



Ohio Revised Code

Section 3734.55 Preliminary review of draft plan.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

(A) Upon completion of its draft solid waste management plan under section 3734.54 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district shall send a copy of the draft plan to the director of environmental protection for preliminary review and comment. Within forty-five days after receiving the draft plan, the director shall provide the committee with a written, nonbinding advisory opinion regarding the draft plan and any recommended changes to it that the director considers necessary to effect its approval. After receipt of the director's written opinion, the committee may make such revisions to the draft plan based on the director's opinion as it considers appropriate. Upon receipt of the director's opinion and after making any such revisions to the draft plan, the committee shall prepare and publish in at least one newspaper of general circulation within the county or joint district a public notice that describes the draft plan, specifies the location where it is available for review, and establishes a period of thirty days for comments concerning the draft plan. The committee shall send written notice of the draft plan to adjacent county and joint districts and shall make it available for review by those districts, by the board of county commissioners of each county forming the district, by all municipal corporations and townships within the county or joint district, and by the public. The committee also shall send written notice of the plan to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the board, and their local trade associations. The board shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular industrial, commercial, or institutional generator or local trade association does not invalidate the proceedings under this section. All such written notices shall include the date, time, and location of the public hearing; the dates when the comment period begins and ends; and a description of the plan that includes, without limitation, the proposed amount of the fees to be levied under the plan pursuant to division (B) of section 3734.57 or division (A) of section 3734.573 of the Revised Code, if any, and an indication as to whether the provision required to be included in the plan under division (E)(1) of section 3734.53 of the Revised Code authorizes the board of county commissioners or directors of the district to establish, or precludes the board from establishing, facility designations under section 343.014 of the Revised



Code. Within fifteen days after expiration of the comment period, the committee shall conduct a public hearing concerning the draft plan and, at least fifteen days before the hearing, shall publish in at least one newspaper of general circulation within the county or joint district a notice containing the time and place of the hearing and the location where the draft plan is available for review.

(B) After the public hearing, the committee may modify the draft plan based upon the public's comments and shall adopt or reject it by a majority vote. Within thirty days after adoption of the draft plan, the committee shall deliver a copy of it to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within ninety days after receiving a copy of the draft plan adopted by the committee, each such board and legislative authority shall approve or disapprove the draft plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee.

The solid waste management policy committee of a county district or a joint district formed by two or three counties shall declare the draft plan to be ratified as the solid waste management plan of the district upon determining that the board of county commissioners of each county forming the district has approved the draft plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the county or joint district comprising at least sixty per cent of the total population of the district have approved the draft plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. The solid waste management policy committee of a joint district formed by four or more counties shall declare the draft plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft plan; that, in each of a majority of the counties forming the joint district, the draft plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint



district comprising at least sixty per cent of the total population of the joint district have approved the draft plan.

For the purposes of this division and division (C)(2) of this section, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division and division (C)(2) of this section, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

(C)(1) Upon ratification of the draft plan under division (B) of this section, the committee shall submit it to the director for review and approval for compliance with the requirements of divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. The director, by order, shall approve or disapprove the plan within ninety days after its submission. The director shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the committee to submit, within ninety days after issuance of the order, a revised plan that remedies those deficiencies, except that if the committee, by resolution, requests an extension of the time for submission of a revised plan, the director, for good cause shown, may grant one such extension for a period of not more than sixty additional days.

(2) Within sixty days after issuance of the order disapproving its plan, the committee shall prepare a draft revised plan, adopt a draft revised plan by a majority vote, and deliver a copy of the draft revised plan to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within twenty-one days after the delivery of the draft revised plan, each such board and legislative authority shall approve or disapprove the draft revised plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee. In the case of a county district or a joint district formed by two or three counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the county or joint district upon determining that the board of county commissioners of each county forming the district has approved the draft revised plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the



total population of the district have approved the draft revised plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft revised plan; that, in each of a majority of the counties forming the joint district, the draft revised plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft revised plan. Upon ratification of the draft revised plan, the committee shall submit it to the director for approval in accordance with division (C)(1) of this section. The director, by order, shall approve or disapprove the draft revised plan within thirty days after receiving it.

(3) Notwithstanding section 119.06 of the Revised Code, the director may approve or disapprove a plan or revised plan submitted under division (C)(1) or (2) of this section by issuance of a final order that is effective upon issuance, without the necessity to hold any adjudication hearing in connection with the order and without issuance of a proposed action under section 3745.07 of the Revised Code. In any appeal taken under section 3745.04 of the Revised Code pertaining to the director's disapproval of the solid waste management plan or revised plan of a county or joint district, the solid waste management policy committee of the county or joint district and the director shall be the parties. Upon a showing by the policy committee that there is a substantial likelihood that it will prevail on the merits, the environmental review appeals commission, within thirty days after filing of the notice of appeal under that section and pending final determination of the appeal, may grant temporary relief from the director's order disapproving the district's plan, including the issuance of appropriate orders to the director to refrain from acting under division (D) of this section.

(4) After approval of the plan or revised plan by the director, the board of county commissioners of



a county district or board of directors of a joint district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

The committee annually shall review implementation of the plan approved under this section or section 3734.521 of the Revised Code and subsequent amended plans approved under section 3734.521 or 3734.56 of the Revised Code and report its findings and recommendations regarding implementation of the plan to the board of county commissioners or board of directors of the district.

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section 3734.54 of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section 3734.53 of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to implement the plan, the board of county commissioners or board of directors of the district shall determine whether the solid waste management policy committee of the district should continue to exist to monitor implementation of the plan or for the purposes of division (B) of section 3734.57 or section 3734.574 of the Revised Code. The board, by resolution, may abolish the committee if it determines that the committee is not necessary for any of those purposes. If the board of county commissioners or directors of a district that has so abolished the policy committee of the district finds that it is necessary or appropriate for the district to consider levying fees under section 3734.574 of the Revised Code, the board shall reestablish and convene the policy committee to initiate proceedings to levy the fees. If the fees are levied, the policy committee shall continue to exist for as long as the district is levying the fees. If, after a policy committee is convened to initiate proceedings to levy those fees, the fees are not levied or are abolished under section 3734.574 of the Revised Code, the board, by resolution, may



abolish the committee if it determines that the committee is not necessary to monitor implementation of the plan.

(E) If the director finds that the board of county commissioners or the board of directors of a district has materially failed to implement the district's plan or amended plan approved under division (C) of this section or section 3734.521 or 3734.56 of the Revised Code, or prepared and ordered to be implemented under division (D) of this section or section 3734.521 or 3734.56 of the Revised Code, in compliance with the implementation schedule contained in the plan or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board to comply with the implementation schedule in the plan or amended plan within a specified, reasonable time. If the director finds that the board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section 3734.56 of the Revised Code, precludes the board from establishing facility designations under section 343.014 of the Revised Code has initiated proceedings to establish facility designations in violation of that section and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or suspend them until after the board has adopted and obtained ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that authorizes the board to establish facility designations under section 343.014 of the Revised Code. If the director finds that a board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section 3734.56 of the Revised Code, authorizes the board to establish facility designations under section 343.014 of the Revised Code has established facility designations under section 343.014 of the Revised Code or continued facility designations under section 343.015 of the Revised Code and subsequently has initiated proceedings to terminate any such facility designations in violation of section 343.014 of the Revised Code and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either



abandon the proceedings or adopt and obtain ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that precludes the board from establishing facility designations under section 343.014 of the Revised Code.

(F) The director shall maintain a record of the county and joint solid waste management district solid waste management plans and amended plans that the director has approved or ordered to be implemented under this section, section 3734.521, and section 3734.56 of the Revised Code.

(G)(1) As used in divisions (C)(4), (D)(1) and (2), and (E) of this section and section 3734.521 of the Revised Code, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority formed under section 343.011 of the Revised Code.

(2) As used in this section and sections 3734.521 and 3734.57 of the Revised Code, "deliver" includes mailing as well as delivery by a means other than mailing.