Chapter 109:6-1 Background Investigation Requirements for Waste Treatment and Disposal Facilities

109:6-1-01 Definitions.

As used in Chapter 109:6-1 of the Administrative Code:

(A) "Applicant" for purposes of this chapter means any person:

(1) Seeking a permit, other than a permit modification, or license for an off-site facility;

(2) Holding a permit or license for an off-site facility;

(3) A prospective owner of an off-site facility; or

(4) Any person or business concern operating a facility for an applicant or permittee.

(B) "Application" means the forms and accompanying documents filed in connection with the applicant's request for a permit.

(C) "Attorney general" means the attorney general or the attorney general's authorized representative.

(D) "Business concern" means any corporation, association, firm, partnership, trust, sole proprietorship, or other form of commercial organization.

(E) "Calendar year" means January first through December thirty-first of a given year.

(F) "Captive facility" means a facility owned and operated by the generator of the waste and which exclusively disposes of or transfers solid waste, exclusively treats infectious wastes, or exclusively treats, stores, or disposes of hazardous waste, generated at one or more premises owned by the generator.

(G) "Chartered lending institution" means any lending institution required to be licensed or chartered under state or federal law.

(H) "Compliance schedule" means the schedule specifying which applicants are required to submit triennial updates in a given year. In creating this schedule, the attorney general will divide all applicants into three groups and will require each group to submit an update in a different year, such that all applicants will provide a triennial update only once every three years.

(I) "Debt liability" means bonds, debentures, notes, mortgages and loans of any kind, secured or unsecured, and other similar debt instruments, except for debt related to the purchase and sale of goods or services between businesses.

(J) "Disclosure statement" means one of the statements required to be submitted to the attorney general, including the:

(1) Applicant disclosure statement;

(2) Non-applicant business concern disclosure statement;

(3) Personal history disclosure statement; and

(4) Triennial updates.

(K) “Equity” means any ownership interest in a business concern, including sole proprietorship, an interest in a partnership or limited liability company, and stock in a corporation.

(L) “Facility” means any site, location, tract of land, installation or building used, or to be used, for incineration, composting, sanitary land filling, or other methods of disposal of solid wastes, for transfer of solid wastes, for the collection, storage or processing of solid wastes that consist of scrap tires only, for the treatment or disposal of infectious wastes, or for the storage, treatment or disposal of hazardous waste, or any combination of these activities.

(M) “Fingerprint card” means a completed and readable fingerprint form prescribed by the attorney general for use by the Ohio bureau of criminal investigation and a completed and readable fingerprint form acceptable to the federal bureau of investigation.

(N) “Governmental entity” means the state, any political subdivision, municipal corporation, township, county or other state or local body, the United States and any agency or instrumentality thereof.

(O) “Key employee” means any individual, employed by the applicant or employed by a contractor of the applicant who:

(1) Is responsible for managing the employees at the location whose duties or responsibilities involve, in whole or part, evaluation, identification, labeling, monitoring, handling, disposal, transportation, storage, or treatment of solid, infectious, or hazardous waste; or

(2) Is authorized to make final discretionary decisions to evaluate, identify, label, monitor, handle, dispose, transport, store, or treat solid, infectious, or hazardous waste.

(3) A key employee does not include:

(a) An individual employed to solely perform a routine or clerical task.

(b) An individual whose only job duties are unrelated to handling solid, infectious, or hazardous waste, or who only supervises other employees whose job duties are also not related to handling solid, infectious, or hazardous waste. Examples of job duties that are not related to handling waste might include human resource or fiscal duties.

(c) An individual whose job duties require only the physical or mechanical collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste or processing of solid wastes that consist of scrap tires.

(d) A public official or public employee, as defined in division (B) of section 102.01 of the Revised Code, who files a disclosure statement under section 102.02 of the Revised Code.

(P) “License” means the annual license required by section 3734.05 of the Revised Code for an off-site solid waste disposal or transfer facility or an off-site infectious waste treatment facility, or if the solid wastes consist of scrap tires, the annual license required by section 3734.81 of the Revised Code for scrap tire storage, monocell, monofill or recovery facilities.

(Q) “Modification” means a change or alteration to an off-site hazardous waste treatment, storage, or disposal facility installation and operation permit which is subject to the director’s approval or disapproval in accordance with division (I)(3) of section 3734.05 of the Revised Code. Applicants who have applied for a permit modification under division (I)(3) of section 3734.05 of the Revised Code are not required to file a disclosure statement with the attorney general when they apply for a modification, however these facilities continue to be subject to annual update and change of ownership disclosure requirements in accordance with divisions (D) and(F) of section 3734.42 of the Revised Code.

(R) “Off-site facility” means a facility:

(1) Located off the premises where the solid, infectious, or hazardous waste is generated;

(2) Other than a facility which:

(a) Exclusively disposes of wastes generated from the combustion of coal that is not combined in any way with garbage; or

(b) Is owned and operated by the generator of the waste and which exclusively disposes of or transfers solid wastes, exclusively treats infectious wastes, or exclusively disposes of hazardous waste, generated at one or more premises owned by the generator; or

(c) Exclusively disposes of wastes that are generated from the combustion primarily of coal in combination with scrap tires that are not combined in any way with garbage.

(S) “Operator” means the person responsible for the direct control or overall operation of a facility.

(T) “Owns or controls” means holds or is able to control the purchase or sale of at least five per cent of the equity of a publicly traded corporation or twenty-five per cent of the equity of any other business concern, either directly or through a holding company or subsidiary.

(U) “Partner” means any person holding a position as, or similar to, a general partner, as defined in division (E) of section 1782.01 of the Revised Code, or a limited partner, as defined in division (F) of section 1782.01 of the Revised Code, or persons who share profits and liability and have management powers of a partnership, as partnership is defined in section 1775.05 of the Revised Code.

(V) “Permit” means:

(1) A permit to install and any subsequent modifications or renewals of an off-site solid waste disposal facility, including any incineration facility, or transfer facility under section 3734.05 of the Revised Code;

(2) A permit to install and any subsequent modifications or renewals for an off-site infectious waste treatment facility under section 3734.05 of the Revised Code;

(3) A permit to install and operate an off-site hazardous waste treatment, storage, or disposal facility and the modification or renewal of a hazardous waste permit for the treatment, storage, or disposal of hazardous waste under section 3734.05 of the Revised Code; or

(4) A permit to install or any subsequent modification for an off-site solid waste facility that is a scrap tire, monocell or monofill facility, or a class I scrap tire storage or recovery facility issued under section 3734.76, 3734.77 or 3734.78 of the Revised Code.

(W) “Permittee” means any person who has received a permit or license for an off-site facility.

(X) “Person” includes any individual, business concern or governmental entity.

(Y) “Publicly traded corporation” means a corporation:

(1) Whose shares are listed on a national securities exchange; or

(2) Whose shares are regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association.

(Z) “Release form” means a signed form, prescribed by the attorney general, which authorizes the attorney general to conduct an initial background investigation of the individual signing it or of the business concern on whose behalf it is signed, and which authorizes third parties to release information to the attorney general.

(AA) “Secondary business activity concern” means any business concern which has derived less than five per cent of its annual gross revenues in each of the three years immediately preceding the current year from the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid, infectious, or hazardous waste, whether directly or through other business concerns partially or wholly owned or controlled by the business concern.

(BB) “Sole proprietorship” means a form of business, other than a partnership or corporation, in which one person owns all the assets and is solely liable for all the debts of the business. Sole proprietor also includes, any individual or entity in which an individual is an applicant.

(CC) “Subject facility” means the facility in the state of Ohio for which the applicant seeks a permit or license, holds a permit or license, or seeks a change of ownership.

(DD) “Triennial update” means a signed, notarized form, prescribed by the attorney general, submitted once every three years, which provides all information required to be included in a disclosure statement pursuant to section 3734.42(F)(2) of the Revised Code, which may have changed and which further authorizes the attorney general to update the background investigation of the individual signing it or of the business concern on whose behalf it is signed.

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109:6-1-02 Disclosure statements.

(A) Who must file.

(1) Every applicant for a permit other than a permit modification or renewal shall file with the attorney general a disclosure statement in accordance with these rules at the same time he files his application for a permit with the director of environmental protection.

(2) Every applicant that is a prospective owner of an off-site facility shall file with the attorney general a disclosure statement at least one hundred eighty days prior to the proposed change of ownership, when:

(a) The change of ownership is of an off-site facility that has not received a certification of closure;

(b) The change of ownership is of a captive facility such that under new ownership the former captive facility will be converted into and operated as an off-site facility. In this circumstance, a prospective owner shall file a disclosure statement with the attorney general, as required by division (F) of section 3734.42 of the Revised Code.

(c) As defined in division (F) of section 3734.42 of the Revised Code a change of ownership means a substantive change in the names of the individuals or entities who own the applicant or nonapplicant business concern and does not include a legal change in the business concern's name when its ownership remains the same.

(B) Initial disclosure statements.

(1) Applicant disclosure statement. The applicant disclosure statement shall be completed by the applicant on a form developed by the attorney general. If the applicant has more than one facility in Ohio, it may submit one applicant disclosure statement for all of its Ohio facilities.

(2) Personal history disclosure statement. The personal history disclosure statement shall be completed on a form developed by the attorney general by:

(a) Sole proprietors;

(b) All officers, directors, partners, and key employees of the applicant;

(c) All individuals who own or control the applicant;

(d) All officers, directors, and partners of a business concern that owns or controls the applicant;

(e) All officers, directors, partners, and key employees of an operator of an off-site facility if the applicant is a government entity.

(3) Non-applicant business concern disclosure statement. The non-applicant business concern disclosure statement shall be completed on a form developed by the attorney general by:

(a) All business concerns that directly hold, or are able to control through a subsidiary or holding company, any equity in or debt liability of the applicant, if the applicant is a privately held business concern;

(b) All business concerns that directly hold, or are able to control through a subsidiary or holding company, more than five per cent equity in or debt liability of the applicant, if the applicant is a publicly traded corporation;

(c) Each business concern which is a partner of the applicant;

(d) Each subsidiary of the applicant that collects, transfers, transports, treats, stores, or disposes of solid wastes, infectious wastes, or hazardous wastes;

(e) Each business concern which is the operator of an off-site facility for which the applicant is a government entity;

(f) Each business concern which is a partner of the operator of an off-site facility for which the applicant is a government entity and the operator is not an employee of the government entity.

(4) If a business concern that holds or is able to control an equity interest or debt liability in the applicant holds or is able to control an equity interest or debt liability in other facilities in Ohio, it may submit one non-applicant business disclosure statement for all of its Ohio facilities.

(5) All initial disclosure statements described above shall be completed on a form developed by the attorney general pursuant to division (A)(1) of section 3734.42 of the Revised Code.

(C) Exemption from filing disclosure statements.

(1) An officer, director, or partner of an applicant or non-applicant business concern that qualifies as a secondary business activity concern shall be exempt from the fingerprint and personal history disclosure requirements, provided that the person does not and will not have any responsibility for, or control of, the solid, infectious, or hazardous waste operations of the applicant conducted in Ohio.

(2) When a facility has received a certification of closure its officers, directors, and key employees will no longer be required to submit disclosure statements, releases, and annual updates to the attorney general.

(3) An individual or business concern who purchases an off-site facility that has received a certification of closure is not required to submit disclosure statements, releases, and annual updates to the attorney general when the facility will not be used to dispose of solid, infectious, or hazardous waste.

(4) A chartered lending institution that holds equity in or debt liability of an applicant or nonapplicant business concern and does not exert control over an applicant's operations is not required to submit disclosure statements, releases, and annual updates to the attorney general.

(D) Periodic updates. Within ninety days:

(1) After the addition of the new individual, an applicant shall submit to the attorney general a release form, fingerprint card, and a personal history disclosure statement for:

(a) New officers, directors, partners, or key employees of the applicant, or if the applicant is a governmental entity that does not run its own facility, new officers, directors, partners, or key employees of the operator of the facility;

(b) New key employees of a governmental entity if the applicant is a governmental entity that operates its own facility.

(2) After the addition of the new business concern, an applicant shall submit to the attorney general a release form and, on a form provided by the attorney general, provide any and all information required by the non-applicant business concern disclosure statement for a business concern which:

(a) Is a new partner of the applicant;

(b) Holds any new interest in the equity or debt liability of the applicant, if the applicant is privately held or holds more than five per cent equity or debt liability in the applicant, if the applicant is publicly held; and

(c) Is a new operator of a facility contracting with a facility owned by a governmental entity.

(E) Triennial updates. The attorney general shall require all applicants to provide updates to their disclosure statements once every three years limited to the information described under section 3734.42(F)(2) of the Revised Code. The attorney general shall determine the number of applicants who shall submit disclosure statements each year of the triennium. Applicants shall provide updates on the date set forth in the compliance schedule provided by the attorney general. An applicant shall submit to

the attorney general the triennial update on a form provided by the attorney generalwith the following information:

(1) A listing of any administrative enforcement orders issued to the applicant or non-applicant business concern establishing any violation of any federal or state environmental protection laws, rules, or regulations during the previous three-year period;

(2) A listing of any civil action in which the applicant or non-applicant business concern was determined to be liable for any violation of any federal or state environmental protection laws, rules, or regulations or was the subject of injunctive relief order, a civil penalty order or another type of civil relief in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous three-year period;

(3) A listing of any criminal conviction for a violation of any federal or state environmental protection laws, rules, or regulations that has been committed knowingly or recklessly by the applicant or non-applicant business concern during the previous three-year period.

(4) A release authorizing the attorney general to request information from the federal bureau of investigation regarding a criminal conviction with respect to the business concern and each officer, director, partner, or key employee of an applicant, permittee, or prospective owner. The applicant is not required to submit a fingerprint card to the attorney general pursuant to this rule for any person for whom a completed and readable fingerprint card previously has been submitted to the attorney general pursuant to rules 109:6-1-01 to 109:6-1-05 of the Administrative Code;

(5) If, in the immediately preceding three years, there have been no administrative enforcement orders, civil actions, or criminal convictions as described under sections 3734.42(F)(2)(a)(b) and (c) of the Revised Code, , the applicant or non-applicant business concern shall submit to the attorney general an affidavit stating that no such enforcement orders, civil actions, or criminal convictions have occurred.

(F) Any person supplying any information in response to a requirement of this chapter may supplement the answer with a written explanation of the answer.

(G)

(1) A person may incorporate by reference information previously filed in a disclosure statement by identifying:

(a) The specific previously filed disclosure statement and, if necessary, the paragraph number(s) therein; and

(b) The name of the particular individual or business concern.

(H) The attorney general shall comply with section 7(b) of the Privacy Act of 1974, 5 U.S.C. section 552(a), regarding disclosure of social security numbers.

(I) Confidentiality.

(1) Whenever a person submitting information in a disclosure statement believes that specific information contained in the statement is confidential and excepted from disclosure by section 149.43 of the Revised Code, the person shall:

(a) Request in writing that specific information contained in the disclosure statement be treated as confidential and excepted from disclosure;

(b) Provide an explanation including citations to specific statutory, regulatory or precedential authority to support the claim of confidentiality; and

(c) Provide sufficient evidence necessary to meet the burden of proof that the information is excepted from disclosure.

(2) The information specified in the request shall be kept confidential until seven days after the date upon which the attorney general determines that the material is not within the exceptions to disclosure contained in section 149.43 of the Revised Code.

(J) If an applicant needs interpretive assistance in completing a disclosure statement, it may submit in writing to the attorney general a regulatory guidance request seeking an informal, nonbinding interpretation of a regulatory requirement imposed by sections 3734.40 to 3734.47 of the Revised Code and the rules adopted thereunder.

(1) The submission of a regulatory guidance request shall in no way alter the obligation of an applicant to fully comply with all requirements imposed by sections 3734.40 to 3734.47 of the Revised Code and the rules adopted thereunder.

(2) There is no obligation upon the attorney general to respond to a regulatory guidance request other than as the attorney general determines in his or her sole discretion based upon available human resources and the need to employ those resources to perform the mandatory obligations imposed by sections 3734.40 to 3737.47 of the Revised Code and the rules adopted thereunder.

(3) The response provided by the attorney general to any regulatory guidance request shall be used by the applicant solely as a guidance to assist in the preparation of a disclosure statement. The response of the attorney general shall not be binding upon anyone, including, but not limited to, the applicant, the attorney general, the director of environmental protection, a local board of health, or the hazardous waste facility board. The response may be accorded such deference as is usually provided to the administrative interpretation of a statutory requirement.

(K) The information required to be submitted in the disclosure statement pursuant to this rule is intended to be the information necessary to begin the background investigation required by sections 3734.40 to 3734.47 of the Revised Code. In limiting the scope of information required to be included in the disclosure statement, it is expressly contemplated that in individual investigations the attorney general may have reasonable cause to believe that the procedures contained in section 3734.43 of the Revised Code should be employed to review additional information. Nothing contained in these rules shall be construed to restrict or limit the scope of the information the attorney general may seek pursuant to the procedures established in section 3734.43 of the Revised Code.

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109:6-1-03 Fingerprinting.

(A) All individuals required to submit a personal history disclosure statement to the attorney general shall be fingerprinted as provided in paragraphs (B) to (D) of this rule.

(B) Fingerprints shall be submitted only on forms or by means prescribed by the attorney general or on any fingerprint form acceptable to the federal bureau of investigation.

(C) Complete and readable fingerprint forms shall be submitted with the disclosure statement filed with the attorney general.

(D) The applicant shall arrange for the taking of fingerprints. Fingerprints must be taken in accordance with the instructions provided by the attorney general in the personal history disclosure statement.

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109:6-1-04 Fees.

(A) Initial disclosure statement fees for off-site hazardous waste facilities, solid waste disposal facilities, infectious waste facilities, solid waste transfer facilities, scrap tire monocell or monofill facilities, and class I scrap tire recovery or storage facilities.

Each applicant filing a disclosure statement for a facility of the type listed in Column 1 below, which facility annually receives wastes within the range listed in Column 2, shall pay to the attorney general the fee listed in Column 3:

Column 1	Column 2		Column 3
Type of facility	Annual waste receipt in tons greater than or equal to	less than	Fee (per facility)
Off-site solid waste facility, scrap tire monofill or monocell facilities (other than a transfer facility, an infectious waste facility, a class I composting facility, or a class I scrap tire recovery or storage facility) for which a governmental entity neither holds the permit nor operates the facility			
	0	30,000	$ 5,000
	30,000	75,000	$10,000
	75,000	135,000	$15,000
	135,000	210,000	$20,000
	210,000	300,000	$25,000
	300,000		$40,000
Off-site solid waste facility, scrap tire monofill or monocell facilities (other than a transfer facility, an infectious waste facility, a class I composting facility, or a class I scrap			

tire recovery or storage facility) for which a governmental entity holds the permit and a nongovernmental entity operates the facility			
	0	30,000	$ 2,000
	30,000	75,000	$ 4,000
	75,000	135,000	$ 6,000
	135,000	210,000	$ 8,000
	210,000	300,000	$10,000
	300,000		$12,000
Off-site solid waste facility, scrap tire monofill or monocell facilities (other than a transfer facility, an infectious waste facility, a class I composting facility, or a class I scrap tire recovery or storage facility) for which a governmental entity holds the permit and operates the facility			
	0	30,000	$ 1,000
	30,000	75,000	$2,000
	75,000	135,000	$3,000
	135,000	210,000	$4,000
	210,000	300,000	$5,000
	300,000		$6,000

Off-site hazardous waste facility			
	0	5,000	$10,000
	5,000	10,000	$15,000
	10,000	20,000	$20,000
	20,000	40,000	$25,000
	40,000	60,000	$35,000
	60,000	100,000	$40,000
	100,000+		$50,000

(B) Initial disclosure fees for off-site transfer facilities. Each applicant filing a disclosure statement for an off-site solid waste transfer facility shall pay to the attorney general a fee of five thousand dollars.

(C) Initial disclosure fees for infectious waste facilities. Each applicant filing a disclosure statement for an off-site infectious waste facility shall pay to the attorney general a fee often thousand dollars.

(D) Initial disclosure fees for class I composting facilities. Each applicant filing a disclosure statement for a class I composting facility shall pay to the attorney general a fee often thousand dollars.

(E) Initial disclosure statement fees for class I scrap tire recovery or storage facilities.

Each applicant filing a disclosure s for a class I scrap tire recovery or storage facility shall pay the attorney general a fee of five thousand dollars.

(F) Maintenance fees

(1) Investigative fees. The attorney general will charge and collect the maintenance fees listed below for investigations conducted once every three years.

Off-site solid waste facility, scrap tire monofill or monocell facilities (other than a transfer facility, an infectious waste facility, a class I composting facility, or a class I scrap tire recovery or storage facility) for which a governmental entity neither holds the permit nor operates the facility	$5,000 triennially
Off-site solid waste facility, scrap tire monofill or monocell facilities (other than a transfer facility, an	$3,500 triennially

infectious waste facility, a class I composting facility, or a class I scrap tire recovery or storage facility) for which a governmental entity holds the permit and a nongovernmental entity operates the facility	
Off-site solid waste facility, scrap tire monofill or monocell facilities (other than a transfer facility, an infectious waste facility, a class I composting facility, or a class I scrap tire recovery or storage facility) for storage facility) for which a governmental entity holds the permit and operates the facility:	$1,500 triennially
Off-site hazardous waste facility	
Less than 20,000 tons annually	$2,500 triennially
Greater than 20,000 tons annually	$5,000 triennially
Solid waste transfer facility	$2,500 triennially
Infectious waste facility	$2,500 triennially
Class I composting facility	$2,500 triennially
Class I scrap tire recovery or storage facilities	$2,500 triennially

(2) Retained applicant fingerprint database fees. In addition to subsection (1) above, the attorney general will charge and collect fees from an applicant in accordance with section 109.5721 of the Revised Code and the rules adopted thereunder.

(G) Fees applicable to applicants previously subject to a background investigation.

Each applicant filing a disclosure statement in connection with a change of ownership, previously subject to a background investigation conducted by the attorney general pursuant to rules 109:6-1-01 to 109:6-1-05 of the Administrative Code shall pay to the attorney general a fee according to the following schedule:

Fee (per facility)

Off-site solid waste facilities, scrap tire monofill or monocell facilities (including transfer facilities, class I scrap tire recovery or storage facilities, and class I composting facilities), off-site hazardous waste facilities, and infectious waste facilities, where the applicant, permittee or

prospective owner has been the subject of a background investigation conducted by the attorney general within four years prior to the date of the submission of the disclosure statement. Fee equal to the applicable maintenance fee chargeable for such facility pursuant to paragraph (F) of this rule

Off-site solid waste facilities, scrap tire monofill or monocell facilities (including transfer facilities, class I scrap tire recovery or storage facilities, and class I composting facilities), off-site hazardous waste facilities, and infectious waste facilities, where the applicant, permittee or prospective owner has not been the subject of a background investigation conducted by the attorney general within four years prior to the date of the submission of the disclosure statement. Fee equal to the applicable initial disclosure statement fee chargeable for such facility pursuant to paragraph (A), (B), (C), (D) or (E) of this rule

(H) Timing of payment of fee.

(1) Each applicant filing a disclosure statement shall pay the fee such that the fee is received by the attorney general no later than the date upon which the disclosure statement is due, regardless of whether the disclosure statement is timely filed.

(I) The fee must be paid in a form of currency or commercial paper acceptable to the attorney general.

(J) The annual waste receipts in column 2 of paragraph (A) of this rule shall be determined in the following manner:

(1) For a solid waste facility, other than a transfer station, in operation prior to the date of the adoption of these rules and for a solid waste facility, other than a transfer facility, for which a permit has been issued, but at which operation has not commenced;

(a) If the facility has a maximum daily waste receipt limit established under Chapter 3734. of the Revised Code and rules promulgated thereunder, the annual waste receipts shall be that limit multiplied by the number of days of operation per year as stated in the permit or otherwise by three hundred twelve;

(b) If the facility does not have a maximum daily waste receipt limit established under Chapter 3734. of the Revised Code and rules promulgated thereunder, the annual waste receipts shall be the annual waste receipts for the most recent calendar year which have been reported to the director of environmental protection pursuant to paragraph (M) of rule 3745-27-08 of the Administrative Code; and

(c) If the facility does not have a maximum daily waste limit established under Chapter 3734. of the Revised Code and rules promulgated thereunder or has not reported annual waste receipts to the director of environmental protection pursuant to paragraph (M) of rule 3745-27-08 of the Administrative Code, then the annual waste receipts shall be the maximum daily waste receipt established pursuant to paragraph (C) of section 7 of Amended substitute House Bill 592 of the 117th General Assembly or any

variance granted from such maximum by the director of environmental protection multiplied by the number of days of operation per year as stated in the permit or by three hundred twelve if no permit has been issued;

(2) For all solid waste facilities and proposed solid waste facilities other than those referred to in paragraph (B), (C), (D) or (E) of this rule, the annual waste receipts shall be the projected daily waste receipts contained in the application multiplied by the number of days of operation per year as projected in the application;

(3) For a hazardous waste facility in operation prior to the date of the adoption of these rules, those waste receipts for the most recent calendar year which have been reported to the director of environmental protection pursuant to rule 3745-54-75 or 3745-65-75 of the Administrative Code;

(4) For all hazardous waste facilities and proposed hazardous waste facilities other than those referred to in paragraph (H)(3) of this rule, the annual quantities of hazardous waste to be received at the facility as projected or stated in the application;

(5) If annual waste receipts cannot be determined pursuant to the procedures established in paragraphs (G) to (J)(4) of this rule, the applicant or permittee or prospective owner shall so notify the attorney general thirty days prior to the date upon which the fee for the disclosure statement is due. The attorney general shall review whatever other information is available to him or her and calculate annual waste receipts which are representative of the facility's current annual waste receipts. The facility shall then pay to the attorney general within ten days, the fee resulting from the determination of the attorney general.

(6) Notwithstanding the above, if the attorney general discovers specific information which indicates that the annual waste receipts calculated pursuant to paragraphs (J)(1) to (J)(5) of this rule is less than the current annual waste receipts, the attorney general may notify the applicant of the specific information discovered by the attorney general and provide the applicant with fourteen days in which to explain the discrepancy. After reviewing the explanation and determining that discrepancy still exists, the attorney general may require the applicant to pay within ten days an additional fee based upon the increased level of waste receipts resulting from the specific information discovered by the attorney general.

(K) If a facility may be classified as more than one type of facility, the facility shall pay and only pay the highest fee computed for that facility under this rule.

(L) If waste receipts have been reported to the director of environmental protection in cubic yards as the unit of measurement, the waste receipts shall be converted to tons based upon a conversion factor of three cubic yards per ton generally and one cubic yard per ton for baled waste.

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109:6-1-05 Waiver.

(A) The attorney general may waive any of the requirements set forth in Chapter 109:6-1 of the Administrative Code when the applicant demonstrates that compliance with the requirement will impose a substantial hardship and also establishes, to the satisfaction of the attorney general, that compliance is unlikely to elicit information which will reflect on any of the factors enumerated in section 3734.44 or 3734.45 of the Revised Code as conditions for issuance, renewal, modification, or revocation of a permit or license.

(B) The attorney general may waive, in whole or in part, any of the fee requirements set forth in Chapter 109:6-1 of the Administrative Code when the applicant demonstrates that the payment of the fee outlined in rule 109:6-1-04 of the Administrative Code would impose a substantial hardship, or would otherwise represent an unjustifiable burden upon, the applicant.

R.C. 119.032 review dates: 04/08/2005 and 04/08/2010
Promulgated Under: 5703.14
Statutory Authority: Ohio Revised Code 3734.47
Rule Amplifies: Ohio Revised Code 3734.41 to 3734.46
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