

Adopting and Enforcing Rules in Accordance With Sections 343.01(G)(1) and 3734.53(C)(1) of the Ohio Revised Code

Introduction

This document details the requirements a board of county commissioners, a board of directors, or a board of trustees (board) must follow in order to adopt and enforce rules in accordance with Sections 343.01(G)(1) and 3734.53(C)(1) of the Ohio Revised Code (ORC). A board that wants to adopt and enforce rules limiting or prohibiting solid waste facilities that are not owned by a solid waste management district, regional solid waste management authority (SWMD), or a county from importing solid waste generated in non-member counties must first obtain approval of an application from the director of Ohio EPA before adopting and enforcing those rules.

Requirements for Submitting an Application

The board must apply, in writing, for approval from Ohio EPA prior to adopting and enforcing rules as described in the previous paragraph. The application must demonstrate that there is insufficient capacity at solid waste facilities located within the SWMD to dispose of the SWMD's solid waste. The demonstration must be based upon projections contained in the SWMD's approved solid waste management plan.

The board's application must include all of the following:

- Name of SWMD;
- The proposed rule language;
- A copy of the statement from the SWMD's approved solid waste management plan that authorizes the board to adopt and enforce rules;
- Table VI-4 and any disposal capacity analysis from the SWMD's approved plan;
- Any other supporting information the board deems appropriate; and,
- Signatures from a majority of the board members or a copy of a resolution, passed by the board, authorizing the board to submit the application to Ohio EPA.

The board's application should be mailed to the Division of Solid and Infectious Waste Management at:

Ohio EPA -DSIWM
ATTN: Planning Unit
P.O. Box 1049
Columbus, Ohio 43216-1049

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Approval Process

Generally, Ohio EPA will issue an action either approving or denying an application within 60 days of receiving the application. This action will be issued as director's final findings and orders.

After issuing the action, Ohio EPA will mail a copy of the action to the president of the SWMD's board. Ohio EPA will also release a public notice announcing the director's decision.

After Ohio EPA issues an action approving the board's application to adopt and enforce rules in accordance with Section 343.01(G)(1) of the ORC, the board can proceed with process to adopt and enforce the rules.

Appeals

As with all final actions of the director, an action concerning a board's application can be appealed under Section 3745.04 of the ORC. As specified in the ORC, the appeal must be submitted in writing to the Environmental Review Appeals Commission ("ERAC") and must explain the action being appealed and the grounds upon which the appeal is based. The appeal must be filed with ERAC within 30 days after notice of the Director's action regarding the board's applicaiton. The appellant must submit a filing fee of \$70.00 along with the appeal. ERAC may reduce the filing fee if the appellant can demonstrate that payment of the full fee amount would cause hardship. The appellant must also ensure that the director of Ohio EPA receives a copy of the appeal within three days of filing the appeal with ERAC. The appellant must file the appeal at the following address:

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215
614/466-8950