

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

May 28 and 29, 2019 Tornados	:	<u>Director's Final Findings</u>
Fee Waiver Extension	:	<u>and Orders</u>
	:	

Ohio EPA JUL 31 '19
Entered Directors Journal

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are hereby pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") Ohio Revised Code ("ORC") Sections 3745.012, 3734.02(G), and 3714.04(A).

II. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and 3714. and the rules promulgated thereunder.

III. FINDINGS

The Director of Ohio EPA ("Director") has determined the following findings:

1. On May 27 and 28, 2019, Ohio experienced a series of tornados and severe thunderstorms across the State that generated "solid waste" as that term is defined under ORC Section 3734.01(E) or "construction and demolition debris" ("C&DD") as defined under ORC Section 3714.01. Large amounts of solid waste and C&DD will be disposed as a result of the tornados and thunderstorms. Some Facilities continue to receive solid waste or C&DD as it is removed from temporary debris and reduction storage sites in Harrison Township and the City of Trotwood. These Facilities include, but are not limited to, those listed in Attachment A ("Respondents").
2. Respondents are each a "facility" as that term is defined under ORC Sections 3734.01(N) or 3714.01.
3. Respondents are each a "solid waste disposal facility" as defined under OAC Rules 3745-27-01(S)(23).
4. Pursuant to ORC Section 3734.57(A), state disposal fees are to be levied on the disposal of solid waste at solid waste disposal facilities. These solid

waste disposal fees are collected and remitted to the State of Ohio on each ton of solid waste disposed.

5. The solid waste that will be generated and disposed of as a result of the tornadoes is subject to a \$4.75 per ton state disposal fee pursuant to ORC Section 3734.57(A).
6. Pursuant to ORC Sections 3714.07, 3714.071 and 3714.073, disposal fees are to be levied on the disposal of C&DD at licensed construction and demolition debris facilities at a rate of \$1.60 per ton. These fees are to be remitted as follows:
 - ◆ \$ 0.60 to licensing authority and other governmental entities, in accordance with the following:
 - \$ 0.06 to Ohio EPA (if licensing authority is the health district)
 - Up to \$ 0.06 to host county (if county appropriates a fee by resolution)
 - Up to \$ 0.08 to host municipality or township (if municipality or township appropriates a fee by ordinance or resolution)
 - \$ 0.40 – \$0.60 retained by the licensing authority (depending on the applicability of the preceding fee deductions)
 - ◆ \$ 0.25 to ODNR Soil and Water Conservation Districts (ORC 3714.073)
 - ◆ \$ 0.75 to Ohio EPA recycling and litter prevention fund (ORC 3714.073).
7. On May 28, 2019, the Governor of Ohio declared a state of emergency as a result of the tornadoes and thunderstorms aforementioned herein.
8. On May 31, 2019, the Director issued Director's Final Findings and Orders to exempt the state disposal fee for solid waste and C&DD described in Finding No. 1 for sixty (60) days from the effective date or until July 30, 2019.
9. Pursuant to ORC Section 3734.573, the solid waste management policy committee of a single or joint solid waste management district ("SWMD") is authorized to levy a generation fee ("SWMD fee") on solid wastes generated within the SWMD and disposed as solid waste at solid waste disposal facilities.
10. The Montgomery Solid Waste Management District has a SWMD fee and agreed that the SWMD fee be waived for solid waste described in Finding No. 1.

11. On June 14, 2019, the Director issued Director's Final Findings and Orders waiving the SWMD fee until July 30, 2019.
12. In a letter dated July 19, 2019, Ohio EPA received a request from the Montgomery Solid Waste Management District to extend the waiver of the SWMD fee for an additional ninety (90) days from July 31, 2019 because additional time was needed to remove solid waste and debris from temporary debris and reduction storage sites in Harrison Township and the City of Trotwood. The July 19, 2019 letter also requested an extension of the waiver from the state disposal fee.
13. Pursuant to ORC 3745.012(B)(2), the Director may waive a fee incurred as a result of responding to an emergency, including fees for the disposal of material and debris, if the governor declares a state of emergency.
14. Under ORC Section 3734.02(G), the Director may by order exempt any person generating, collecting, storing, treating, disposing of, or transporting solid waste in such quantities or under such circumstances that, in the determination of the Director, is unlikely to adversely affect public health or safety or the environment from any requirement of this chapter.
15. Pursuant to ORC Section 3734.02(G), the Director has determined that an extension of the waiver of the solid waste disposal fee for solid waste and the SWMD fee for solid waste for a period of time is unlikely to adversely affect the public health or safety or the environment.
16. Under ORC Section 3714.04(A), the Director may issue an order exempting any person disposing of or proposing to dispose of C&DD in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect public health or safety or the environment or create a fire hazard from any provision of this chapter or a rule adopted under it.
17. Pursuant to ORC Section 3714.04(A), the Director has determined that an extension of the waiver of the state disposal fee for C&DD for a period of time is unlikely to adversely affect the public health or safety or the environment or create a fire hazard.

IV. ORDERS

The Director hereby issues the following Orders:

1. Respondents are hereby waived from the state disposal fees for solid waste and C&DD and the SWMD fee for solid waste described in Finding

No. 1 until October 28, 2019. This waiver is only applicable to solid waste/debris generated as a result of the severe weather events identified in Findings No. 1, above.

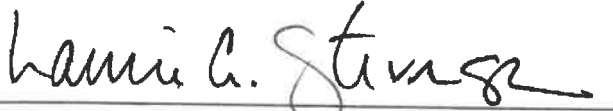
2. Nothing in these Orders shall be construed to authorize any activity, method, or waiver from the requirements of ORC Chapter 3734. or 3714. or the rules promulgated thereunder, except as expressly provided herein.

VIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IT IS SO ORDERED:

OHIO ENVIRONMENTAL PROTECTION AGENCY



Laurie A, Stevenson, Director
Ohio EPA

ATTACHMENT A

Stony Hollow Landfill Inc
2460 S Gettysburg Avenue
Dayton, OH 45417

Rumpke Sanitary Landfill
10795 Hughes Rd
Cincinnati, OH 45251

Cherokee Run Landfill Inc
2946 US Rte 68 N
Bellefontaine, OH 43311

Rumpke Waste Inc Brown County
Landfill
9427 Beyers Rd
Georgetown, OH 45121