



POLICY DOCUMENT

Division of Materials and Waste Management
August 2013

THIS POLICY DOES NOT HAVE THE FORCE OF LAW

Solidifying Wastes and Assessing Solid Waste Fees at Landfill Facilities

This policy clarifies how a landfill owner/operator is required to assess state, solid waste management district (SWMD) and host community solid waste fees when the owner/operator solidifies liquid waste and disposes of the solidified waste at the landfill facility.

Explanation of the Issue

Solid waste fees are assessed at solid waste landfills and transfer facilities on materials defined as solid waste in Ohio Administrative Code (OAC) Rule 3745-27-01(S)(23). Liquid wastes are, by definition, not solid waste. Furthermore, OAC Rules 3745-27-19(E)(8)(b) and 3745-27-19(E)(8)(i) prohibit owners/operators of landfills from accepting liquids for disposal without specific authorization from the director of Ohio EPA. Similarly, OAC Rule 3745-27-23(O)(3) prohibits owners/operators of transfer facilities from accepting wastes that contain liquids.

Some landfill owners/operators accept liquid wastes and solidify those wastes with absorbent material to soak up the liquid. Once the solidified waste no longer releases liquids, the operator disposes of the waste at the working face of the landfill.

[Note: Before accepting liquid waste for solidification, the owner/operator of a landfill facility must obtain a director's authorization required pursuant to OAC Rule 3745-27-19(E)(8). In addition, the owner/operator may need to obtain authorizations through Ohio EPA's divisions of Air Pollution Control and Surface Water.]

Responsibility for Collecting Solid Waste Fees

There are four types of solid waste fees that the owner/operator of a solid waste landfill could be required to collect:

- State disposal fees;
- SWMD disposal fees;
- SWMD generation fees; and,
- Host community fees.

Applicable fees are normally assessed on a load of solid waste when the load first arrives at the landfill facility.

[Note: If the owner or operator of a landfill facility has a contract with a SWMD for collecting and remitting fees, then owner or operator should review the terms of the contract in conjunction with this policy.]

Applicable Law and Rules

- Ohio Revised Code Sections 3734.57(A), (B), and (C)
[State disposal, solid waste management district disposal, and host community fees, respectively]
- Ohio Revised Code Section 3734.573
[Solid waste management district generation fees]
- Ohio Administrative Code Rule 3745-27-01(S)(23)
[Definition of "Solid Waste"]
- Ohio Administrative Code Rules 3745-27-19(E)(8)(b) and (i)
[Prohibitions on accepting liquid wastes and wastes that contain free liquids at landfills]
- Ohio Administrative Code 3745-27-23(O)(3)
[Prohibition on accepting wastes that contain free liquids at transfer facilities]
- Ohio Administrative Code Rules 3745-502-01 through 3745-502-04
[Solid waste fee rules]

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When Solid Waste Fees Apply

State disposal and SWMD generation fees are levied on the transfer and disposal of solid waste and are collected by the owner/operator of the facility that accepts a load of waste first. Thus, the landfill owner/operator is required to collect state disposal and SWMD generation fees on a load of solid waste only if the load does not pass through a transfer facility before being delivered to the landfill. If the load went through a transfer facility, then the owner/operator of the transfer facility, not the landfill, collects the fees.

SWMD disposal and host community fees are collected exclusively at solid waste landfill facilities. Therefore, the owner/operator of a landfill facility is required to collect SWMD disposal and host community fees regardless of whether solid waste was routed through a transfer facility or hauled directly to the landfill.

Some materials used as absorbents are not regulated as solid waste. Examples are “excluded” wastes like non-toxic fly ash and bottom ash from coal burning operations. Those ashes are not solid wastes because the definition of solid waste in Ohio law specifically states they are not solid waste (i.e. excludes the wastes). Consequently, when those wastes arrive as loads at a transfer or landfill facility, the wastes are not subject to solid waste fees.

Similarly, when a load of liquid waste arrives at a landfill facility, the load is not subject to solid waste fees. Once a waste is transformed from liquid to semi-solid or solid, the waste becomes solid waste. When an owner/operator of a landfill solidifies a liquid waste using an absorbent material, the owner/operator creates a solid waste that is subject to solid waste fees. Because the waste is also disposed in the landfill, the owner/operator must remit all applicable solid waste fees on the combined weight of the liquid waste and the absorbent.

Excluded wastes and other “non-solid wastes” remain non-solid waste until they are mixed with solid waste or used to absorb liquid. Once they are used to absorb liquid, these wastes become “solid wastes” and disposing of them subjects them to solid waste fees.

[NOTE: The owner/operator of the landfill facility is not technically required to assess solid waste fees on liquid waste and non-solid waste absorbent materials when those materials are first accepted at the facility. However, for logistical simplicity, the owner/operator of the landfill facility may choose to assess fees on liquid waste and non-solid waste absorbent materials when the wastes are weighed and accepted at the facility rather than after the wastes have been mixed.]

Establishing Who Generated the Solidified Waste

The owner/operator of the landfill where liquid wastes are solidified is the generator of at least the portion that was accepted as liquid. How much of the mixture the owner/operator generates depends upon whether solid waste was used as the absorbent.

- If the absorbent was a solid waste when accepted, then the owner/operator is considered to be the generator of only the portion that was accepted as liquid.
- If the absorbent was not a solid waste when accepted, then the owner/operator is considered to be the generator of the entire mixture.

Determining Which Fees and the Amount(s) of Fees to Remit

Which fees and the amount of fees the owner/operator of a landfill where waste is solidified must remit depend upon a number of factors, including:

- whether the absorbent is solid waste;
- whether a solid waste used as an absorbent was generated within the SWMD where the landfill is located;
- whether a solid waste used as an absorbent was generated within Ohio;
- whether a solid waste used as an absorbent passed through a transfer facility;
- whether the solid waste used as an absorbent was generated in a SWMD that levies a generation fee;
- whether the SWMD where the landfill is located levies a generation fee;
- whether the SWMD where the landfill is located levies a disposal fee; and,
- whether the community where the landfill is located levies a host community fee.

The scenarios in the next section and the examples in an attachment illustrate how all of these factors affect the fees that the owner/operator of the landfill facility must remit.

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Scenarios

1) Solidifying Liquid Waste with a Non-Solid Waste Absorbent

Neither the liquid waste nor the absorbent material was solid waste when it was received at the landfill facility. After the liquid and absorbent are mixed together, the entire mixture is solid waste. Furthermore, the entire mixture is considered as having been generated in the SWMD where the landfill facility is located regardless of where the individual wastes originated. Table 1 illustrates the fees that the owner/operator of the landfill must collect.

Table 1: Solidifying Liquid Waste with a Non-Solid Waste Absorbent¹

State Disposal Fee	SWMD Generation Fee		SWMD Disposal Fee			Host Community Fee
	SWMD in which landfill is located	SWMD where waste came from	In-District	Out-of-District	Out-of-State	
Yes, on the entire weight of the mixture	Yes, if SWMD levies a generation fee, then collect on entire weight of mixture	No	Yes, on entire weight of mixture	No	No	Yes, on entire weight of mixture

¹ Note: The fees the owner/operator of the landfill would be required to collect under this scenario are the same regardless of whether the waste passed through a transfer facility or was hauled directly to the landfill.

2) Solidifying Liquid Waste with a Solid Waste Absorbent (Solid waste absorbent did not pass through a transfer facility)

Both wastes are transported to the landfill facility without first passing through a transfer facility. The liquid waste is the only material that was not solid waste when it was received at the landfill facility. After the liquid waste and the solid waste are mixed together, then the entire mixture is solid waste, and:

- the portion of the mixture that was accepted as solid waste is considered as having been generated in the SWMD where the solid waste was collected by the hauler; and,
- after it is solidified, the portion of the mixture that was accepted as liquid waste is considered as having been generated in the SWMD where the landfill facility is located regardless of where the liquid waste originated.

Table 2 shows the fees that the owner/operator of the landfill may be required to collect.

Table 2: Solidifying Liquid Waste with Solid Waste Absorbent

State Disposal Fee	SWMD Generation Fee		SWMD Disposal Fee			Host Community Fee
	SWMD in which landfill is located	SWMD where waste came from	In-District	Out-of-District	Out-of-State	
Yes, on entire weight of mixture	Yes, if the SWMD levies a generation fee, then collect on weight of liquid ¹	Yes, if the SWMD levies a generation fee, then collect on weight of absorbent ¹	Yes, on weight of liquid Yes ² , on weight of absorbent if absorbent came from within the SWMD	No, on weight of liquid Yes ² , on the weight of absorbent if absorbent came from an Ohio county outside of the SWMD	No, on weight of liquid Yes ² , on absorbent if absorbent came from a different state	Yes, on entire weight of mixture

¹ If the solid waste absorbent was generated in the same SWMD where the landfill is located, then the landfill owner/operator would collect the generation fee on the entire weight of the mixture.

² The SWMD disposal fee consists of three "tiers." The owner/operator will pay only one of the three tiers on an individual waste stream. The owner/operator will always pay the in-district tier on the liquid waste since the liquid becomes subject to the disposal fee at the landfill. Which tier of the SWMD disposal fee the owner/operator will pay on the solid waste absorbent depends upon where the absorbent came from.

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3) Solidifying Liquid Waste with a Solid Waste Absorbent (*Solid waste absorbent did pass through a transfer facility*)

The solid waste was taken to a transfer facility before being transported to the landfill. The liquid waste was transported to the landfill directly after being collected by the hauler. The liquid waste is the only material that was not solid waste when it was received at the landfill facility. After the liquid waste and the solid waste are mixed together, then the entire mixture is solid waste, and:

- the portion of the mixture that was accepted as solid waste is considered as having been generated in the SWMD where the solid waste was collected by the hauler; and,
- after it is solidified, the portion of the solid waste mixture that was accepted as liquid waste is considered as having been generated in the SWMD where the landfill facility is located regardless of where the liquid waste originated.

See Table 3 for the fees that the owner/operator of the landfill facility may be required to collect.

Table 3: Solidifying Liquid Waste with Solid Waste Absorbent

State Disposal Fee	SWMD Generation Fee		SWMD Disposal Fee			Host Community Fee
	SWMD in which landfill is located	SWMD where waste came from	In-District	Out-of-District	Out-of-State	
Yes, on weight of liquid No ¹ on weight of absorbent	Yes, on weight of liquid if SWMD levies a generation fee No ¹ , on weight of absorbent	No ¹	Yes, on weight of liquid Yes ² , on weight of absorbent if absorbent came from within the SWMD	No, on weight of liquid Yes ² , on weight of absorbent if absorbent came from an Ohio county outside of the SWMD	No, on weight of liquid Yes ² , on absorbent if absorbent came from a different state	Yes, on entire weight of mixture

¹ The owner/operator of the transfer facility collected the applicable fee.

² The SWMD disposal fee consists of three “tiers”. The owner/operator will pay only one of the three tiers on any given waste stream. The owner/operator will always pay the in-district tier on the liquid waste since the liquid becomes subject to the disposal fee at the landfill. Which tier of the SWMD disposal fee the owner/operator will pay on the solid waste absorbent depends upon where the absorbent came from.

Solidifying Waste at a Transfer Facility

Although this policy is intended for owners/operators of landfill facility, owners/operators of transfer facilities could be required to collect state disposal and SWMD generation fees on solid waste that is subsequently transferred to a landfill facility. For questions regarding when owners/operators of transfer facilities are required to collect solid waste fees, contact the Division of Materials and Waste Management.

For More Information

To find out about a local SWMD’s fee structure, see the Division of Materials and Waste Management’s compilation of SWMD fee structures, available on the SWMD/Planning page of the division’s website.

To determine if the community where a landfill facility is located levies a host community fee, contact the Division of Materials and Waste Management.

Ohio EPA Contacts

Materials and Waste Management
www.epa.ohio.gov/dmwm/
 (614) 644-2621
 (877) 372-2621

Air Pollution Control
www.epa.ohio.gov/dapc/
 (614) 644-2270

Surface Water
www.epa.ohio.gov/dsw/
 (614) 644-2001