

**3745-27-03 Exemptions and variances.**

(A) Chapters 3745-27, 3745-29, 3745-30 and 3745-37 of the Administrative Code shall not apply to the following activities or facilities:

- (1) Solid wastes generated within a single-family residence and disposed of on the premises where generated in a manner that does not create a nuisance or health hazard.
- (2) The temporary storage of solid wastes, other than scrap tires, prior to collection for disposal or transfer. The temporary storage of putrescible solid wastes in excess of seven days, or temporary storage of any solid wastes where such storage causes a nuisance or health hazard in the judgment of the health commissioner or the director or their authorized representative shall be considered open dumping.

In addition, Chapters 3745-27 and 3745-37 of the Administrative Code shall not apply 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.

- (3) Vehicles used for hauling solid wastes other than scrap tires.
- (4) The beneficial use of coal combustion byproducts at coal mining and reclamation operations and abandoned mine lands that are regulated and authorized by the Ohio department of natural resources pursuant to section 1513.02 of the Revised Code.
- (5) Incinerators or energy recovery facilities that incinerate wastes generated on one or more premises owned by the person who owns the incinerator or energy recovery facility. This does not include a facility that treats infectious waste pursuant to Chapter 3734. of the Revised Code.
- (6) A junk yard or scrap metal processing facility licensed pursuant to Chapter 4737. of the Revised Code, or a motor vehicle salvage business licensed pursuant to Chapter 4738. of the Revised Code. This exemption does not apply to the management, use, collection, storage, recovery, disposal, or beneficial use of scrap tires at a junk yard, scrap metal processing facility, or motor vehicle salvage business, and shall not be construed to include sites where open dumping or open burning has occurred.
- (7) Pond and lagoon operations regulated under Chapter 6111. of the Revised Code.
- (8) Sewage sludge disposal, use, transportation or storage as approved under Chapter 6111. of the Revised Code.
- (9) Land application of the following solid wastes authorized under Chapter 6111. of the Revised Code:
  - (a) Agricultural waste for incorporation into soil as a soil amendment or for agricultural or horticultural applications, provided that all of the following conditions are met:
    - (i) The agricultural waste is limited to source-separated non-processed plant materials including stems, leaves, vines, roots, and raw vegetables, fruits, and grains.
    - (ii) The agricultural waste is land-applied exclusively on fields owned by the owner of the agricultural production operation that generated the agricultural waste.
    - (iii) The land application of the agricultural waste does not create a nuisance or health hazard in the judgment of the health commissioner or the director.

- (b) Pulp or paper sludge from wastewater treatment works.
  - (c) Sawdust.
  - (d) Compost product blended with a solid waste.
  - (e) Lime-based or gypsum-based waste including but not limited to flue gas desulfurization sludge, lime kiln, or cement kiln dust.
- (10) A combustion unit permitted and operating under an air permit that uses solid wastes as fuels or ingredients in accordance with 40 C.F.R. Part 241 and rule 3745-599-10 of the Administrative Code.
  - (11) Infectious wastes generated on the premises of a single-family residence not utilized for commercial purposes.
  - (12) Infectious wastes generated by individuals for the purposes of their own care or treatment that are disposed of with solid wastes from the individual's residence.
  - (13) Tree stumps not otherwise exempted by this rule or Chapter 3734. of the Revised Code that are disposed in a licensed construction and demolition debris disposal facility.
  - (14) Controlled substances handled in accordance with Chapters 4729. and 3719. of the Revised Code or materials that have been ordered destroyed by a court of law that are destroyed at facilities licensed for the treatment of infectious waste.
  - (15) Land application of yard waste for incorporation into soil as a soil amendment, for agricultural or horticultural applications, or for land reclamation, provided that such land application does not create a nuisance or health hazard in the judgment of the health commissioner or the director.
  - (16) The disposal of animals destroyed because of a dangerously infectious or contagious disease in accordance with section 941.14 of the Revised Code.
- (B) Exemptions. Pursuant to division (G) of section 3734.02 of the Revised Code, the director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes or infectious wastes, or processing solid wastes that consist of scrap tires from any requirement of Chapter 3734. of the Revised Code or any rules adopted thereunder if granting the exemption is unlikely to adversely affect the public health or safety or the environment.
- (C) Variances.
- (1) Any person may apply for a variance from any provision of this chapter except for those adopted under division (M) of section 3734.02 or section 3734.021 of the Revised Code.
  - (2) Applications for a variance shall identify each provision for which the variance is requested and shall contain information regarding the reason and justification for the variance and any other information deemed appropriate by the director as specified in paragraph (C)(5) of this rule.
  - (3) In accordance with division (S)(1) of section 3745.11 of the Revised Code, a non-refundable fee of fifteen dollars shall be paid at the time the application for a variance is submitted. If the application for a variance is part of an application for a permit to install, the variance application fee shall be paid in addition to the permit to install application fee.
  - (4) The director shall approve or deny an application for a variance or renewal of a variance not later than six months after the date upon which the director receives a complete application with all pertinent

information and data required, unless the application for a variance is part of an application for a permit to install. If an application for a variance is part of an application for a permit to install, the director shall approve or deny an application for a variance or renewal of a variance concurrent with a final or proposed action on the permit to install application.

- (5) The director shall issue a variance only if the applicant demonstrates to the director's satisfaction that construction, operation, closure activities, or post-closure activities of the solid waste facility in the manner approved by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to public health or safety or the environment and is unlikely to result in a violation of any other requirement of Chapters 3704., 3714., 3734. or 6111. of the Revised Code and any rules adopted thereunder.
- (6) In issuing a variance, the director shall comply with the applicable requirements of division (A) of section 3734.02 of the Revised Code.

Replaces: 3745-27-03  
Effective: 4/22/2019  
Five Year Review (FYR) Dates: 04/22/2024

CERTIFIED ELECTRONICALLY

---

Certification

04/10/2019

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3734.02, 3734.12, 3734.021  
Rule Amplifies: 941.14, 1513.02, 3734.02, 3734.021  
Prior Effective Dates: 07/29/1976, 04/06/1990, 08/10/1991, 10/31/1993,  
03/29/1996, 08/15/2003, 09/23/2014