



Ohio Revised Code

Section 3734.12 Director of environmental protection - powers and duties.

Effective: September 5, 2012

Legislation: Senate Bill 294 - 129th General Assembly

As used in this section, "Resource Conservation and Recovery Act" means the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. 6921, as amended.

The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code, which shall be consistent with and equivalent to the regulations adopted under the Resource Conservation and Recovery Act except for rules adopted under divisions (D) and (F) of this section governing solid waste facilities and except as otherwise provided in this chapter, doing all of the following:

(A) Adopting the criteria and procedures established under the Resource Conservation and Recovery Act for identifying hazardous waste. The director shall prepare, revise when appropriate, and publish a list of substances or categories of substances identified to be hazardous using the criteria specified in 40 C.F.R. 261, as amended, which shall be composed of at least those substances identified as hazardous pursuant to section 3001(B) of that act. The director shall not list any waste that the administrator of the United States environmental protection agency delisted or excluded by an amendment to the federal regulations, any waste that the administrator declined to list by publishing a denial of a rulemaking petition or by withdrawal of a proposed listing in the United States federal register after May 18, 1980, or any waste oil or polychlorinated biphenyl not listed by the administrator.

(B) Establishing standards for generators of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Record-keeping practices that accurately identify the quantities of hazardous waste generated, the constituents that are significant in quantity or in potential harm to human health or safety or the environment, and the disposition of the waste;



- (2) Labeling of containers used for storage, transportation, or disposal of hazardous waste to identify the waste accurately;
 - (3) Use of appropriate containers for hazardous waste;
 - (4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;
 - (5) A manifest system requiring a manifest consistent with that prescribed under the Resource Conservation and Recovery Act requiring a manifest for any hazardous waste transported off the premises where generated and assuring that all hazardous waste that is transported off the premises where generated is designated for treatment, storage, or disposal in facilities for which a permit has been issued or in the other facilities specified in division (F) of section 3734.02 of the Revised Code;
 - (6) Submission of such reports to the director as the director determines necessary;
 - (7) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;
 - (8) Obtainment of a United States environmental protection agency identification number.
- (C) Establishing standards for transporters of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:
- (1) Record-keeping concerning hazardous waste transported, including source and delivery points;
 - (2) Submission of such reports to the director as the director determines necessary;
 - (3) Transportation of only properly labeled waste;
 - (4) Compliance with the manifest system required by division (B) of this section;



- (5) Transportation of hazardous waste only to the treatment, storage, or disposal facility that the shipper designates on the manifest to be a facility holding a permit or another facility specified in division (F) of section 3734.02 of the Revised Code;
- (6) Contingency plans to minimize unanticipated damage from transportation of hazardous waste;
- (7) Financial responsibility, including, but not limited to, provisions requiring a financial mechanism to cover the costs of spill cleanup and liability for sudden accidental occurrences that result in damage to persons, property, or the environment;
- (8) Obtainment of a United States environmental protection agency identification number.

In the case of any hazardous waste that is subject to the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, the rules shall be consistent with that act and regulations adopted under it.

(D) Establishing performance standards for owners and operators of hazardous waste facilities and owners and operators of solid waste facilities, necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

- (1) Maintaining records of all hazardous waste that is treated, stored, or disposed of and of the manner in which the waste was treated, stored, or disposed of or records of all solid wastes transferred or disposed of and of the manner in which the wastes were disposed of;
- (2) Submission of such reports to the director as the director determines necessary;
- (3) Reporting, monitoring, inspection, and, except with respect to solid waste facilities, compliance with the manifest system referred to in division (B) of this section;
- (4) Treatment, storage, or disposal of all hazardous waste received by methods, techniques, and practices approved by the director and disposal or transfer of all solid wastes received by methods,



techniques, and practices approved by the director;

(5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;

(6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;

(7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.

(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;

(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;

(10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;

(11) Trial burns and land treatment demonstrations.

The rules adopted under divisions (D) and (F) of this section pertaining to solid waste facilities do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(E) Governing the issuance, modification, revocation, suspension, withdrawal, and denial of



installation and operation permits, draft permits, and transportation certificates of registration;

(F) Specifying information required to be included in applications for hazardous waste facility installation and operation permits and solid waste permits, including, but not limited to, detail plans, specifications, and information respecting all of the following:

(1) The composition, quantities, and concentrations of hazardous waste and solid wastes to be stored, treated, transported, or disposed of and such other information as the director may require regarding the method of operation;

(2) The facility to which the waste will be transported or where it will be stored, treated, or disposed of;

(3) The closure and post-closure care of a facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred.

(G) Establishing procedures ensuring that all information entitled to protection as trade secrets disclosed to the director or the director's authorized representative is not disclosed without the consent of the owner, except that such information may be disclosed, upon request, to authorized representatives of the United States environmental protection agency, or as required by law. As used in this section, "trade secrets" means any formula, plan, pattern, process, tool, mechanism, compound, procedure, production date, or compilation of information that is not patented, that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article, trade, or service having commercial value, and that gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(H) Prohibiting the disposal of specified hazardous wastes in this state if the director has determined both of the following:

(1) The potential impacts on human health or safety or the environment are such that disposal of those wastes should not be allowed.



(2) A technically feasible and environmentally sound alternative is reasonably available, either within or outside this state, for processing, recycling, fixation of, neutralization of, or other treatment of those wastes. Such reasonable availability shall not be determined without a consideration of the costs to the generator of implementing the alternatives.

The director shall adopt, and may amend, suspend, or rescind, rules to specify hazardous wastes that shall not be disposed of in accordance with this division. Nothing in this division, either prior to or after adoption of those rules, shall preclude the director from prohibiting the disposal of specified hazardous wastes at particular facilities under the terms or conditions of a permit or by order.

(I)(1)(a) Governing the following that may be more stringent than the regulations adopted under the Resource Conservation and Recovery Act when the director determines that such more stringent rules are reasonable in order to protect human health or safety or the environment:

(i) Specific wastes that the director determines, because of their physical, chemical, or biological characteristics, are so extremely hazardous that the storage, treatment, or disposal of the wastes in compliance with those regulations would present an imminent danger to human health or safety or the environment;

(ii) The use of only properly designed, operated, and approved transfer facilities;

(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including record-keeping, reporting, and manifest requirements.

(b) In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

(i) Geography of the state;

(ii) Geology of the state;

(iii) Hydrogeology of the state;



(iv) Climate of the state;

(v) Engineering and technical feasibility;

(vi) Availability of alternative technologies or methods of storage, treatment, or disposal.

(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the Resource Conservation and Recovery Act to the extent that such reports contain information that the generator, transporter, or facility owner or operator is required to obtain in order to comply with the regulations adopted by the administrator of the United States environmental protection agency under the Resource Conservation and Recovery Act or to the extent that such reports are required by the director to meet the requirements of division (B)(7), (D)(9), or (H) of this section or section 3734.121 of the Revised Code.

(J) Governing the storage, treatment, or disposal of hazardous waste in, and the permitting, design, construction, operation, monitoring, inspection, closure, and post-closure care of, hazardous waste underground injection wells, surface impoundments, waste piles other than those composed of materials removed from the ground as part of coal or mineral extraction or cleaning processes, land treatment facilities, thermal treatment facilities, and landfills that may be more stringent than the regulations adopted under the Resource Conservation and Recovery Act whenever the director reasonably determines that federal regulations will not adequately protect the public health or safety or the environment of this state with respect to the subject matter of the more stringent rules. Such more stringent rules shall be developed to achieve a degree of protection, as determined by the director, consistent with the degree of hazard potentially posed by the various wastes or categories of wastes to be treated, stored, or disposed of and the types of facilities at which they are to be treated, stored, or disposed of. In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

(1) Geography of the state;

(2) Geology of the state;



(3) Hydrogeology of the state;

(4) Climate of the state;

(5) Engineering and technical feasibility;

(6) Availability of alternative technologies or methods of storage, treatment, or disposal.

(K) Establishing performance standards and other requirements necessary to protect public health and the environment from hazards associated with used oil, including, without limitation, standards and requirements respecting all of the following:

(1) Material that is subject to regulation as used oil;

(2) Generation of used oil;

(3) Used oil collection centers and aggregation points;

(4) Transportation of used oil;

(5) Processing and re-refining of used oil;

(6) Burning of used oil;

(7) Marketing of used oil;

(8) Disposal of used oil;

(9) Use of used oil as a dust suppressant.

(L) Establishing any other requirements, standards, or criteria that are consistent with and equivalent to the Resource Conservation and Recovery Act governing any matter not specifically addressed by



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divisions (A) to (K) of this section.