



Ohio Administrative Code

Rule 3745-50-17 Legitimate recycling of hazardous secondary materials.

Effective: June 12, 2023

(A) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste rules shall be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a waste. In determining if the hazardous secondary materials recycling is legitimate, persons shall address all the requirements of this paragraph and shall consider the requirements of paragraph (B) of this rule.

(1) Legitimate recycling shall involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if the material:

- (a) Contributes valuable ingredients to a product or intermediate; or
- (b) Replaces a catalyst or carrier in the recycling process; or
- (c) Is the source of a valuable constituent recovered in the recycling process; or
- (d) Is recovered or regenerated by the recycling process; or
- (e) Is used as an effective substitute for a commercial product.

(2) The recycling process shall produce a valuable product or intermediate. The product or intermediate is valuable if the product or intermediate is:

- (a) Sold to a third party; or
- (b) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.



(3) The generator and the recycler shall manage the hazardous secondary material as a valuable commodity when the material is under the control of the generator and the recycler. Where there is an analogous raw material, the hazardous secondary material shall be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material shall be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

(B) The following factor shall be considered in making a determination as to the overall legitimacy of a specific recycling activity:

(1) The product of the recycling process does not:

(a) Contain significant concentrations of any hazardous constituents found in the appendix to rule 3745-51-11 of the Administrative Code that are not found in analogous products; or

(b) Contain concentrations of hazardous constituents found in the appendix to rule 3745-51-11 of the Administrative Code at levels that are significantly elevated from those found in analogous products:
or

(c) Exhibit a hazardous characteristic (as described in rules 3745-51-20 to 3745-51-24 of the Administrative Code) that analogous products do not exhibit.

(2) In making a determination that a hazardous secondary material is legitimately recycled, persons shall evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this paragraph is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in this paragraph does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

(C) [Reserved.]