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1982 OPINIONS

OAG 82-087

OPINION NO. 82-087

Syllabus:

A political subdivision that owns and operates a landfill for the disposal of residential garbage and debris is operating or maintaining a solid waste facility within the terms of R.C. 3734.05(A) and must

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obtain a license from the board of health of the health district in which the facility is located.

To: Lee E. Fry, Darke County Prosecuting Attorney, Greenville, Ohio
By: William J. Brown, Attorney General, October 26, 1982

I have before me your request for an opinion as to whether residential waste that is disposed of in local landfills falls within the statutory definition of "solid wastes" and, accordingly, whether a township or village that owns and operates a disposal site that it used exclusively or predominantly for residential waste must secure a license in accordance with R.C. 3734.05(A).

For purposes of R.C. Chapter 3734, the term "solid wastes" is defined as follows:

"Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that would normally be included in demolition debris, nontoxic fly ash, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, combustible and noncombustible material, street dirt, and debris. (Emphasis added.)

R.C. 3734.01(E). Thus garbage and debris, among other residual materials, that results from industrial, commercial, agricultural, and community operations constitutes solid wastes.

Your letter indicates that you are concerned with ordinary household garbage, waste, and debris that residents deposit in landfills owned and operated by various political subdivisions. The statutory definition expressly includes garbage and debris among the materials that qualify as solid wastes. The dispositive inquiry, therefore, is whether such materials result from industrial, commercial, agricultural or community operations.

R.C. 1.42 provides that "[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage." Black's Law Dictionary 254 (5th ed. 1979) defines a community as "[p]eople who reside in a locality in more or less proximity. A society or body of people living in the same place, under the same laws and regulations, who have common rights, privileges, or interests" (citation omitted). The word "operation" means action or activity. *Id.* at 984. Thus, garbage and debris that results from the activities of residents of the locality must be said to have resulted from community operations.

R.C. 3734.05(A) provides, in pertinent part, that "[n]o person shall operate or maintain a solid waste facility without a license issued by the board of health of the health district in which the facility is located." You have indicated that the various political subdivisions own and operate landfills. Thus, the appropriate inquiries are whether a political subdivision qualifies as a "person," and whether such a landfill constitutes a "facility." For purposes of R.C. Chapter 3734, "[p]erson" includes the state, any political subdivision and other state or local body. . . ." R.C. 3734.01(G). "'Facility' means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes. . . ." R.C. 3734.01(N). As indicated above, residential garbage and debris constitute solid wastes. I must, therefore, conclude that a political subdivision which owns and operates a site that is used exclusively or predominantly for the disposal of residential waste qualifies as a "person" operating or maintaining a "solid waste facility" within the meaning of R.C. 3734.05(A).

Your letter implicitly questions whether the lack of regular service charges or collection services affects the status of the landfills as solid waste facilities. The pertinent statutory definitions and requirements make no reference to such

matters. It is, therefore, not possible to conclude that such matters affect the characterization of the landfills as solid waste facilities.

Based upon the foregoing, it is my opinion, and you are advised, that a political subdivision that owns and operates a landfill for the disposal of residential garbage and debris is operating or maintaining a solid waste facility within the terms of R.C. 3734.05(A) and must obtain a license from the board of health of the health district in which the facility is located.