

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Hudepohl Site USEPA Remediation
801 W 6th Street
Cincinnati, Ohio 45203

**Director's Final Findings and Orders
Fee Exemption:**

I. JURISDICTION

Ohio EPA OCT 5 '17
Entered Directors Journal

These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.57(D)(8) and 3714.04.

II. DEFINITIONS

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

III. FINDINGS

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

1. United States Environmental Protection Agency (USEPA) has initiated a cleanup of an estimated 9000 tons of asbestos containing waste at the Hudepohl remediation project located at 801 W. Sixth Street, Cincinnati, Ohio in Hamilton County (Site).
2. Ohio EPA was approached by USEPA, Region 5 requesting an exemption from the waste fees levied under ORC Chapters 3734 and 3714. A timely remediation project is necessitated to address public health and environmental protection concerns from the contamination located on the Site.
3. The estimated completion of the remediation project is March, 2018. The remediation project will include the removal and proper disposal of asbestos containing waste material. The material is solid waste or construction and demolition debris, as those terms are defined in Ohio Administrative Code ("OAC") Rules 3745-27-01(S)(24) and 3745-400-01(C)(2).

4. The remediation project at the Site is anticipated to generate approximately 9000 tons of solid waste and construction and demolition debris.
5. Pursuant to ORC Section 3734.57(A), state disposal fees are to be levied on the disposal of solid waste at solid waste facilities. These solid waste disposal fees are to be collected and remitted to the state of Ohio on each ton of solid waste disposed at solid waste disposal facilities.
6. The solid waste that will be generated and disposed as a result of this project is subject to a \$4.75 per ton state disposal fee pursuant to ORC Section 3734.57(A).
7. Pursuant to ORC Section 3734.57(B), the solid waste management policy committee of a single or joint solid waste management district is authorized to levy a disposal fee on solid wastes disposed at solid waste disposal facilities located within the solid waste management district.
8. Pursuant to ORC Section 3734.57(C), a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.
9. Pursuant to ORC Section 3734.57(D)(8), the Director may issue an order exempting from the fees levied under ORC Sections 3734.57 solid wastes that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the USEPA, the Director, or the director of administrative services on behalf of the Director for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the Director has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination.
10. Pursuant to ORC Sections 3714.07, 3714.071 and 3714.073, disposal fees are to be levied on the disposal of construction and demolition debris at licensed construction and demolition debris facilities at a rate of \$1.60/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)
11. Pursuant to ORC Section 3714.04, the Director may issue an order exempting any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment, or to create a fire hazard, from any provision of Chapter 3714 or a rule adopted or order issued under it, other than division (B)(2) of section 3714.03 or division (E) of section 3714.13 of the Revised Code. As such, the director may exempt remittance of the fees levied under ORC Sections 3714.07, 3714.071 and 3714.073 as noted above provided such exemption is unlikely to adversely affect the public health or safety or the environment, or to create a fire

IV. ORDERS

1. Pursuant to ORC Sections 3734.57(D)(8), the solid waste disposed as a result of US EPA's remediation of the Site is hereby exempted from the requirement to collect and remit fees levied pursuant to ORC Sections 3734.57(A), 3734.57(B), and 3734.57(C). This exemption shall not apply to any solid waste other than the solid waste described in Findings Number 1 and 4, above.
2. Pursuant to ORC Section 3714.04, the construction and demolition debris generated and disposed as a result of the remediation of the Site is hereby exempted from the \$1.60 per ton disposal fee levied pursuant to ORC Sections 3714.07, 3714.071 and 3714.073. This exemption shall not apply to any construction and demolition debris other than as described in Findings Number 1 and 4, above.

V. EFFECTIVE DATE

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

IT IS SO ORDERED

A handwritten signature in black ink, appearing to read 'C. Butler', written over a horizontal line.

Craig W. Butler, Director
Ohio Environmental Protection Agency