

3745-502-02

Requirements for collecting, remitting, and reporting state disposal and environmental protection fees.

(A) Applicability. This rule establishes requirements for the owner or operator of a solid waste transfer facility or solid waste landfill regarding collecting, remitting, and reporting state disposal fees levied on the transfer and disposal of solid waste as authorized by division (A) of section 3734.57 of the Revised Code.

(B) General requirements.

(1) As a trustee of the state, the owner or operator of a solid waste landfill or solid waste transfer facility located in this state that first receives the solid waste shall do the following:

(a) Collect state disposal fees on the total tonnage of the load of solid waste in accordance with the schedule levied under division (A) of section 3734.57 of the Revised Code.

(b) Calculate the dollar amount to collect by multiplying the total tonnage of the load of solid waste by the state disposal fees.

(c) Use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste if scales are not used as the means of determining gate receipts.

(d) Identify waste on a load-by-load basis.

(e) Identify the total tonnage of a load of waste that consists of solid waste commingled with either construction and demolition debris or another excluded waste as a load of solid waste, and collect state disposal fees on the total tonnage of the load.

(f) Record in the daily log the total tonnage of each load of waste received according to the following categories:

(i) Asbestos.

(ii) Construction and demolition debris.

(iii) Industrial or manufacturing waste.

(iv) Excluded waste.

(v) Municipal solid waste.

(vi) Source separated recyclables.

(vii) Alternative daily cover.

[Comment: When a transporter delivers a load of solid waste to a transfer facility and the load is subsequently transferred to a different solid waste transfer facility or to a solid waste landfill, the owner or operator of the first solid waste transfer facility is solely responsible for collecting and remitting the state disposal fees.]

(2) The state disposal fees are in addition to all other applicable fees and taxes and shall be paid as follows:

(a) By the customer or a political subdivision to the owner or operator of a solid waste landfill or solid waste transfer facility.

(b) By the customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of a solid waste landfill or solid waste transfer facility.

(c) Notwithstanding a contract between the customer or a political subdivision and the owner or operator of the solid waste landfill or solid waste transfer facility or with a transporter of waste that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this rule.

(C) Identifying waste. The owner or operator of a solid waste landfill or solid waste transfer facility shall obtain the following information regarding each load of waste delivered to a solid waste landfill or solid waste transfer facility:

(1) The type of waste in accordance with paragraph (B)(1)(f) of this rule.

(2) The state and county where the waste originated.

(3) If the load consists of waste that originated in more than one county, an estimate of the percentage of the load that came from each county.

(D) Collecting state disposal fees at a solid waste transfer facility when materials are removed for recycling. The owner or operator of a solid waste transfer facility shall do the following.

(1) If incidental amounts of materials are removed from a load of solid waste for recycling, collect state disposal fees in accordance with either of the following:

(a) On the total tonnage of the load of solid waste in accordance with paragraph (B)(1) of this rule.

(b) On the net tonnage of the load of solid waste after the materials have been removed for recycling.

(2) If materials are removed from loads of solid waste at the solid waste transfer facility for recycling on a regular basis, collect state disposal fees in accordance with one of the following:

(a) On the total tonnage of the load of solid waste received at the solid waste transfer facility.

(b) On the tonnage of each load of solid waste received at the solid waste transfer facility reduced by an adjustment factor to account for material that will be removed from the load of solid waste for recycling. To apply an adjustment factor, the owner or operator of the solid waste transfer facility shall do the following:

(i) Submit a request and obtain approval for an adjustment factor. The request shall be submitted to the director in writing and include at a minimum the following:

(a) A detailed description of the process for removing materials for recycling.

(b) The average rate for removing materials for recycling achieved at the solid waste transfer facility in the previous three calendar years with the rate for each calendar year calculated as the total tonnage of recyclable materials removed from all loads of solid waste delivered to the solid waste transfer facility during the calendar year divided by the total tonnage of all loads of solid waste delivered to the solid waste transfer facility during the calendar year.

(c) If the owner or operator is requesting an adjustment factor not calculated in accordance with paragraph (D)(2)(b)(i)(b) of this rule, adequate information to justify using the proposed adjustment factor.

(ii) Calculate the amount of the adjustment to the tonnage in a load of solid waste by multiplying the tonnage of solid waste in the load by the adjustment factor approved by the director in accordance with paragraph (D)(2)(b)(i) of this rule.

(iii) Collect state disposal fees on the total tonnage of a load of solid waste received at the solid waste transfer facility minus the amount of the adjustment calculated in accordance with paragraph (D)(2)(b)(ii) of this rule.

(iv) Submit a summary not later than April first of each year that reports the actual recovery rate achieved during the calendar year for

which the annual report was prepared by dividing the tonnage of materials removed for recycling from all loads of solid waste delivered to the solid waste transfer facility by the tonnage of all loads of solid waste delivered to the solid waste transfer facility.

(v) Submit a request for approval from the director for a revised adjustment factor in accordance with the following:

(a) Not later than May first of the year in which the owner or operator submitted the annual report, if the actual recovery rate calculated in accordance with paragraph (D)(2)(b)(iv) of this rule is different than the adjustment factor approved by the director in accordance with paragraph (D)(2)(b)(i) of this rule.

(b) Not later than thirty days after the owner or operator of the solid waste transfer facility alters either the process that is used to recover recyclables from a load of solid waste or the types of recyclables removed from a load of solid waste in a manner that results in a lower recovery rate.

(vi) If requesting approval for a revised adjustment factor in accordance with paragraph (D)(2)(b)(v) of this rule, continue to apply the adjustment factor approved by the director in accordance with paragraph (D)(2)(b)(i) of this rule until the director has approved the revised adjustment factor.

(E) Collecting state disposal fees on loads of commingled solid waste and construction and demolition debris at a solid waste transfer facility. All waste created by commingling the loads of solid waste and construction and demolition debris shall be considered solid waste.

(1) The owner or operator of a solid waste transfer facility shall do the following:

(a) For loads of solid waste and construction and demolition debris that are commingled prior to receipt at the solid waste transfer facility, collect and remit state disposal fees on the total tonnage of each load.

(b) For segregated loads of solid waste and construction and demolition debris that are received and commingled at the transfer facility prior to transportation to a solid waste landfill, collect and remit the state disposal fees on the total tonnage of commingled loads of solid waste and construction and demolition debris unless the owner or operator has obtained approval in accordance with paragraph (E)(2) of this rule for an alternative method to collect the fees.

(2) The owner or operator of a solid waste transfer facility may submit a request for

approval of an alternative method to that specified in paragraph (E)(1)(b) of this rule for collecting state disposal fees on loads of commingled solid waste and construction and demolition debris when those loads are received at a solid waste transfer facility as segregated loads, commingled at the solid waste transfer facility, and subsequently transported to a solid waste disposal facility as commingled waste. The director may approve such a request if the director determines that the owner or operator has demonstrated all of the following:

- (a) The solid waste transfer facility where the solid waste and the construction and demolition debris are commingled and the solid waste landfill where the commingled waste is taken for disposal are owned and operated by the same person.
- (b) All commingled solid waste and construction and demolition debris is transported to the solid waste landfill specified in paragraph (E)(2)(a) of this rule.
- (c) By the end of each working day all waste that is accepted at the solid waste transfer facility is taken to the solid waste landfill specified in paragraph (E)(2)(a) of this rule.
- (d) The daily logs at the solid waste landfill and the solid waste transfer facility are consistent and accurate when reconciled at the end of each working day.

(F) Remitting state fees and returns to the director.

(1) The owner or operator of a solid waste landfill or solid waste transfer facility that is required to collect state disposal fees shall do the following:

- (a) Prepare and submit a monthly return on a form prescribed by the director that includes at a minimum the following:
 - (i) The total tonnage of solid waste received at the solid waste landfill or solid waste transfer facility during the month.
 - (ii) The total amount of the state disposal fees required to be collected on the solid waste during the month.
 - (iii) The amount of state disposal fees remitted with the monthly return.
 - (iv) The total tonnage of solid waste received from solid waste transfer facilities located in Ohio during the month for which state disposal fees were required to be collected at those solid waste transfer facilities.

(b) Submit the return not later than thirty days after the last day of the month to which the monthly return applies.

(c) Either mail or electronically transmit to the director the monthly state disposal fee return form for the month and remit the state disposal fees required to be collected pursuant to this rule during that month as indicated on the monthly state disposal fee return form.

(2) If the monthly state disposal fee return established by paragraph (F)(1) of this rule is filed and the total amount of the state disposal fees due is paid in a timely manner as specified in paragraph (F)(1)(b) of this rule, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of state disposal fees that is due to be paid as indicated on the monthly return form.

(G) Extensions and late fees.

(1) The owner or operator of a solid waste landfill or solid waste transfer facility may request an extension of not more than thirty days for filing the state disposal fee return and remitting the state disposal fees. The owner or operator shall submit a request in writing to the director with a detailed description of why the extension is requested. The director may deny a request that is received after the date on which the return is due to be filed. Such an extension is not effective unless the request has been approved by the director in writing.

(2) If the state disposal fees are not remitted as specified in paragraph (F)(1)(b) of this rule or by the last day of an extension approved by the director, the owner or operator of the solid waste landfill or solid waste transfer facility shall do the following:

(a) Not retain the three-fourths of one percent discount provided for in paragraph (F)(2) of this rule.

(b) Pay a late fee of an additional ten per cent of the amount of the state fees for each month or any portion thereof that the state disposal fees are late.

(c) Continue to accrue late fees each month until the total amount of state disposal fees, including late fees, is remitted.

(d) Calculate the late fee using the following formula: total late fee due = (total amount of state disposal fees that are late) x (0.10) x (number of months that the state disposal fees are late expressed as a whole number).

(3) For the purposes of calculating the late fee, the following shall apply:

(a) State disposal fees are late beginning on the first day after the deadline has passed for submitting the state fee return and state disposal fees as specified in paragraph (F)(1)(b) of this rule.

(b) One additional month is counted every thirty days thereafter.

(c) The full amount of the late fee is accrued on the first day of each month that the state disposal fees are late.

(d) The late fee will not be prorated according to the number of days that the state disposal fees are late.

(H) Refunds and credits.

(1) The owner or operator of a solid waste landfill or solid waste transfer facility may request a refund or credit of state disposal fees that were remitted to the director and have not been paid to the owner or operator.

(2) Prior to making a request for a refund or credit, the owner or operator shall make reasonable efforts to collect the applicable state disposal fees.

(3) The owner or operator may make a request for a refund or credit only if all the following criteria have been met:

(a) The state disposal fees have not been collected by the owner or operator.

(b) The state disposal fees have become a debt for the owner or operator that has become worthless or uncollectible for a period of six months or more.

(c) For an owner or operator of a facility that is subject to federal tax reporting requirements, the uncollected state disposal fees may be claimed as a bad debt deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the Internal Revenue Code, 68A Stat. 50, 26, U.S.C. 166 and the regulations adopted thereunder.

(4) The owner or operator shall submit a request for a refund or credit in writing on a form prescribed by the director and include the following information:

(a) The name of the debtor.

(b) The date the solid waste was received and upon which the state disposal fees were to be collected by the owner or operator making the request.

(c) The name and address of the solid waste facility where the solid waste upon which the state disposal fees were to be collected was received.

(d) A detailed description of the efforts the owner or operator has taken to collect the state disposal fees including applicable supporting documentation.

(e) The dates and amounts of any payments made on the debt or account.

(f) Copies of invoices or accounts receivable records.

(5) The director will not grant a refund or credit that does the following:

(a) Exceeds an amount equal to ninety days worth of fees owed to the owner or operator by a particular debtor of the owner or operator.

(b) Includes any costs resulting from efforts to collect unpaid state fees.

[Comment: Division (A) of section 3734.57 of the Revised Code limits the director to granting an owner or operator one refund or credit for fees owed by a single debtor in a twelve-month period.]

(6) If, after receiving a refund or credit from the director, the 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 along with a written explanation of the reason for the submittal.

(I) Exclusions. The state disposal fees levied in accordance with division (A) of section 3734.57 of the Revised Code do not apply to any of the following:

(1) Solid wastes that are disposed of at a solid waste landfill owned by the generator of the wastes if the solid wastes are exclusively disposed of at a solid waste landfill owned by the generator regardless of whether or not the solid waste landfill is located on a premises where the solid waste is generated.

(2) Solid wastes that are disposed of at solid waste landfills that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in conjunction with scrap tires, that is not combined in any way with solid waste at one or more premises owned by the generator.

(3) Sewage sludge that is generated by a waste water treatment facility holding a national pollution discharge elimination system permit and that is disposed of through incineration, land application, composting, or at another resource recovery or disposal facility that is not a solid waste landfill.

- (4) Solid wastes delivered to a solid waste composting facility for processing.
 - (5) Materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream as a result of recycling.
 - (6) Solid waste the director has approved 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.
 - (7) Asbestos or asbestos-containing materials or products disposed of at a solid waste landfill that is licensed under Chapter 3734. of the Revised Code.
- (J) The owner or operator of a solid waste landfill or a solid waste transfer facility shall collect state disposal fees as follows:
- (1) On loads of fly ash, bottom ash, or other solid waste remaining after burning solid wastes other than scrap tires in an incinerator or solid waste energy recovery facility that are transported off the premises of the incinerator or solid waste energy recovery facility to a solid waste landfill for disposal.
 - (2) On loads of fly ash, bottom ash, or other solid waste remaining after the processing of scrap tires at a scrap tire recovery facility that are transported off the premises of the scrap tire recovery facility to a solid waste landfill for disposal.
 - (3) On loads of unprocessed solid waste or compost product that are transported off the premises of a composting facility to either a solid waste landfill or solid waste transfer facility.