

3745-51-06

Requirements for recyclable materials.**(A) Recyclable materials.**

- (1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (B) and (C) of this rule, except for the materials listed in paragraphs (A)(2), (A)(3), and (A)(4) of this rule. Hazardous wastes that are recycled will be known as "recyclable materials."
- (2) The following recyclable materials are not subject to the requirements of this rule but are regulated under Chapter 3745-266 of the Administrative Code and all applicable provisions of Chapter 3745-270 and rules 3745-50-40 to 3745-50-235 of the Administrative Code:
 - (a) Recyclable materials used in a manner constituting disposal (rules 3745-266-20 to 3745-266-23 of the Administrative Code);
 - (b) Hazardous wastes burned [as "burn" is defined in paragraph (A) of rule 3745-266-100 of the Administrative Code] for energy recovery in boilers and industrial furnaces that are not regulated under rules 3745-57-40 to 3745-57-51 or 3745-68-40 to 3745-68-52 of the Administrative Code (rules 3745-266-100 to 3745-266-112 of the Administrative Code);
 - (c) Recyclable materials from which precious metals are reclaimed (rule 3745-266-70 of the Administrative Code); ~~and~~
 - (d) Spent lead-acid batteries that are being reclaimed (rule 3745-266-80 of the Administrative Code).
- (3) The following recyclable materials are not subject to regulation under rules 3745-50-40 to 3745-50-235 or Chapters 3745-52, 3745-53, 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256, 3745-266, and 3745-270 of the Administrative Code, or 40 CFR Part 262 subpart E, and are not subject to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity:
 - (a) Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in 40 CFR 262.58:
 - (i) A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, ~~must~~shall

comply with the requirements applicable to a "primary exporter" in 40 CFR 262.53, 40 CFR 262.56(a)(1) to (a)(4), (a)(6), and (b) and 40 CFR 262.57, export such materials only upon consent of the "receiving country" and in conformance with the "EPA Acknowledgement of Consent" as defined in 40 CFR Part 262 subpart E, and provide a copy of the "EPA Acknowledgement of Consent" to the shipment to the transporter transporting the shipment for export;

[Comment 1: The terms "primary exporter," "receiving country," and "EPA Acknowledgement of Consent" are defined in 40 CFR 262.51.]

[Comment 2: The exercise of foreign relations and international commerce powers is reserved to the federal government under the Constitution. These responsibilities are not delegable to the states. Therefore, the importation and exportation of hazardous waste into and out of the U.S. is solely regulated by the federal government.]

- (ii) A transporter transporting a shipment for export may not accept a shipment if ~~he~~the transporter knows the shipment does not conform to the "EPA Acknowledgement of Consent," ~~must~~shall ensure that a copy of the "EPA Acknowledgement of Consent" accompanies the shipment, and ~~must~~shall ensure that it is delivered to the facility designated by the person initiating the shipment.
- (b) Scrap metal that is not excluded under paragraph (A)(13) of rule 3745-51-04 of the Administrative Code;
- (c) Fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility, if such wastes result from normal petroleum refining, production, and transportation practices [this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under paragraph (A)(12)(b) of rule 3745-51-04 of the Administrative Code];
- (d) Oil and fuel produced from oil-bearing hazardous wastes.
 - (i) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes,

where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under rule 3745-279-11 of the Administrative Code and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

- (ii) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under rule 3745-279-11 of the Administrative Code;
 - (iii) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil specification under rule 3745-279-11 of the Administrative Code.
- (4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Chapters 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256, 3745-266, and 3745-270 of the Administrative Code, but is regulated under Chapter 3745-279 of the Administrative Code. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed.
- (5) Hazardous waste that is exported to or imported from designated member countries of the "Organization for Economic Cooperation and Development" (OECD) [as defined in 40 CFR 262.58(a)(1)] for purpose of recovery is subject to the requirements of 40 CFR Part 262 subpart H, if it is subject to either the federal manifesting requirements of 40 CFR Part 262, or to the universal waste management standards of Chapter 3745-273 of the Administrative Code.

(B) Generators and transporters of recyclable materials are subject to the applicable requirements of Chapters 3745-52 and 3745-53 of the Administrative Code, and the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, except as provided in paragraph (A) of this rule.

(C) Recyclable materials that are stored before being recycled, recycled without storage, or entered into a recycling process within seventy-two hours.

(1) Owners or operators of facilities that store recyclable materials before ~~they~~the materials are recycled ~~must~~shall obtain a hazardous waste installation and operation permit in accordance with Chapter 3734. of the Revised Code, except as provided in paragraph (C)(3)(a) of this rule, and are regulated under all applicable provisions of Chapters 3745-54, 3745-55, 3745-65, 3745-66, 3745-266, and 3745-270, and rules 3745-50-40 to 3745-50-235, 3745-56-20 to 3745-56-31, 3745-56-50 to 3745-56-59, 3745-67-20 to 3745-67-30, and 3745-67-50 to 3745-67-60 of the Administrative Code and the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, except as provided in paragraph (A) of this rule. (The recycling process itself is exempt from regulation.)

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to all of the following requirements, except as provided in paragraph (A) of this rule:

(a) The requirement to notify Ohio EPA or U.S. EPA of regulated waste activity; ~~and.~~

(b) Rules 3745-65-71 and 3745-65-72 of the Administrative Code (dealing with the use of the manifest and manifest discrepancies).

(c) Reserved.

(3) Limited storage prior to recycling.

(a) Owners or operators of facilities that enter recyclable materials into a recycling process within seventy-two hours after arrival at the facility, except as provided in ~~paragraphs (A)(2)(a), (A)(2)(b), and (A)(2)(e)~~paragraph (A)(2) of this rule, may store recyclable materials in containers, tanks, or containment buildings without an Ohio hazardous waste permit, provided that all of the following requirements are met:

- (i) The notification and U.S. EPA identification number requirements of rule 3745-65-11 of the Administrative Code. A description of the recycling process ~~must~~shall be provided in the comments section of the notification form. The owner or operator ~~must~~shall renotify when there is a change in the recycling process or when the recycling operations cease.
- (ii) The requirements for container management of rules 3745-66-71 to 3745-66-77 of the Administrative Code.
- (iii) The requirements for tank management of rules 3745-66-90 to 3745-66-96, 3745-66-98, 3745-66-99, and paragraphs (A) and (B) of rule 3745-66-97 of the Administrative Code.
- (iv) The requirements for containment buildings of rules 3745-256-100 to ~~3745-256-102~~3745-256-101 of the Administrative Code.
- (v) The security requirements of rule 3745-65-14 of the Administrative Code.
- (vi) The inspection requirements of rule 3745-65-15 of the Administrative Code.
- (vii) The personnel training requirements of rule 3745-65-16 of the Administrative Code.
- (viii) The requirements for ignitable wastes, reactive wastes, or incompatible wastes of rule 3745-65-17 of the Administrative Code.
- (ix) The preparedness and prevention requirements of rules 3745-65-30 to 3745-65-37 of the Administrative Code.
- (x) The contingency plan and emergency procedures requirements of rules 3745-65-50 to 3745-65-56 of the Administrative Code.
- (xi) The manifest system, recordkeeping, and reporting requirements of rules 3745-65-70 to 3745-65-72 of the Administrative Code.

- (xii) The operating record requirements of paragraphs (A) and (B)(3) to (B)(14) of rule 3745-65-73 of the Administrative Code;
- (xiii) Maintain an inventory log in the operating record containing this information for three years:
 - (a) The date and time when the recyclable material arrived at the facility;
 - (b) The quantity and type of material received;
 - (c) The name and address of the facility where the recyclable materials shipment originated; ~~and~~
 - (d) The date and time that the recyclable material was placed into the recycling process;
- (xiv) The availability, retention, and disposition of records requirements of rule 3745-65-74 of the Administrative Code;
- (xv) The ~~annual~~ biennial report requirements of rule 3745-65-75 of the Administrative Code;
- (xvi) The unmanifested waste report requirements of rule 3745-65-76 of the Administrative Code;
- (xvii) The additional reports requirements of rule 3745-65-77 of the Administrative Code;
- (xviii) The closure requirements of paragraphs (A) and (B) of rule 3745-66-11 and rule 3745-66-14 of the Administrative Code;
- ~~(xix) Demonstrate financial assurance for closure of the facility and liability coverage by submitting and maintaining these documents. The following documents must be approved by Ohio EPA prior to storing any material:
 - (a) A closure cost estimate that meets the requirements of rule 3745-66-42 of the Administrative Code;~~

~~(b) Financial assurance documentation that meets the requirements of rule 3745-66-43 of the Administrative Code; and~~

~~(c) Liability coverage documentation that demonstrates the coverage for sudden accidental occurrences requirements of rule 3745-66-47 of the Administrative Code.~~

(xix) The financial assurance requirements of rule 3745-51-100 of the Administrative Code.

(xx) The owner or operator ~~must~~shall give advance notice to the director of any anticipated noncompliance with the seventy-two hour time limit for storage. This notice ~~must~~shall contain all of the following:

(a) The cause of the anticipated noncompliance;₂

(b) The name, address, and telephone number of the owner or operator;₂

(c) The name, address, and telephone number of the facility;₂

(d) The date and time of the anticipated noncompliance;₂

(e) The name and quantity of ~~material(s)~~materials involved; ~~and~~.

(f) The estimated time frame for noncompliance.

(b) Owners or operators of facilities that do not enter recyclable materials into a recycling process within seventy-two hours after arrival at the facility, except as provided in ~~paragraphs (A)(2)(a), (A)(2)(b), and (A)(2)(e)~~paragraph (A)(2) of this rule, are subject to the requirements of paragraph (C)(1) of this rule.

(D) Reserved.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-50-11 of the Administrative Code titled "Incorporated by reference."]

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Certification

10/07/2015

Date

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