



## Ohio Administrative Code

### Rule 3745-50-24 Standards and criteria for variances from classification as a waste.

Effective: June 12, 2023

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(A) The director may grant requests for a variance from classifying as a waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The director's decision will be based on the following criteria:

- (1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);
- (2) The reason that the applicant has accumulated the material for one or more years without recycling seventy-five per cent of the volume accumulated at the beginning of the year;
- (3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
- (4) The extent to which the material is handled to minimize loss; and
- (5) Other relevant factors.

(B) The director may grant requests for a variance from classifying as a waste those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated, if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

- (1) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;



- (2) The extent to which the material is handled before reclamation to minimize loss;
- (3) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;
- (4) The location of the reclamation operation in relation to the production process;
- (5) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
- (6) Whether the person who generates the material also reclaims it; and
- (7) Other relevant factors.

(C) The director may grant requests for a variance from classifying as a waste those hazardous secondary materials that have been partially reclaimed, but must be reclaimed further before recovery is completed if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the variance is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled, as specified in rule 3745-50-17 of the Administrative Code, and on whether all of the following decision criteria are satisfied:

- (1) Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;
- (2) Whether the partially-reclaimed material has sufficient economic value that the material will be purchased for further reclamation;
- (3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;



- (4) Whether there is a market for the partially-reclaimed material as demonstrated by known customers who are further reclaiming the material (e.g., records of sales and contracts and evidence of subsequent use, such as bills of lading); and
- (5) Whether the partially-reclaimed material is handled to minimize loss.