



Ohio Administrative Code

Rule 3745-270-04 Treatment surface impoundment exemption.

Effective: September 29, 2021

(A) Wastes which are otherwise prohibited from land disposal under Chapter 3745-270 of the Administrative Code may be treated in a surface impoundment or series of impoundments provided that:

(1) Treatment of such wastes occurs in the impoundments;

(2) The following conditions are met:

(a) Sampling and testing. For wastes with treatment standards in rules 3745-270-40 to 3745-270-49 of the Administrative Code or prohibition levels in rules 3745-270-20 to 3745-270-39 of the Administrative Code or Section 3004(d) of RCRA, the residues from treatment are analyzed, as specified in rule 3745-270-07 of the Administrative Code, to determine if the residues meet the applicable treatment standards or where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under rule 3745-54-13 or 3745-65-13 of the Administrative Code, shall be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples;

(b) Removal. The following treatment residues (including any liquid waste) shall be removed at least annually: residues which do not meet the treatment standards promulgated under rules 3745-270-40 to 3745-270-49 of the Administrative Code; residues which do not meet the prohibition levels established under rules 3745-270-20 to 3745-270-39 of the Administrative Code or imposed by statute (where no treatment standards have been established); residues which are from the treatment of wastes prohibited from land disposal under rules 3745-270-20 to 3745-270-39 of the Administrative Code (where no treatment standards have been established and no prohibition levels apply); or residues from managing listed wastes which are not delisted under 40 CFR 260.22. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the



supernatant for the purpose of this requirement;

(c) Subsequent management. Treatment residues may not be placed in any other surface impoundment for subsequent management;

(d) Recordkeeping. Sampling and testing and recordkeeping provisions of rules 3745-54-13 and 3745-65-13 of the Administrative Code apply; and

(3) The impoundment meets the design requirements in paragraph (C) of rule 3745-56-21 or paragraph (A) of 3745-67-21 of the Administrative Code, regardless that the unit may not be new, expanded, or a replacement, and be in compliance with applicable ground water monitoring requirements of rules 3745-54-90 to 3745-54-101 or 3745-65-90 to 3745-65-94 of the Administrative Code unless:

(a) Exempted pursuant to paragraph (D) or (E) of rule 3745-56-21, or paragraph (C) or (D) of rule 3745-67-21 of the Administrative Code; or,

(b) Upon application by the owner or operator, after notice and an opportunity to comment, the director has granted a waiver of the requirements on the basis that the surface impoundment:

(i) Has at least one liner, for which there is no evidence that such liner is leaking;

(ii) Is located more than one-quarter mile from an underground source of drinking water; and

(iii) Is in compliance with generally applicable ground water monitoring requirements for facilities with permits; or

(c) Upon application by the owner or operator, the director, after notice and an opportunity to comment, has granted a modification to the requirements on the basis of a demonstration that the surface impoundment is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time; and

(4) The owner or operator submits to the director a written certification that the requirements of



paragraph (A)(3) of this rule have been met. The following certification is required:

"I certify under penalty of law that the requirements of paragraph (A)(3) of rule 3745-270-04 of the Administrative Code have been met for all surface impoundments being used to treat restricted wastes. 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."

(B) Evaporation of hazardous constituents as the principal means of treatment is not considered to be treatment for purposes of an exemption under this rule.

[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."]