

3745-51-04

Exclusions.

(A) Materials which are not wastes. The following materials are not wastes for the purpose of Chapter 3745-51 of the Administrative Code:

(1) Domestic sewage:

(a) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment, except as prohibited by rule 3745-266-505 of the Administrative Code and Clean Water Act requirements in paragraph (B)(1) of rule 3745-3-04 of the Administrative Code.

(b) As used in Chapter 3745-51 of the Administrative Code, "domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act.

[Comment: This exclusion applies only to the actual point source discharge. The exclusion does not exclude industrial wastewaters while the industrial wastewaters are being collected, stored, or treated before discharge, nor does the exclusion exclude sludges that are generated by industrial wastewater treatment.]

(3) Irrigation return flows.

(4) "Source material," "special nuclear material," or "by-product material" as defined by the Atomic Energy Act of 1954, ~~as amended through the date specified in rule 3745-50-11 of the Administrative Code, 42 U.S.C. 2011.~~

(5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(6) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless the pulping liquors are "accumulated speculatively" as described in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code.

(7) Spent sulfuric acid used to produce virgin sulfuric acid, provided the spent sulfuric acid is not "accumulated speculatively" as described in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code.

- (8) Secondary materials that are reclaimed and returned to the original process or processes in which the secondary materials were generated where the secondary materials are reused in the production process provided that all of the following:
- (a) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance.
 - (b) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators).
 - (c) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed.
 - (d) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.
- (9) Wood preserving.
- (a) Spent wood preserving solutions that have been reclaimed and are reused for the original intended purpose.
 - (b) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.
 - (c) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in paragraphs (A)(9)(a) and (A)(9)(b) of this rule, so long as the wood preserving wastewaters and spent wood preserving solutions meet all of the following conditions:
 - (i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for the original intended purpose.
 - (ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both.
 - (iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases.
 - (iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with rules 3745-69-40

to 3745-69-45 of the Administrative Code, regardless of whether the owner or operator generates a total of less than one hundred kilograms of hazardous waste per month.

- (v) Prior to operating pursuant to this exclusion, the owner or operator prepares one-time notification stating that the owner or operator intends to claim the exclusion, giving the date on which the owner or operator intends to begin operating under the exclusion, and containing the following language:

"I have read rule 3745-51-04 of the Administrative Code establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand rule 3745-51-04 of the Administrative Code requires me to comply at all times with the conditions set out in the rule."

The owner or operator shall maintain a copy of that document in the facility's on-site records until closure of the facility. The exclusion applies so long as the owner or operator meets all of the conditions. If the owner or operator goes out of compliance with any condition, the owner or operator may apply to the director for reinstatement. The director may reinstate the exclusion upon finding that the owner or operator has returned to compliance with all conditions, and that the violations are not likely to recur.

- (10) EPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because such wastes and by-products exhibit the toxicity characteristic specified in rule 3745-51-24 of the Administrative Code when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point the wastes are generated to the point the wastes are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.
- (11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided such residue is shipped in drums (if shipped) and not land disposed before recovery.
- (12) Oil-bearing secondary materials and recovered oil.

- (a) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process [SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)] unless the material is placed on the land, or accumulated speculatively before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where the oil-bearing hazardous secondary materials are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in paragraph (A)(12)(b) of this rule, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this rule. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under rules 3745-51-30 to 3745-51-35 of the Administrative Code, are designated as F037 listed wastes when disposed of or intended for disposal.
 - (b) Recovered oil that is recycled in the same manner and with the same conditions as described in paragraph (A)(12)(a) of this rule. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in rules 3745-51-30 to 3745-51-35 of the Administrative Code; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include "used oil" as defined in rule 3745-279-01 of the Administrative Code.
- (13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- (14) Shredded circuit boards being recycled provided that the shredded circuit boards are both:
- (a) Stored in containers sufficient to prevent a release to the environment prior to recovery.

- (b) Free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- (15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 ~~C.F.R.~~CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- (16) [Reserved.]
- (17) "Spent materials," as defined in rule 3745-51-01 of the Administrative Code (other than hazardous wastes listed in rules 3745-51-30 to 3745-51-35 of the Administrative Code), generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that all of the following:
- (a) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values.
 - (b) The spent material is not accumulated speculatively.
 - (c) Except as provided in paragraph (A)(17)(d) of this rule, the spent material is stored in tanks, containers, or buildings that meet all of the following minimum integrity standards:
 - (i) A building shall be an engineered structure with a floor, walls, and a roof, all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation.
 - (ii) A tank shall be free standing, shall not be a "surface impoundment" as defined in rule 3745-50-10 of the Administrative Code, and shall be manufactured of a material suitable for containment of the contents.
 - (iii) A container shall be free standing and be manufactured of a material suitable for containment of the contents.
 - (iv) If tanks or containers contain any particulate which may be subject to wind dispersal, the owner or operator shall operate these units in a manner which controls fugitive dust.

- (v) Tanks, containers, and buildings shall be designed, constructed, and operated to prevent significant releases to the environment of these materials.
- (d) The director may make a site-specific determination, after public review and comment, that only solid mineral processing spent material may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The director shall affirm that pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment. Pads shall provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
 - (i) The director also shall consider if storage on pads poses the potential for significant releases via ground water, surface water, and air exposure pathways. Factors to be considered for assessing the ground water, surface water, air exposure pathways are the volume and physical and chemical properties of the spent material, including the potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.
 - (ii) Pads shall meet all of the following minimum standards:
 - (a) Be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material.
 - (b) Be capable of withstanding physical stresses associated with placement and removal.
 - (c) Have run-on and run-off controls.
 - (d) Be operated in a manner which controls fugitive dust.
 - (e) Have integrity assurance through inspections and maintenance programs.
 - (iii) Before making a determination under paragraph (A)(17) of this rule, the director shall provide notice and the opportunity for comment to all persons potentially interested in the determination. This may be accomplished by placing notice of this action in major local newspapers, or by broadcasting notice over local radio stations.

- (e) The owner or operator provides a notice to the director, providing all of the following information:
 - (i) The types of materials to be recycled.
 - (ii) The type and location of the storage units and recycling processes.
 - (iii) The annual quantities expected to be placed in land-based units.
 - (iv) This notification shall be updated when there is a change in the type of materials recycled or the location of the recycling process.
 - (f) For purposes of paragraph (B)(7) of this rule, mineral processing spent materials shall be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of "waste."
- (18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both:
- (a) The oil is hazardous only because the oil exhibits the characteristic of ignitability (as identified in rule 3745-51-21 of the Administrative Code) or the characteristic of toxicity for benzene (waste code D018 in rule 3745-51-24 of the Administrative Code).
 - (b) The oil generated by the organic chemical manufacturing facility is not placed on the land, or accumulated speculatively before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- (19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed

on the land, or "accumulated speculatively" as defined in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code.

(20) Hazardous secondary materials used to make zinc fertilizers, provided that all of the following conditions are satisfied:

(a) Hazardous secondary materials used to make zinc micronutrient fertilizers shall not be "accumulated speculatively," as defined in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code.

(b) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers shall:

(i) Submit a one-time notice to the director, which contains the name, address, and U.S. EPA identification number of the generator or intermediate handler facility, provides a brief description of the secondary material that shall be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in paragraph (A)(20) of this rule.

(ii) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose shall be an engineered structure made of non-earthen materials that provide structural support, and shall have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose shall be structurally sound and, if outdoors, shall have roofs or covers that prevent contact with wind and rain. Containers used for this purpose shall be kept closed except when it is necessary to add or remove material, and shall be in sound condition. Containers that are stored outdoors shall be managed within storage areas that accomplish all of the following:

(a) Have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation.

(b) Provide for effective drainage and removal of leaks, spills, and accumulated precipitation.

(c) Prevent run-on into the containment system.

- (iii) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of paragraph (A)(20) of this rule.
 - (iv) Maintain at the generator's or intermediate handler's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment, these records shall at a minimum contain all of the following information:
 - (a) Name of the transporter and date of the shipment.
 - (b) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment.
 - (c) Type and quantity of excluded secondary material in each shipment.
- (c) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials shall do all of the following:
- (i) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in paragraph (A)(20)(b)(ii) of this rule.
 - (ii) Submit a one-time notification to the director that, at a minimum, specifies the name, address and U.S. EPA identification number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in paragraph (A)(20) of this rule.
 - (iii) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which shall at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - (iv) Submit to the director an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in

the previous year, the name and address of each generating facility, and the industrial processes from which excluded hazardous secondary materials were generated.

- (d) Nothing in this rule preempts, overrides, or otherwise negates rule 3745-52-11 of the Administrative Code, which requires any person who generates a waste to determine if that waste is a hazardous waste.
- (e) Permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submittal of the one-time notice described in paragraph (A)(20)(b)(i) of this rule, and that afterward shall be used only to store hazardous secondary materials excluded under paragraph (A)(20) of this rule, are not subject to the closure requirements of Chapters 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, or 3745-256 of the Administrative Code.
- (21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under paragraph (A)(20) of this rule, provided that all of the following:
- (a) The fertilizers meet the following contaminant limits:

- (i) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, Per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

- (ii) For dioxin contaminants the fertilizer shall contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

- (b) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing also shall be performed whenever changes occur to

manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. The manufacturer has the responsibility to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

- (c) The manufacturer maintains for no less than three years records of all sampling and analyses performed to determine compliance with paragraph (A)(21)(b) of this rule. At a minimum, such records shall include all of the following:
 - (i) The dates and times product samples were taken, and the dates the samples were analyzed.
 - (ii) The names and qualifications of the persons taking the samples.
 - (iii) A description of the methods and equipment used to take the samples.
 - (iv) The name and address of the laboratory facility at which analyses of the samples were performed.
 - (v) A description of the analytical methods used, including any cleanup and sample preparation methods.
 - (vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in paragraph (A)(21) of this rule.
- (22) Used cathode ray tubes (CRTs).
 - (a) Used, intact "CRTs" as defined in rule 3745-50-10 of the Administrative Code are not wastes within the United States unless the used, intact CRTs are disposed, or "accumulated speculatively" as defined in paragraph (C) (8) of rule 3745-51-01 of the Administrative Code by CRT collectors or glass processors.
 - (b) Used, intact "CRTs" as defined in rule 3745-50-10 of the Administrative Code are not wastes when exported for recycling provided that they the used, intact CRTs comply with rule 3745-51-40 of the Administrative Code.

- (c) Used, broken "CRTs" as defined in rule 3745-50-10 of the Administrative Code are not wastes provided that the used, intact CRTs comply with rule 3745-51-39 of the Administrative Code.
- (d) Glass removed from CRTs is not a waste provided that such glass complies with paragraph (C) of rule 3745-51-39 of the Administrative Code.
- (23) ~~Reserved.~~ Hazardous secondary material generated and legitimately reclaimed within the United States or United States' territories and under the control of the generator, provided that the material complies with paragraphs (A)(23)(a) and (A)(23)(b) of this rule.
- (a)
- (i) The hazardous secondary material is generated and reclaimed at the generating facility (for purposes of this definition, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator); or
- (ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a "person," as defined in rule 3745-50-10 of the Administrative Code, and if the generator provides one of the following certifications:
- (a) "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material"; or
- (b) "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."
- (c) For purposes of this paragraph, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors

who operate facilities on behalf of a different "person," as defined in rule 3745-50-10 of the Administrative Code, shall not be deemed to "control" such facilities. The generating and receiving facilities shall both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations); or

(iii) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following:

(a) "On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process."

(b) The tolling contractor shall maintain at the tolling contractor's facility for no less than three years, records of hazardous secondary materials received pursuant to the tolling contractor's written contract with the tolling manufacturer, and the tolling manufacturer shall maintain at the tolling manufacturer's facility for no less than three years, records of hazardous secondary materials shipped pursuant to the tolling manufacturer's written contract with the tolling contractor. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and

quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations). For purposes of this paragraph, "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

(b)

- (i) The hazardous secondary material is "contained" as defined in rule 3745-50-10 of the Administrative Code. A hazardous secondary material released to the environment is discarded and a waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a waste.
- (ii) The hazardous secondary material is not "speculatively accumulated," as defined in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code.
- (iii) Notice is provided, as required by rule 3745-50-16 of the Administrative Code.
- (iv) The material is not otherwise subject to material-specific management conditions under paragraph (A) of this rule when reclaimed, and the material is not a spent lead-acid battery (see rules 3745-266-80 and 3745-273-02 of the Administrative Code).
- (v) Persons performing the recycling of hazardous secondary materials under this exclusion shall maintain documentation of their legitimacy determination on-site. Documentation shall be a written description of how the recycling meets all three factors in paragraph (A) of rule 3745-50-17 of the Administrative Code and how the factor in paragraph (B) of rule 3745-50-17 of the Administrative Code was considered. Documentation shall be maintained for three years after the recycling operation has ceased.

- (vi) The emergency preparedness and response requirements in rules 3745-51-400 to 3745-51-420 of the Administrative Code are met.
- (24) ~~Reserved.~~ Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a waste, provided that:
- (a) The material is not "speculatively accumulated," as defined in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code;
- (b) The material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than ten days at a "transfer facility," as defined in rule 3745-50-10 of the Administrative Code, and is packaged according to applicable department of transportation regulations at 49 CFR Parts 173, 178, and 179 while in transport;
- (c) The material is not otherwise subject to material-specific management conditions under paragraph (A) of this rule when reclaimed, and the material is not a spent lead-acid battery (see rules 3745-266-80 and 3745-273-02 of the Administrative Code);
- (d) The reclamation of the material is legitimate, as specified under rule 3745-50-17 of the Administrative Code;
- (e) The hazardous secondary material generator satisfies all of the following conditions:
- (i) The material shall be "contained" as defined in rule 3745-50-10 of the Administrative Code. A hazardous secondary material released to the environment is discarded and a waste unless the waste is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and is a waste.
- (ii) Prior to arranging for transport of hazardous secondary materials to a reclamation facility (or facilities) where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim standards, the hazardous secondary material generator shall make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard the hazardous secondary material, and that each reclaimer will manage the

hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim standards, the hazardous secondary material generator shall make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator shall perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts shall be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator shall affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:

(a) Does the available information indicate that the reclamation process is legitimate pursuant to rule 3745-50-17 of the Administrative Code? In answering this question, the hazardous secondary material generator can rely on existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.

(b) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to rule 3745-50-16 of the Administrative Code and have they notified the appropriate authorities that the financial assurance condition is satisfied per paragraph (A)(24)(f)(vi) of this rule? In answering these questions, the hazardous secondary material

generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per rule 3745-50-16 of the Administrative Code, including the requirement in paragraph (A)(5) of rule 3745-50-16 of the Administrative Code to notify Ohio EPA whether the reclaimer or intermediate facility has financial assurance.

(c) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of Ohio's hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the publicly available information from U.S. EPA or Ohio EPA. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of Ohio's hazardous waste rules and has been classified as a significant non-complier with RCRA Subtitle C, does the hazardous secondary material generator have credible evidence that the facilities will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from U.S. EPA, Ohio EPA, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations, and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

(d) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

- (e) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from U.S. EPA or Ohio EPA, or information provided by the facility itself.
- (iii) The hazardous secondary material generator shall maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim standards prior to transferring hazardous secondary material. Documentation and certification shall be made available upon request by Ohio EPA within seventy-two hours, or within a longer period of time as specified by Ohio EPA. The certification statement shall:
- (a) Include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed;
- (b) Incorporate the following language:
- (i) "I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to [insert name or names of reclamation facility and any intermediate facility], reasonable efforts were made in accordance with paragraph (A)(24)(e)(ii) of this rule to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were made in accordance with paragraph (A)(24)(e)(ii) of this rule to ensure that the hazardous secondary materials would

be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information.

(iv) The hazardous secondary material generator shall maintain at the generating facility for no less than three years records of all off-site shipments of hazardous secondary materials. For each shipment, these records shall, at a minimum, contain the following information:

(a) Name of the transporter and date of the shipment;

(b) Name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

(c) The type and quantity of hazardous secondary material in the shipment.

(v) The hazardous secondary material generator shall maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations of receipt);

(vi) The hazardous secondary material generator shall comply with the emergency preparedness and response conditions in rules 3745-51-400 to 3745-51-420 of the Administrative Code.

(f) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and "intermediate facilities" as defined in rule 3745-50-10 of the Administrative Code satisfy all of the following conditions:

(i) The reclaimer and intermediate facility shall maintain at its facility for no less than three years records of all shipments of hazardous secondary material that were received at the facility and, if

applicable, for all shipments of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records shall, at a minimum, contain the following information:

- (a) Name of the transporter and date of the shipment;
 - (b) Name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary materials were received from;
 - (c) The type and quantity of hazardous secondary material in the shipment; and
 - (d) For hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the (subsequent) reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.
- (ii) The intermediate facility shall send the hazardous secondary material to the reclaimer designated by the hazardous secondary materials generator.
- (iii) The reclaimer and intermediate facility shall send to the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations of receipt).
- (iv) The reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and shall be contained. An "analogous raw material" is a raw material for which a hazardous secondary material is a substitute and serves the same function

and has similar physical and chemical properties as the hazardous secondary material.

(v) Any residuals that are generated from reclamation processes will be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to rules 3745-51-20 to 3745-51-24 of the Administrative Code, or if they themselves are specifically listed in rules 3745-51-30 to 3745-51-35 of the Administrative Code, such residuals are hazardous wastes and shall be managed in accordance with the applicable requirements of Chapters 3745-50 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256, 3745-266, and 3745-270 of the Administrative Code.

(vi) The reclaimer and intermediate facility have financial assurance as required under rules 3745-51-140 to 3745-51-151 of the Administrative Code.

(g) In addition, all persons claiming the exclusion under paragraph (A)(24) of this rule provide notification as required under rule 3745-50-16 of the Administrative Code.

(25) ~~Reserved.~~ Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a waste, provided that the hazardous secondary material generator complies with the applicable requirements of paragraphs (A)(24)(a) to (A)(24)(e) of this rule (excepting paragraph (A)(24)(e)(ii)(b) of this rule for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:

(a) Notify U.S. EPA of an intended export before the hazardous secondary material is scheduled to leave the United States. A complete notification shall be submitted at least sixty days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve month or lesser period. The notification shall be in writing, signed by the hazardous secondary material generator, and include the following information:

(i) Name, mailing address, telephone number and a U.S. EPA identification number (if applicable) of the hazardous secondary material generator;

- (ii) A description of the hazardous secondary material and the U.S. EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste and the U.S. department of transportation proper shipping name, hazard class and U.S. EPA identification number (UN/NA) for each hazardous secondary material as identified in 49 CFR Parts 171 to 177;
 - (iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;
 - (iv) The estimated total quantity of hazardous secondary material;
 - (v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
 - (vi) A description of the means by which each shipment of the hazardous secondary material will be transported [e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type or types of container (drums, boxes, tanks, etc.)];
 - (vii) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;
 - (viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
 - (ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time the hazardous secondary material will remain in such countries and the nature of its handling while there (for purposes of this rule, the terms "EPA Acknowledgement of Consent," "country of import," and "country of transit" are used as defined in rule 3745-52-80 of the Administrative Code with the exception that the terms in this rule refer to hazardous secondary materials, rather than hazardous waste);
- (b) Notifications shall be submitted electronically using U.S. EPA's "Waste Import Export Tracking System" (WIETS), or its successor system.
- (c) Except for changes to the telephone number in paragraph (A)(25)(a)(i) of this rule and decreases in the quantity of hazardous secondary material indicated pursuant to paragraph (A)(25)(a)(iv) of this rule, when the conditions specified on the original notification change (including

any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator shall provide U.S. EPA with a written renotification of the change. The shipment cannot take place until consent of the country of import to the changes (except for changes to paragraph (A)(25)(a)(ix) of this rule and in the ports of entry to and departure from countries of transit pursuant to paragraph (A)(25)(a)(v) of this rule) has been obtained and the hazardous secondary material generator receives from U.S. EPA an "EPA Acknowledgment of Consent" reflecting the country of import's consent to the changes.

- (d) Upon request by U.S. EPA, the hazardous secondary material generator shall furnish to U.S. EPA any additional information which a country of import requests in order to respond to a notification.
- (e) U.S. EPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when U.S. EPA receives a notification which U.S. EPA determines satisfies the requirements of paragraph (A)(25)(a) of this rule. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (A)(25)(a) of this rule, U.S. EPA may find the notification not complete until any such claim is resolved in accordance with rule 3745-50-02 of the Administrative Code.
- (f) The export of hazardous secondary material under paragraph (A)(25) of this rule is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, U.S. EPA will send an "EPA Acknowledgment of Consent" to the hazardous secondary material generator. Where the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, U.S. EPA will notify the hazardous secondary material generator in writing. U.S. EPA will also notify the hazardous secondary material generator of any responses from countries of transit.
- (g) For exports to "OECD Member" countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to paragraph (A)(25)(a) of this rule within thirty days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, U.S. EPA will send an "EPA Acknowledgment of Consent" to inform the hazardous

secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the thirty-day period; renotification and renewal of all consents are required for exports after that date.

- (h) A copy of the "EPA Acknowledgment of Consent" shall accompany the shipment. The shipment shall conform to the terms of the "EPA Acknowledgment of Consent."
- (i) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator shall re-notify U.S. EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with paragraph (C) of this rule and obtain another "EPA Acknowledgment of Consent."
- (j) Hazardous secondary material generators shall keep a copy of each notification of intent to export and each "EPA Acknowledgment of Consent" for a period of three years after receipt of the "EPA Acknowledgment of Consent." Hazardous secondary material generators may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on U.S. EPA's "Waste Import Export Tracking System" (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any U.S. EPA or authorized state inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or acknowledgement for inspection under this rule if the hazardous secondary material generator can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with U.S. EPA's "Waste Import Export Tracking System" (WIETS), or its successor system for which the hazardous secondary material generator bears no responsibility.
- (k) Hazardous secondary material generators shall file with the director, no later than March first of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports shall be submitted electronically using U.S. EPA's "Waste Import Export Tracking System (WIETS)," or its successor system. Such reports shall include the following information:

- (i) Name, mailing and site address, and U.S. EPA identification number (if applicable) of the hazardous secondary material generator;
- (ii) The calendar year covered by the report;
- (iii) The name and site address of each reclaimer and intermediate facility;
- (iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste, the department of transportation hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous secondary material shipped, and the number of shipments pursuant to each notification;
- (v) A certification signed by the hazardous secondary material generator which states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- (l) All persons claiming an exclusion under paragraph (A)(25) of this rule shall provide notification as required by rule 3745-50-16 of the Administrative Code.
- (26) "Solvent-contaminated wipes," as defined in rule 3745-50-10 of the Administrative Code, that are sent for cleaning and reuse are not wastes from the point of generation, provided that ~~all of the following~~:
- (a) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or

when the container is being transported, the container shall be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

- (b) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days after the start date of accumulation for each container prior to being sent for cleaning;
- (c) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes shall contain "no free liquids" as defined in rule 3745-50-10 of the Administrative Code;
- (d) Free liquids removed from the solvent-contaminated wipes or from the container holding the "wipes," as defined in rule 3745-50-10 of the Administrative Code, shall be managed according to the applicable rules in Chapters 3745-50 to 3745-273 of the Administrative Code;
- (e) Generators shall maintain at the site ~~all of~~ the following documentation:
 - (i) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - (ii) Documentation that the one hundred eighty-day accumulation time limit in paragraph (A)(26)(b) of this rule is being met;
 - (iii) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning;
- (f) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under Section 301 and Section 402 or Section 307 of the Clean Water Act.

(27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a waste, provided that:

- (a) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, NN-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, or methanol;

- (b) The hazardous secondary material originated from using one or more of the solvents listed in paragraph (A)(27)(a) of this rule in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510).
- (c) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in paragraph (A)(27)(a) of this rule to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510).
- (d) After remanufacturing one or more of the solvents listed in paragraph (A)(27)(a) of this rule, the use of the remanufactured solvent is limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the "Chemical Data Reporting Rule of the Toxic Substances Control Act" (40 CFR Part 704 and 40 CFR Parts 710 to 711), including industrial function codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents become part of the mixture);
- (e) After remanufacturing one or more of the solvents listed in paragraph (A)(27)(a) of this rule, the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in industrial function code U029 under the "Chemical Data Reporting Rule of the Toxics Substances Control Act."); and
- (f) Both the hazardous secondary material generator and the remanufacturer shall:
- (i) Notify the director and update the notification every two years per rule 3745-50-16 of the Administrative Code;

(ii) Develop and maintain an up-to-date remanufacturing plan which identifies:

(a) The name, address and U.S. EPA identification number of the generator, and the remanufacturer;

(b) The types and estimated annual volumes of spent solvents to be remanufactured;

(c) The processes and industry sectors that generate the spent solvents;

(d) The specific uses and industry sectors for the remanufactured solvents; and

(e) A certification from the remanufacturer stating:

"On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvents for the sole purpose of remanufacturing into commercial-grade solvents that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredients. I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in rules 3745-51-730 to 3745-51-735, 3745-51-750 to 3745-51-764, and 3745-51-780 to 3745-51-789 of the Administrative Code)";

(iii) Maintain records of shipments and confirmations of receipts for a period of three years after the dates of the shipments;

- (iv) Prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards in rules 3745-51-170 to 3745-51-179 and 3745-51-190 to 3745-51-200 of the Administrative Code, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;
- (v) During remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in rules 3745-51-730 to 3745-51-735, 3745-51-750 to 3745-51-764, and 3745-51-780 to 3745-51-789 of the Administrative Code); and
- (vi) Meet the requirements prohibiting speculative accumulation in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code.

(B) Wastes which are not hazardous wastes. The following wastes are not hazardous wastes:

- (1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused. As used in Chapter 3745-51 of the Administrative Code, "household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal waste ~~shall~~ is not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under the hazardous waste rules, if such facility:

(a) Receives and burns only:

- (i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
- (ii) Waste from commercial or industrial sources that does not contain hazardous waste; and

- (b) Does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.
- (2) Wastes generated by any of the following and which are returned to the soils as fertilizers:
- (a) The growing and harvesting of agricultural crops.
 - (b) The raising of animals, including animal manures.
- (3) Mining overburden returned to the mine site.
- (4) ~~Coal and fossil fuels combustion residuals.~~
- (a) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by rule 3745-266-112 of the Administrative Code for facilities that burn or process hazardous waste.
 - (b) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in paragraph (B)(4)(a) of this rule, except as provided by rule 3745-266-112 of the Administrative Code for facilities that burn or process hazardous waste:
 - (i) "Coal pile run-off" means any precipitation that drains off coal piles.
 - (ii) "Boiler cleaning solutions" means water solutions and chemical solutions used to clean the fire-side and water-side of the boiler.
 - (iii) "Boiler blowdown" means water purged from boilers used to generate steam.
 - (iv) "Process water treatment and demineralizer regeneration wastes" means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.
 - (v) "Cooling tower blowdown" means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

- (vi) "Air heater and precipitator washes" means wastes from cleaning air preheaters and electrostatic precipitators.
 - (vii) "Effluents from floor and yard drains and sumps" means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.
 - (viii) "Wastewater treatment sludges" means sludges generated from the treatment of wastewaters specified in paragraphs (B)(4)(b)(i) to (B)(4)(b)(vi) of this rule.
- (5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.
- (6) ~~Chromium hazardous waste exclusion:~~
- (a) Wastes which fail the test for the toxicity characteristic because chromium is present or are listed as a hazardous waste in rules 3745-51-30 to 3745-51-35 of the Administrative Code due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if a waste generator or waste generators show that ~~all of the following:~~
 - (i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and
 - (ii) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - (iii) The waste is typically and frequently managed in non-oxidizing environments.
 - (b) Specific wastes which meet the standards in paragraphs (B)(6)(a)(i), (B)(6)(a)(ii), and (B)(6)(a)(iii) of this rule (so long as the specific wastes do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:
 - (i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/

retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

- (ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
 - (iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.
 - (iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
 - (v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
 - (vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.
 - (vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.
 - (viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- (7) Waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by rule 3745-266-112 of the Administrative Code for facilities that burn or process hazardous waste.
- (a) For the purposes of paragraph (B)(7) of this rule, beneficiation of ores and minerals is restricted to any of the following activities:

- (i) Crushing;
- (ii) Grinding;
- (iii) Washing;
- (iv) Dissolution;
- (v) Crystallization;
- (vi) Filtration;
- (vii) Sorting;
- (viii) Sizing;
- (ix) Drying;
- (x) Sintering;
- (xi) Pelletizing;
- (xii) Briquetting;
- (xiii) Calcining to remove water or carbon dioxide;
- (xiv) Roasting, autoclaving, or chlorination in preparation for leaching [except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing];
- (xv) Gravity concentration;
- (xvi) Magnetic separation;
- (xvii) Electrostatic separation;
- (xviii) Flotation;
- (xix) Ion exchange;
- (xx) Solvent extraction;
- (xxi) Electrowinning;
- (xxii) Precipitation;

(xxiii) Amalgamation; and

(xxiv) Heap, dump, vat, tank, and in situ leaching.

(b) For the purposes of paragraph (B)(7) of this rule, waste from the processing of ores and minerals includes only the following wastes as generated:

(i) Slag from primary copper processing;

(ii) Slag from primary lead processing;

(iii) Red and brown muds from bauxite refining;

(iv) Phosphogypsum from phosphoric acid production;

(v) Slag from elemental phosphorus production;

(vi) Gasifier ash from coal gasification;

(vii) Process wastewater from coal gasification;

(viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

(ix) Slag tailings from primary copper processing;

(x) Fluorogypsum from hydrofluoric acid production;

(xi) Process wastewater from hydrofluoric acid production;

(xii) Air pollution control dust or sludge from iron blast furnaces;

(xiii) Iron blast furnace slag;

(xiv) Treated residue from roasting or leaching of chrome ore;

(xv) Process wastewater from primary magnesium processing by the anhydrous process;

(xvi) Process wastewater from phosphoric acid production;

(xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;

- (xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production-;
 - (xix) Chloride process waste solids from titanium tetrachloride production-; and
 - (xx) Slag from primary zinc processing.
- (c) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under paragraph (B) of this rule if the owner or operator ~~does both of the following~~:
- (i) Processes at least fifty per cent by weight normal beneficiation raw materials or normal mineral processing raw materials-; and
 - (ii) Legitimately reclaims the secondary mineral processing materials.
- (8) Cement kiln dust waste, except as provided by rule 3745-266-112 of the Administrative Code for facilities that burn or process hazardous waste.
- (9) Waste which consists of discarded arsenical-treated wood or wood products which fails the test for the toxicity characteristic for EPA hazardous waste numbers D004 to D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.
- (10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of rule 3745-51-24 of the Administrative Code (EPA hazardous waste numbers D018 to D043 only) and are subject to the corrective action regulations under Chapter 1301:7-9 of the Administrative Code.
- (11) Injected ground water that is hazardous only because the injected ground water exhibits the toxicity characteristic (U.S. EPA hazardous waste numbers D018 to D043 only) in rule 3745-51-24 of the Administrative Code that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For ground water returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, this extension applies until October 2, 1991. New operations involving injection wells (beginning after March 25, 1991) shall qualify for

this compliance date extension (until January 25, 1993) only if ~~both of the following~~:

- (a) Operations are performed pursuant to a written state agreement or order that includes a provision to assess the ground water and the need for further remediation once the free phase recovery is completed; and
 - (b) A copy of the written agreement or order has been submitted to "Ohio EPA, Hazardous Waste Management Program, P.O. Box 1049, Columbus, OH" 43216-1049.
- (12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- (13) Non-terne plated used oil filters that are not mixed with waste listed in rules 3745-51-30 to 3745-51-35 of the Administrative Code if these oil filters have been gravity hot-drained using one of the following methods:
- (a) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining; ;
 - (b) Hot-draining and crushing; ;
 - (c) Dismantling and hot-draining; or
 - (d) Any other equivalent hot-draining method which removes used oil.
- (14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- (15) Leachate or gas condensate collected from landfills where certain wastes have been disposed, provided that:
- (a) The wastes disposed would meet one or more of the listing descriptions for the following:
 - (i) EPA hazardous waste numbers K169, K170, K171, and K172 if these wastes had been generated after February 8, 1999; ;
 - (ii) EPA hazardous waste numbers K174, K175, K176, K177, and K178, if these wastes had been generated after May 20, 2002; or

- (iii) EPA hazardous waste number K181 if these wastes had been generated after August 23, 2005.
- (b) The wastes described in any of the following paragraph (B)(15)(a) of this rule were disposed prior to the following effective dates of the listings:
 - (i) Paragraph (B)(15)(a)(i) of this rule were disposed prior to February 8, 1999;
 - (ii) Paragraph (B)(15)(a)(ii) of this rule were disposed prior to May 20, 2002;
 - (iii) Paragraph (B)(15)(a)(iii) of this rule were disposed prior to August 23, 2005.
- (c) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste.
- (d) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under Section 307(b) or Section 402 of the Clean Water Act.
- (e) As of February 13, 2001, leachate or gas condensate derived from K169 to K172 is no longer exempt if such leachate or gas condensate is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 ~~shall~~ shall no longer ~~be~~ exempt if such leachate or gas condensate is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 ~~will~~ will no longer ~~be~~ exempt if such leachate or gas condensate is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(16) [Reserved.]

(17) [Reserved.]

- (18) "Solvent-contaminated wipes," except for "wipes" (both terms are defined in rule 3745-50-10 of the Administrative Code) that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that ~~all of the following~~:
- (a) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - (b) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days after the start date of accumulation for each container prior to being sent for disposal;
 - (c) At the point of being transported for disposal, the solvent-contaminated wipes shall contain "no free liquids" as defined in rule 3745-50-10 of the Administrative Code;
 - (d) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable rules in Chapters 3745-50 to 3745-273 of the Administrative Code;
 - (e) Generators shall maintain at the site ~~all of the following~~ documentation:
 - (i) Name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - (ii) Documentation that the one hundred eighty-day accumulation time limit in paragraph (B)(18)(b) of this rule is being met; and
 - (iii) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;
 - (f) The solvent-contaminated wipes are sent ~~directly according to any of the following~~ for disposal:

- (i) ~~For disposal to~~To a sanitary landfill regulated under Chapter 3745-27 of the Administrative code and that complies with rule 3745-27-08 of the Administrative code and is permitted, licensed, or otherwise authorized by Ohio, or is permitted, licensed, or otherwise authorized by another state that that allows the disposal of contaminated wipes in such landfill-; or
- (ii) ~~For disposal to~~To a permitted hazardous waste landfill unit regulated under Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code, including rule 3745-57-03 of the Administrative Code, or is an authorized hazardous waste landfill in another authorized state-; or
- (iii) To a municipal waste combustor or other combustion facility regulated under Section 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under Chapters 3745-54 to 3745-57 and 3745-205, or Chapters 3745-65 to 3745-69 and 3745-256, or rules 3745-266-100 to 3745-266-112 of the Administrative Code.

(C) Hazardous wastes which are exempted from certain rules. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under Chapters 3745-50, 3745-52, 3745-53, 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256, and 3745-270 of the Administrative Code, or to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, until hazardous waste exits the unit in which hazardous waste was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

(D) Samples.

(1) Except as provided in paragraphs (D)(2) and (D)(4) of this rule, a sample of waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine the characteristics or composition of such sample, is not subject to Chapters 3745-50, 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 to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, when ~~any of the following occurs:~~

- (a) The sample is being transported to a laboratory for the purpose of testing-; or

- (b) The sample is being transported back to the sample collector after testing; or
 - (c) The sample is being stored by the sample collector before transport to a laboratory for testing; or
 - (d) The sample is being stored in a laboratory before testing; or
 - (e) The sample is being stored in a laboratory after testing but before the sample is returned to the sample collector; or
 - (f) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- (2) In order to qualify for the exemption in paragraphs (D)(1)(a) and (D)(1)(b) of this rule, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector shall ~~do one of the following~~:
- (a) Comply with U.S. department of transportation (DOT) requirements, United States postal service (USPS), or any other applicable shipping requirements; or
 - (b) Comply with ~~both of the~~ following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - (i) Assure that ~~all of the~~ following information accompanies the sample:
 - (a) The sample collector's name, mailing address, and telephone number;
 - (b) The laboratory's name, mailing address, and telephone number;
 - (c) The quantity of the sample;
 - (d) The date of shipment; and
 - (e) A description of the sample.
 - (ii) Package the sample so that the sample does not leak, spill, or vaporize from the packaging.

- (3) This exemption does not apply if the laboratory determines that the waste is hazardous, but the laboratory is no longer meeting any of the conditions stated in paragraph (D)(1) of this rule.
- (4) In order to qualify for the exemption in paragraphs (D)(1)(a) and (D)(1)(b) of this rule, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a United States laboratory from a foreign source shall additionally not exceed twenty-five kilograms.

(E) Treatability study samples.

- (1) Except as provided in paragraphs (E)(2) and (E)(4) of this rule, persons who generate or collect samples for the purpose of conducting "treatability studies" as defined in rule 3745-50-10 of the Administrative Code, are not subject to Chapters 3745-51 to 3745-53 of the Administrative Code or to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, nor are such samples included in the quantity determinations of rule 3745-52-13 of the Administrative Code when ~~one of the following occurs~~:
 - (a) The sample is being collected and prepared for transportation by the generator or sample collector; or
 - (b) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
 - (c) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- (2) The exemption in paragraph (E)(1) of this rule is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that ~~all of the following~~:
 - (a) The generator or sample collector uses (in "treatability studies") no more than ten thousand kilograms of media contaminated with non-acute hazardous waste, one thousand kilograms of non-acute hazardous waste other than contaminated media, one kilogram of acute hazardous waste, two thousand five hundred kilograms of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and
 - (b) The mass of each sample shipment does not exceed ten thousand kilograms; the ten thousand kilograms quantity may be all media contaminated with non-acute hazardous waste, or may include two thousand five hundred kilograms of media contaminated with acute hazardous waste,

one thousand kilograms of hazardous waste, and one kilogram of acute hazardous waste-; and

- (c) The sample shall be packaged so that the sample ~~shall~~will not leak, spill, or vaporize from the sample's packaging during shipment and the requirements of paragraph (E)(2)(c)(i) or (E)(2)(c)(ii) of this rule are met.
- (i) The transportation of each sample shipment complies with DOT, USPS, or any other applicable shipping requirements-; or
- (ii) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, ~~all of~~ the following information shall accompany the sample:
- (a) The name, mailing address, and telephone number of the originator of the sample-; ;
- (b) The name, address, and telephone number of the facility that will perform the treatability study-; ;
- (c) The quantity of the sample-; ;
- (d) The date of shipment-; and
- (e) A description of the sample, including the sample's EPA hazardous waste number.
- (d) The sample is shipped to a laboratory or testing facility which is exempt under paragraph (F) of this rule or has an appropriate RCRA permit or interim status or, in Ohio, is operating under an Ohio hazardous waste permit or permit by rule.
- (e) The generator or sample collector maintains ~~all of~~ the following records for a period ending three years after completion of the treatability study:
- (i) Copies of the shipping documents-; ;
- (ii) A copy of the contract with the facility conducting the treatability study-; ;
- (iii) Documentation showing ~~all of the following~~:
- (a) The amount of waste shipped under this exemption-; ;

- (iv) There is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- (c) The additional quantities and timeframes allowed in paragraphs (E)(3)(a) and (E)(3)(b) of this rule are subject to all the provisions in paragraphs (E)(1) and (E)(2)(c) to (E)(2)(f) of this rule. The generator or sample collector shall apply to the director in writing and shall provide in writing ~~all of~~ the following information:
 - (i) The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation, and the additional time or quantity needed;
 - (ii) Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which each sample was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - (iii) A description of the technical modifications or change in specifications which shall be evaluated and the expected results;
 - (iv) If such further study is being required due to equipment or mechanical failure, the applicant shall include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - (v) Such other information that the director considers necessary.
- (4) In order to qualify for the exemption in paragraph (E)(1)(a) of this rule, the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a United States laboratory or testing facility from a foreign source shall additionally not exceed twenty-five kilograms.
- (F) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to hazardous waste requirements) are not subject to Chapters 3745-50, 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 to requirement to notify Ohio EPA or U.S. EPA of regulated

waste activity, provided that the conditions of ~~paragraphs (F)(1) to (F)(11)~~paragraph (F) of this rule are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to ~~paragraphs (F)(1) to (F)(11)~~paragraph (F) of this rule. Where a group of MTUs are located at the same site, the limitations specified in ~~paragraphs (F)(1) to (F)(11)~~paragraph (F) of this rule apply to the entire group of MTUs collectively as if the group were one MTU.

- (1) No less than forty-five days before conducting treatability studies, the owner or operator of the laboratory or testing facility notifies the director in writing that the owner or operator of the laboratory or testing facility intends to conduct treatability studies under paragraph (F) of this rule.
- (2) The laboratory or testing facility conducting the treatability study has a U.S. EPA identification number.
- (3) No more than a total of ten thousand kilograms of "as received" media contaminated with non-acute hazardous waste, two thousand five hundred kilograms of media contaminated with acute hazardous waste, or two hundred fifty kilograms of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
- (4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed ten thousand kilograms, the total of which can include ten thousand kilograms of media contaminated with non-acute hazardous waste, two thousand five hundred kilograms of media contaminated with acute hazardous waste, one thousand kilograms of non-acute hazardous wastes other than contaminated media, and one kilogram of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous waste) added to "as received" hazardous waste.
- (5) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to five hundred kilograms of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years after the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- (6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

- (7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. ~~All of the~~The following specific information shall be included for each treatability study conducted:
- (a) The name, address, and U.S. EPA identification number of the generator or sample collector of each waste sample;
 - (b) The date the shipment was received;
 - (c) The quantity of waste accepted;
 - (d) The quantity of "as received" waste in storage each day;
 - (e) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - (f) The date the treatability study was concluded; and
 - (g) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the U.S. EPA identification number.
- (8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years after the completion date of each treatability study.
- (9) The facility prepares and submits a report to the director by March fifteenth of each year that includes ~~all of the~~ following information for the previous calendar year:
- (a) The name, address, and U.S. EPA identification number of the facility conducting the treatability studies;
 - (b) The types (by process) of treatability studies conducted;
 - (c) The names and addresses of persons for whom studies have been conducted (including the U.S. EPA identification numbers);
 - (d) The total quantity of waste in storage each day;
 - (e) The quantity and types of waste subjected to treatability studies;

- (f) When each treatability study was conducted: and
- (g) The final disposition of residues and unused sample from each treatability study.
- (10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under rule 3745-51-03 of the Administrative Code and, if so, are subject to Chapters 3745-51 to 3745-270 and rules 3745-50-40 to 3745-50-235 of the Administrative Code, unless the residues and unused samples are returned to the sample originator under the exemption in paragraph (E) of this rule.
- (11) The facility notifies the director by letter when the facility is no longer planning to conduct any treatability studies at the site.
- (G) Dredged material that is not a hazardous waste. Dredged material that is subject to a permit that has been issued under Section 404 of the Federal Water Pollution Control Act (~~33 U.S.C. 1344~~) or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (~~33 U.S.C. 1413~~) is not a hazardous waste. For paragraph (G) of this rule, the following definitions apply:
- (1) The term "dredged material" has the same meaning as in 40 ~~C.F.R.~~CFR 232.2.
- (2) The term "permit" means ~~one of the following~~:
- (a) A permit issued by the United States army corps of engineers (corps) or an approved state under Section 404 of the Federal Water Pollution Control Act (~~33 U.S.C. 1344~~); or
- (b) A permit issued by the corps under Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (~~33 U.S.C. 1413~~); or
- (c) In the case of corps civil works projects, the administrative equivalent of the permits referred to in paragraphs (G)(2)(a) and (G)(2)(b) of this rule, as provided for in corps regulations (for example, see 33 ~~C.F.R.~~CFR 336.1, 33 CFR 336.2, and 33 CFR 337.6).
- (H) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for "Class VI" underground injection control wells, including the requirements in 40 ~~C.F.R.~~CFR Part 144 and 40 ~~C.F.R.~~CFR Part 146 of the underground injection control program of the Safe Drinking Water Act, are not a hazardous waste, provided the conditions in 40 ~~C.F.R.~~CFR 261.4(h) are met.

(I) [Reserved.]

(J) Airbag waste.

(1) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under Chapters 3745-50, 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, and is not subject to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity provided that ~~all of the following are met:~~

(a) The airbag waste is accumulated in a quantity of no more than two hundred fifty airbag modules or airbag inflators, for no longer than one hundred eighty days;

(b) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste - Do Not Reuse;"

(c) The airbag waste is sent directly to either ~~of the following:~~

(i) An airbag waste collection facility in the United States under the control of a vehicle manufacturer or the authorized representative of the vehicle manufacturer, or under the control of an authorized party administering a remedy program in response to a recall under the national highway traffic safety administration; or

(ii) A "designated facility" as defined in rule 3745-50-10 of the Administrative Code;

(d) The transport of the airbag waste complies with all applicable U.S. department of transportation regulations in 49 ~~C.F.R.~~ CFR Parts 171 to 180 during transit;

(e) The airbag waste handler maintains at the handler facility for no less than three years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records, at a minimum, shall contain the name of the transporter and date of the shipment, name and address of receiving facility, and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of receipt shall include the name and address of the receiving facility, the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received, and the date which the airbag waste was received. Shipping records and confirmations of receipt shall be made available for inspection and may be satisfied by

routine business records (e.g., electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

- (2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, the airbag waste becomes subject to all applicable hazardous waste rules, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste rules and shall comply with Chapter 3745-52 of the Administrative Code.
- (3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the national highway traffic safety administration is considered sham recycling and is prohibited under ~~40 C.F.R. 261.2(e)~~ paragraph (G) of rule 3745-51-02 of the Administrative Code.

[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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CERTIFIED ELECTRONICALLY

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