minimal number of tires to others on an irregular and noncontinuous basis.

(C) "Retail dealer" means a person engaged in the business of selling tires at retail in this state.

(D) "Sale" and "selling" include exchange, consignment, barter, gift, and offer for sale. "Sale" or "selling" includes the removal of tires from a stock of merchandise by a wholesale distributor, or a retail dealer, for its own use.

Effective Date: 10-29-1993.

3734.901 Tire fee administrative fund.

(A)

(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections [3734.90](#) to [3734.9014](#) of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section [3734.82](#) of the Revised Code. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, 2020.

(2) Beginning on July 1, 2011, and ending on June 30, 2020, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section [940.15](#) of the Revised Code.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 6/30/2013.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 6/30/2011.

Amended by 128th General Assembly File No. 26, SB 155, §1, eff. 3/31/2010.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 09-05-2001; 06-30-2005

3734.902 Tax commissioner administration and enforcement.

(A) The tax commissioner shall administer sections [3734.90](#) to [3734.9014](#) of the Revised Code and may adopt such rules as he finds necessary for the administration and enforcement of the fee.

(B) The requirements, authorizations, procedures, limitations, and penalties set forth in Chapter 5703. of the Revised Code, except for those set forth in sections [5703.50](#) to [5703.54](#) of the Revised Code, apply to the administration, collection, payment, and enforcement of the fee levied under sections [3734.90](#) to [3734.9014](#) of the Revised Code in the same manner and with the same effect as in the case of the other laws that the department of taxation is required to administer and enforce.

(C) Sections [3734.10](#), [3734.101](#), and [3734.13](#) do not apply to the enforcement of sections [3734.90](#) to [3734.9014](#) of the Revised Code and rules adopted under division (A) of this section.

Effective Date: 10-29-1993.

3734.903 Liability of wholesale distributor and retail dealer.

(A) Each wholesale distributor is liable for the fee imposed by section [3734.901](#) of the Revised Code on all tires sold by him to retail dealers in this state.

(B) Each wholesale distributor who uses tires in his own operation in this state is liable for the fee on the tires.

(C) Each retail dealer who acquires tires from a person who is not registered with the tax commissioner as a wholesale distributor pursuant to section [3734.9011](#) of the Revised Code is liable for the fee imposed by section [3734.901](#) of the Revised Code on the tires acquired for retail sale in this state to the same extent and in the same amount as the fee imposed on wholesale distributors.

Effective Date: 10-29-1993.

3734.904 Filing returns.

(A) By the twentieth day of each month, each person required to pay the fee imposed by section [3734.901](#) of the Revised Code shall file with the tax commissioner a return as prescribed by the tax commissioner and shall make payment of the full amount of the fee due for the preceding month after deduction of any discount provided for under division (E) of this section. The return shall be signed by the person required to file it, or an authorized employee, officer, or agent. The return shall be deemed filed when received by the tax commissioner.

(B) Any person required by this section to file a return who fails to file such a return within the period prescribed may be required to pay an additional charge of fifty dollars or ten per cent of the fee required to be paid for the reporting period, whichever is greater. The commissioner may collect the additional charge by assessment pursuant to section [3734.907](#) of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating thereto.

(C) If any fee due is not paid timely in accordance with this section, the person liable for the fee shall pay interest, calculated at the rate per annum as prescribed by section [5703.47](#) of the Revised Code, from the date the fee payment was due to the date of payment or to the date an assessment is issued, whichever occurs first. Interest shall be paid in the same manner as the fee, and the commissioner may collect the interest by assessment pursuant to section [3734.907](#) of the Revised Code.

(D) If, in the estimation of the tax commissioner, the average liability of the person liable for the fee is such as not to merit monthly filing, the commissioner may authorize the person to file and pay at less frequent intervals. Returns are due by the twentieth day of the month following the close of the applicable reporting period authorized under this division.

(E) If a return is filed and the amount of the fee shown to be due on the return is paid on or before the date that the return is required to be filed under division (A) of this section or pursuant to division (D) of this section, whichever is applicable, the person liable for the fee is entitled to a discount of four per cent of the amount shown to be due on the return.

(F) All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the fee imposed by section [3734.901](#) of the Revised Code.

Effective Date: 01-01-2003.

3734.905 Refund of fee.

(A) The treasurer of state shall refund the fee imposed by section [3734.901](#) of the Revised Code paid illegally or erroneously, or paid on an illegal or erroneous assessment. Applications for refund shall be filed with the tax commissioner on a form prescribed by the commissioner, within four years of the illegal or erroneous payment of the fee.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

The certified amount shall include interest calculated at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.

(B) When the fee imposed pursuant to section 3734.901 of the Revised Code has been paid on tires that are sold by a retail dealer or wholesale distributor to a motor vehicle manufacturer, or to a wholesale distributor or retail dealer for the purpose of resale outside this state, the seller in this state is entitled to a refund of the amount of the fee actually paid on the tires. To obtain a refund under this division, the seller shall apply to the tax commissioner, shall furnish documentary evidence satisfactory to the commissioner that the price paid by the purchaser did not include the fee, and shall provide the name and address of the purchaser to the commissioner. The seller shall apply on the form prescribed by the commissioner, within four years after the date of the sale. Upon receipt of an application, the commissioner shall determine the amount of any refund due and shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created in section 5703.052 of the Revised Code. The certified amount shall include interest calculated at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.

(C) If any person entitled to a refund of fees under this section, or section 5703.70 of the Revised Code, is indebted to the state for any tax administered by the tax commissioner, or any charge, penalties, or interest arising from such tax, the amount allowable on the application for refund first shall be applied in satisfaction of the debt.

Amended by 130th General Assembly File No. TBD, HB 492, §1, eff. 9/17/2014.

Effective Date: 09-06-2002 .

3734.906 Records.

Every person liable for the fee imposed by section 3734.901 of the Revised Code shall keep complete and accurate records of all sales and purchases of tires as required by the tax commissioner. The records shall be available for inspection by the commissioner or his authorized agent and shall be preserved for four years after the return was due or filed, whichever is later.

Effective Date: 10-29-1993.

3734.907 Personal liability.

(A) Any person required to pay the fee imposed by section 3734.901 of the Revised Code is personally liable for the fee. The tax commissioner may make an assessment, based upon any information in the commissioner's possession, against any person who fails to file a return or pay any fee, interest, or additional charge as required by sections 3734.90 to 3734.9014 of the Revised Code. The commissioner shall give the person assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) When the information in the possession of the tax commissioner indicates that a person liable for the fee imposed by section 3734.901 of the Revised Code has not paid the full amount of fee due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on the audit.

(C) A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The commissioner may adopt rules providing for the imposition and remission of the penalties.

(D) Unless the person assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the person assessed or that person's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. The petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which the person's business is conducted. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state tire fee," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of the fee due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the day the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the fee and may be collected by the issuance of an assessment under this section.

(F) If the tax commissioner believes that collection of the fee will be jeopardized unless proceedings to collect or secure collection of the fee are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the fee. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (E) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's legal representative, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (D) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(G) All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the fee imposed by section 3734.901 of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 09-06-2002 .

3734.908 Dissolution, termination, or bankruptcy does not discharge personal liability.

If any corporation, limited liability company, or business trust required to file returns pursuant to section [3734.904](#) of the Revised Code fails to remit to the state any fee due under sections [3734.90](#) to [3734.9014](#) of the Revised Code, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, and any of its officers, members, managers, trustees, or other persons who are responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, is personally liable for the failure to remit the fee. The dissolution, termination, or bankruptcy of the corporation, limited liability company, or business

trust does not discharge a responsible person's liability for the corporation's, limited liability company's, or business trust's failure to remit the fee due. The tax commissioner may assess a responsible person under section [3734.907](#) of the Revised Code.

Effective Date: 07-01-1994.

3734.909 Limitation on assessment.

Except for assessments against responsible persons under section [3734.908](#) of the Revised Code, no assessment of the fee imposed by sections [3734.90](#) to [3734.9014](#) of the Revised Code shall be made by the tax commissioner more than four years after the date on which the return for the period assessed was due or was filed, whichever date is later. This section does not bar an assessment when any of the following occur:

- (A) The person assessed failed to file a return required by section [3734.904](#) of the Revised Code;
- (B) The person assessed knowingly filed a false or fraudulent return;
- (C) The person assessed and the tax commissioner have waived in writing the time limitation.

Effective Date: 10-29-1993.

3734.9010 Tire fee administrative fund.

Two per cent of all amounts paid to the treasurer of state pursuant to sections [3734.90](#) to [3734.9014](#) of the Revised Code shall be certified directly to the credit of the tire fee administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering those sections. The remainder of the amounts paid to the treasurer of state shall be deposited and credited in accordance with section [3734.901](#) of the Revised Code.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-29-1993; 06-30-2005

3734.9011 Registration of wholesale distributors, retail dealers.

(A) No wholesale distributor or other person shall sell tires to a retail dealer within this state, and no retail dealer or other person shall import or otherwise acquire tires for sale at retail within this state from a person who is not a registered wholesale distributor, without having a registration therefor.

(B) Each wholesale distributor and each retail dealer required to be registered under division (A) of this section shall apply for registration on or before the first day of doing business that requires the registration. The application shall be filed with the tax commissioner in a form and providing such information as prescribed by the commissioner. The commissioner shall assign an account number to each registration and shall so notify the registrant. An unrevoked registration shall remain in effect until canceled by the wholesale distributor or retail dealer upon the cessation of business.

(C) The tax commissioner shall not accept a registration under division (B) of this section or may suspend or revoke the registration of a wholesale distributor or retail dealer if the wholesale distributor or retail dealer has failed to file any returns, submit any information, or pay any outstanding taxes, charges, or fees as required for any tax, charge, or fee administered by the commissioner, to the extent that the commissioner is aware of such failure at the time of the application.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017, op. 1/1/2018.

Effective Date: 10-29-1993.

3734.9012 Wholesale distributor to provide statement to customers.

Each wholesale distributor required to be registered under division (A) of section [3734.9011](#) of the Revised Code shall provide its customers with a statement that the distributor is liable for the fee imposed by section [3734.901](#) of the Revised Code and the distributor's account number assigned by the tax commissioner. This section does not apply to sales at retail.

Effective Date: 10-29-1993.

3734.9013 Prohibited acts.

(A) No person shall fail to file any return or report required to be filed by section [3734.904](#) of the Revised Code, or file or cause to be filed any incomplete, false, or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(B) No person shall sell at retail any tire unless the tire was obtained from a wholesale dealer holding a current, valid registration or obtained under his own current, valid registration issued pursuant to section [3734.9011](#) of the Revised Code.

Effective Date: 10-29-1993.

3734.9014 Maintaining list of registered distributors.

The tax commissioner shall maintain a list of the wholesale distributors registered under division (A) of section [3734.9011](#) of the Revised Code. The list shall contain the name and address of each distributor and the account number assigned to each by the tax commissioner. The list and subsequent updates of it may be furnished to persons on the list and shall be open to public inspection in the office of the tax commissioner.

Effective Date: 10-29-1993.

3734.91 Definitions - lead acid batteries.

As used in sections 3734.91 to [3734.915](#) of the Revised Code:

(A) "Consumer product" means any device that primarily is intended for personal or household use and typically is sold, distributed, or available to the general population through retail or mail-order distribution. "Consumer product" includes, but is not limited to, computers, electronic games, telephones, radios, and similar electronics. "Consumer product" does not include vehicles, motorcycles, wheelchairs, boats, or other forms of motive power.

(B) "Lead-acid battery" means a battery that contains lead and sulfuric acid, is used as a power source, and is not intended as a power source for consumer products.

(C) "Retailer" means a person that sells lead-acid batteries directly to the end user.

(D) "Secondary lead smelter" means a facility that produces lead from a lead-bearing scrap material by smelting the material to the metallic form and that is permitted or licensed by a state or the United States environmental protection agency.

(E) "Wholesaler" means a person that sells replacement lead-acid batteries for resale.

Effective Date: 2008 HB169 04-25-2008.

3734.911 Prohibiting commingling of used lead-acid batteries.

(A) Notwithstanding division (D) of section [3734.02](#) of the Revised Code and any rule adopted under this chapter to the contrary, no person shall commingle a used lead-acid battery with solid waste or dispose of a used lead-acid battery at a solid waste or hazardous waste facility.

(B) Notwithstanding division (D) of section [3734.02](#) of the Revised Code and any rule adopted under this chapter to the contrary, and except as provided in division (C) of this section, a person shall discard a used lead-acid battery by delivering it to one of the following:

- (1) A retailer;
- (2) A wholesaler;
- (3) A secondary lead smelter;
- (4) An automotive repair business;
- (5) A household hazardous waste collection location or event;
- (6) A lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under section [3734.12](#) of the Revised Code.

(C) A retailer shall discard a used lead-acid battery by delivering it to one of the following:

- (1) A wholesaler;
- (2) A secondary lead smelter;
- (3) A battery manufacturer for delivery to a secondary lead smelter;
- (4) A lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under section [3734.12](#) of the Revised Code.

(D) Each lead-acid battery that is improperly disposed of or discarded constitutes a separate violation of this section.

Effective Date: 2008 HB169 04-25-2008.

3734.912 Duties of retailer.

(A) A retailer that sells lead-acid batteries in this state shall accept from a purchaser of a lead-acid battery, at the time of purchase, used lead-acid batteries of the same general type and in a quantity that is at least equal to the number sold to the purchaser if the purchaser offers the used lead-acid batteries to the retailer.

(B) A retailer that displays for sale and sells lead-acid batteries in this state shall post the sign that is prescribed by section [3734.914](#) of the Revised Code at a location that is visible to customers and in close proximity to the location where lead-acid batteries are displayed for sale at the retailer's location.

(C) Division (B) of this section does not apply to a motor vehicle dealer that is licensed under Chapter 4517. of the Revised Code.

Effective Date: 2008 HB169 04-25-2008.

3734.913 Duties of wholesaler.

A wholesaler that sells lead-acid batteries in this state shall accept from a purchaser of a lead-acid battery used lead-acid batteries of the same general type and in a quantity that is at least equal to the number sold to the purchaser if the purchaser offers the used lead-acid batteries to the wholesaler. Not later than

ninety days after the day of purchase of a lead-acid battery by such a retailer from a wholesaler, the wholesaler shall remove the applicable number of lead-acid batteries from the retailer's location.

Effective Date: 2008 HB169 04-25-2008.

3734.914 Required signage.

(A) A retailer that displays for sale and sells lead-acid batteries in the state shall post a sign that shall be at least eight and one-half inches by eleven inches in size, use lettering that is at least thirty point font in size, display the universal recycling symbol, and contain all of the following language:

(1) "It is illegal to discard a used lead-acid battery."

(2) "Recycle your used batteries."

(3) "State law requires us to accept used lead-acid batteries for recycling in exchange for new batteries purchased."

(B) This section does not apply to a motor vehicle dealer that is licensed under Chapter 4517. of the Revised Code.

Effective Date: 2008 HB169 04-25-2008.

3734.915 No signage for lead-acid battery cases.

Lead-acid battery cases sold in this state shall not be required to display a society for plastics industry symbol or code, a society for automotive engineers symbol or code, or another resin identification code.

Effective Date: 2008 HB169 04-25-2008.

3734.99 Penalty.

(A) Except as otherwise provided in divisions (B), (C), (D), (E), (F), (G), and (H) of this section, whoever recklessly violates any section of this chapter, except section [3734.025](#), [3734.18](#), [3734.57](#), [3734.572](#), [3734.573](#), [3734.574](#), or [3734.60](#) of the Revised Code, recklessly violates section [3734.03](#) of the Revised Code with regard to scrap tires, or recklessly violates an order issued under division (B) of section [3734.13](#) of the Revised Code regarding a violation of the provisions of this chapter governing scrap tires, is guilty of a felony and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Whoever violates section [3734.025](#), [3734.18](#), [3734.57](#), [3734.572](#), [3734.573](#), or [3734.574](#) of the Revised Code shall be fined not more than ten thousand dollars. Each day of violation constitutes a separate offense.

(B) Whoever violates division (G) of section [3734.05](#) of the Revised Code with respect to a report required pursuant to a plan approved under division (A) of section [3734.041](#) of the Revised Code or violates division (D) of section [3734.13](#) of the Revised Code with respect to an order issued pursuant to division (C) or (D) of section [3734.041](#) of the Revised Code is guilty of a felony and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Each day of violation constitutes a separate offense.

(C) Except as otherwise provided in division (G) or (H) of this section, upon a second or subsequent conviction of a violation of any section of this chapter, except section [3734.025](#), [3734.18](#), [3734.57](#), [3734.572](#), [3734.573](#), [3734.574](#), or [3734.60](#) or a rule adopted under division (B) of section [3734.122](#) of the Revised Code, the offender shall be fined at least twenty thousand dollars, but not more than fifty thousand dollars per day of violation, or imprisoned for at least two years, but not more than four years, or both.

(D) Whoever knowingly violates a rule adopted under division (B) of section [3734.122](#) of the Revised Code shall be fined not more than twenty-five thousand dollars for each day of violation, or imprisoned for not more than one year, or both.

(E) Except as otherwise provided in divisions (F) and (G) of this section, whoever recklessly violates division (B) of section [3734.029](#) of the Revised Code or any provision of this chapter governing scrap tires is guilty of a misdemeanor of the first degree.

(F) Whoever knowingly violates an order issued under division (A) of section [3734.13](#) regarding a violation of the provisions of this chapter governing scrap tires or division (B) of section [3734.029](#), division (B) or (C) of section [3734.75](#), division (B) or (C) of section [3734.76](#), division (B) or (C) of section [3734.77](#), division (B) or (C) of section [3734.78](#), section [3734.81](#), division (A) of section [3734.83](#), or a term or condition of a permit or license issued under section [3734.76](#), [3734.77](#), [3734.78](#), or [3734.81](#) of the Revised Code is guilty of a felony and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Each day of violation constitutes a separate offense.

(G) Upon a second or subsequent conviction of a violation of any provision of this chapter specified in division (E) or (F) of this section, the offender is guilty of a felony and shall be fined at least twenty thousand dollars, but not more than fifty thousand dollars per day of violation, or imprisoned for at least two years, but not more than four years, or both.

(H) Whoever knowingly violates any provision of section [3734.904](#), [3734.906](#), [3734.907](#), [3734.908](#), [3734.9011](#), [3734.9012](#), or [3734.9013](#) of the Revised Code, or any rule adopted by the tax commissioner under section [3734.902](#) or [3734.904](#) of the Revised Code, is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

Effective Date: 08-10-1994.