Ohio Administrative Code

Rule 3745-51-04 Exclusions.

Effective: January 16, 2026

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

(1)

(a) Domestic sewage;

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

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

(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:

(a) Only tank storage is involved, and the entire process throughcompletion of reclamation is closed by being entirely connected with pipes orother 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 tanksfor over twelve months without being reclaimed; and

(d) The reclaimed material is not used to produce a fuel, or usedto produce products that are used in a manner constitutingdisposal.

(9) Wood preserving.

(a) Spent wood preserving solutions that have been reclaimed andare reused for the original intended purpose;

(b) Wastewaters from the wood preserving process that have beenreclaimed and are reused to treat

wood;

(c) Prior to reuse, the wood preserving wastewaters and spentwood preserving solutions described in paragraphs (A)(9)(a) and (A)(9)(b) ofthis rule, so long as the wood preserving wastewaters and spent wood preservingsolutions 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 groundwater 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 the standards in 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; and

(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)

(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 code2911 - including, but not limited to, distillation, catalytic cracking,fractionation, or thermal cracking units (i.e., cokers)] unless the material isplaced on the land, or accumulated speculatively before being so recycled.Materials inserted into thermal cracking units are excluded under thisparagraph, provided that the coke product also does not exhibit acharacteristic of hazardous waste. Oil-bearing hazardous secondary materialsmay be inserted into the same petroleum refinery where the oil-bearinghazardous secondary materials are generated, or sent directly to anotherpetroleum refinery, and still be excluded under this provision. Except asprovided in paragraph (A)(12)(b) of this rule, oil-bearing hazardous secondarymaterials generated elsewhere in the petroleum industry (i.e., from sourcesother than petroleum refineries) are not excluded under this rule. Residualsgenerated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing underrules 3745-51-30 to 3745-51-35 of the Administrative Code, are designated asF037 listed wastes when disposed of or intended for disposal.

(b) Recovered oil that is recycled in the same manner and withthe 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, andtransportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911,4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not includeoil-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 consideredrecovered oil. Recovered oil does not include "used oil" as definedin 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:

(a) Stored in containers sufficient to prevent a release to theenvironment prior to recovery; and

(b) Free of mercury switches, mercury relays, nickel-cadmiumbatteries, and lithium batteries.

(15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 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:

(a) The spent material is legitimately recycled to recoverminerals, acids, cyanide, water, or other values;

(b) The spent material is not accumulatedspeculatively;

(c) Except as provided in paragraph (A)(17)(d) of this rule, thespent material is stored in tanks, containers, or buildings that meet thefollowing 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 of these materials to the environment.

(d) The director may make a site-specific determination, afterpublic review and comment, that only solid mineral processing spent materialmay be placed on pads, rather than in tanks, containers, or buildings. Solidmineral processing spent materials do not contain any free liquid. The directorshall affirm that pads are designed, constructed, and operated to preventsignificant releases of the secondary material into the environment. Pads shallprovide 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 groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are the volume and physical and chemical

properties of the secondary 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 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; and

(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 notice to the director,providing 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, mineralprocessing spent materials shall be the result of mineral processing and maynot include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industriesare 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:

(a) The oil is hazardous only because the oil exhibits thecharacteristic of ignitability (as identified in rule 3745-51-21 of theAdministrative Code) or the characteristic of toxicity for benzene (EPA hazardous waste number D018 in rule 3745-51-24 of the Administrative Code);and

(b) The oil generated by the organic chemical manufacturingfacility is not placed on the land, or accumulated speculatively before beingrecycled into the petroleum refining process. An "associated organicchemical manufacturing facility" is a facility where the primary SIC codeis 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 petroleumrefinery to which the oil being recycled is returned also provides hydrocarbonfeedstocks 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) fromnormal organic chemical manufacturing operations, as well as oil recovered fromorganic 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 the following conditions are satisfied:

(a) Hazardous secondary materials used to make zinc micronutrientfertilizers shall not be "accumulated speculatively," as defined inparagraph (C)(8) of rule 3745-51-01 of the Administrative

Code.

(b) Generators and intermediate handlers of zinc-bearinghazardous secondary materials that are to be incorporated into zinc fertilizersshall:

(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 will 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:

(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; and

(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 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; and

(c) Type and quantity of excluded secondary material in each shipment.

(c) Manufacturers of zinc fertilizers or zinc fertilizeringredients made from excluded hazardous secondary materialsshall:

(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; and

(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 otherwisenegates the provisions in rule 3745-52-11 of the Administrative Code, whichrequires any person who generates a waste to determine if that waste

is ahazardous waste.

(e) Permit by rule and permitted storage units that have beenused to store only zinc-bearing hazardous wastes prior to the submittal of theone-time notice described in paragraph (A)(20)(b)(i) of this rule, and thatafterward will be used only to store hazardous secondary materials excludedunder paragraph (A)(20) of this rule, are not subject to the closurerequirements of Chapters 3745-54 to 3745-57 and 3745-205, and 3745-65 to3745-69 and 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:

(a) The fertilizers meet the following contaminantlimits:

(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 thefertilizer product to determine compliance with the contaminant limits formetals no less than every six months, and for dioxins no less than every twelvemonths. Testing also shall be performed whenever changes occur to manufacturingprocesses or ingredients that could significantly affect the amounts ofcontaminants in the fertilizer product. The manufacturer may use any reliableanalytical method to demonstrate that no constituent of concern is present inthe product at concentrations above the applicable limits. The manufacturer hasthe responsibility to ensure that the sampling and analysis are unbiased,precise, and representative of the products introduced intocommerce.

(c) The manufacturer maintains for no less than three yearsrecords of all sampling and analyses performed to determine compliance with therequirements of paragraph (A)(21)(b) of this rule. At a minimum, such recordsshall include:

(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; and

(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 3745-50-10of the Administrative Code are not wastes within the United States unless theused, intact CRTs are disposed, or "accumulated speculatively" as defined in paragraph (C)(8) of rule 3745-51-01 of the Administrative Code byCRT collectors or glass processors.

(b) Used, intact "CRTs" as defined in rule 3745-50-10of the Administrative Code are not wastes when exported for recycling providedthat the used, intact CRTs meet the requirements of rule 3745-51-40 of theAdministrative Code.

(c) Used, broken "CRTs" as defined in rule 3745-50-10of the Administrative Code are not wastes provided that the used, intact CRTsmeet the requirements of rule 3745-51-39 of the Administrative Code.

(d) Glass removed from CRTs is not a waste provided that suchglass meets the requirements of paragraph (C) of rule 3745-51-39 of theAdministrative Code.

(23) 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 U.S. department of transportation (DOT) 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 DOT 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 is a waste unless the hazardous secondary material 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 is 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 Adminstrative 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) 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," asdefined in paragraph (C)(8) of rule 3745-51-01 of the AdministrativeCode;

(b) The material is not handled by any person or facility otherthan the hazardous secondary material generator, the transporter, anintermediate facility, or a reclaimer, and, while in transport, is not stored for more than ten days at a "transfer facility," as defined in rule3745-50-10 of the Administrative Code, and is packaged according to applicableDOT regulations at 49 CFR Part 173, Part 178, and Part 179 while intransport;

(c) The material is not otherwise subject to material-specificmanagement conditions under paragraph (A) of this rule when reclaimed, and thematerial is not a spent lead-acid battery (see rules 3745-266-80 and3745-273-02 of the Administrative Code);

(d) The reclamation of the material is legitimate, as specifiedunder rule 3745-50-17 of the Administrative Code;

(e) The hazardous secondary material generator satisfies all ofthe 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 is 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 hazardous waste "Part B" permit or permit by rule, 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 material is not addressed under a hazardous waste "Part B" permit or permit by rule, 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 the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities that the financial assurance condition is satisfied in accordance with 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 in accordance with 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 rules 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 material is not addressed under a hazardous waste "Part B" permit or permit by rule 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 myknowledge that, prior to arranging for transport of excluded hazardoussecondary materials to [insert name or names of reclamation facility and anyintermediate facility], reasonable efforts were made in accordance withparagraph (A)(24)(e)(ii) of rule 3745-51-04 of the Administrative Code toensure that the hazardous secondary materials would be recycled legitimately,and otherwise managed in a manner that is protective of human health and theenvironment, and that such efforts were based on current and accurate information."

(ii) [Reserved.]

(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 DOT 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 fromregulation under this exclusion and "intermediate facilities" asdefined in rule 3745-50-10 of the Administrative Code satisfy all of the following conditions:

(i) The reclaimer and intermediate facility shall maintain at the facility for no less than three years records of all shipments of hazardous secondary materials 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 DOT 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 the residuals 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, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, 3745-267, 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 underparagraph (A)(24) of this rule shall provide notification as required underrule 3745-50-16 of the Administrative Code.

(25) 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 hazardoussecondary material is scheduled to

leave the United States. A completenotification shall be submitted at least sixty days before the initial shipmentis intended to be shipped off-site. This notification may cover exportactivities extending over a twelve month or lesser period. The notificationshall be in writing, signed by the hazardous secondary material generator, andinclude the following information:

(i) Name, site 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 EPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste and the DOT proper shipping name, hazard class, and U.S. EPA identification number (UN/NA) for each hazardous secondary material as identified in 49 CFR Part 171 to 49 CFR Part 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.), 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 site 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 the handling of the hazardous secondary material while there. (For purposes of this rule, the terms U.S. EPA "Acknowledgement of Consent," "country of import," and "country of transit" are used as defined in rule 3745-52-81 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 thesuccessor 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 secondarymaterial indicated pursuant to paragraph (A)(25)(a)(iv) of this rule, when theconditions specified on the original notification change (including anyexceedance of the estimate of the quantity of hazardous secondary materialspecified in the original notification), the hazardous secondary materialgenerator 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 thechanges [except for changes to paragraph (A)(25)(a)(ix) of this rule and in theports 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 secondarymaterial generator receives a U.S. EPA "Acknowledgment of Consent"from U.S. EPA reflecting the country of import's consent to thechanges.

(d) Upon request by U.S. EPA, the hazardous secondary materialgenerator shall furnish to U.S. EPA any additional information which a countryof import requests in order to respond to a notification.

(e) U.S. EPA will provide a complete notification to the countryof import and any countries of transit. A notification is complete when U.S.EPA receives a notification which U.S. EPA determines satisfies therequirements of paragraph (A)(25)(a) of this rule.

(f) The export of hazardous secondary material under paragraph(A)(25) of this rule is prohibited unless the hazardous secondary materialgenerator receives a U.S. EPA "Acknowledgment of Consent" from U.S.EPA documenting the consent of the country of import to the receipt of the hazardous secondary material. Where the country of import objects to receipt ofthe hazardous secondary material or withdraws a prior consent, U.S. EPA willnotify the hazardous secondary material generator in writing. U.S. EPA willalso notify the hazardous secondary material generator

of any responses fromcountries of transit.

(g) Prior to each shipment, the hazardous secondary materialgenerator or a U.S. authorized agent shall:

(i) Submit electronic export information (EEI) for each shipment to the automated export system (AES) or the AES's successor system, under the international trade data system (ITDS) platform, in accordance with 15 CFR 30.4(b).

(ii) Include the following items in the EEI, along with the other information required under 15 CFR 30.6:

(a) U.S. EPA license code;

(b) Commodity classification code in accordance with 15 CFR 30.6(a)(12);

(c) U.S. EPA consent number;

(d) Country of ultimate destination in accordance with 15 CFR 30.6(a)(5);

(e) Date of export in accordance with 15 CFR 30.6(a)(2);

(f) Quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume in accordance with 15 CFR 30.6(a)(15); or

(g) U.S. EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(h) A copy of the U.S. EPA "Acknowledgment ofConsent" shall accompany the shipment. The shipment shall conform to theterms of the U.S. EPA "Acknowledgment of Consent."

(i) If a shipment cannot be delivered for any reason to thereclaimer, intermediate facility, or the

alternate reclaimer, or alternateintermediate facility, the hazardous secondary material generator shallre-notify U.S. EPA of a change in the conditions of the original notificationto allow shipment to a new reclaimer in accordance with paragraph (C) of thisrule and obtain another U.S. EPA "Acknowledgment ofConsent."

(j) Hazardous secondary material generators shall keep acopy of each notification of intent to export and each U.S. EPA"Acknowledgment of Consent" for a period of three years after receiptof the U.S. EPA "Acknowledgment of Consent." Hazardous secondarymaterial generators may satisfy this recordkeeping requirement by retainingelectronically submitted notifications or electronically generated"Acknowledgements" in the account on U.S. EPA's "WasteImport Export Tracking System" (WIETS) or the successor system, providedthat such copies are readily available for viewing and production if requestedby any U.S. EPA or Ohio EPA inspector. No hazardous secondary materialgenerator may be held liable for the inability to produce a notification or "Acknowledgement" for inspection under this rule if the hazardoussecondary material generator can demonstrate that the inability to produce suchcopies are due exclusively to technical difficulty with U.S. EPA's WIETSor the successor system for which the hazardous secondary material generator bears no responsibility.

(k) Hazardous secondary material generators shall file withU.S. EPA, no later than March first of each year, a report summarizing thetypes, quantities, frequency, and ultimate destination of all hazardoussecondary materials exported during the previous calendar year. Annual reportsshall be submitted electronically using U.S. EPA's WIETS or the successorsystem. Such reports shall include the following information:

(i) Name, mailing address and site address, telephone number, 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 were managed as hazardous waste, the DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the consent numbers under which the hazardous secondary material was shipped and for each consent number, the total amount of hazardous secondary material shipped, and the number of shipments exported during the calendar year covered by the report;

(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 3745-50-16of 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:

(a) The solvent-contaminated wipes, when accumulated, stored, andtransported, are contained in non-leaking, closed containers that are labeled"Excluded Solvent-Contaminated Wipes." The containers shall be ableto contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between thefitted lid and the rim, except when necessary to add or removesolvent-contaminated wipes. When the container is full, or when thesolvent-contaminated wipes are no longer being accumulated, or when thecontainer is being transported, the container shall be sealed with all lidsproperly and securely affixed to the container and all openings tightly boundor closed sufficiently to prevent leaks and emissions;

(b) The solvent-contaminated wipes may be accumulated by thegenerator for up to one hundred eighty days after the start date ofaccumulation for each container prior to being sent for cleaning;

(c) At the point of being sent for cleaning on-site or at thepoint of being transported off-site for

cleaning, the solvent-contaminatedwipes 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 orfrom the container holding the "wipes," as defined in rule 3745-50-10of the Administrative Code, shall be managed according to the applicable rulesin Chapters 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57 and3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, 3745-267, 3745-270, and3745-273 of the Administrative Code;

(e) Generators shall maintain at the site the followingdocumentation:

(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 drycleaner whose discharge, if any, is regulated under Section 301 and Section 402or 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 ofthe 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, ormethanol;

(b) The hazardous secondary material originated from using one ormore of the solvents listed in paragraph (A)(27)(a) of this rule in acommercial grade for reacting, extracting, purifying, or

blending chemicals (orfor rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemicalmanufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211),and the paints and coatings manufacturing sectors (NAICS 325510);

(c) The hazardous secondary material generator sends thehazardous secondary material spent solvents listed in paragraph (A)(27)(a) ofthis rule to a remanufacturer in the pharmaceutical manufacturing (NAICS325412), basic organic chemical manufacturing (NAICS 325199), plastics andresins manufacturing (NAICS 325211), or the paints and coatings manufacturingsectors (NAICS 325510);

(d) After remanufacturing one or more of the solvents listed inparagraph (A)(27)(a) of this rule, the use of the remanufactured solvent islimited to reacting, extracting, purifying, or blending chemicals (or forrinsing out the process lines associated with these functions) in thepharmaceutical manufacturing (NAICS 325412), basic organic chemicalmanufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211),and the paints and coatings manufacturing sectors (NAICS 325510), or to usingthem as ingredients in a product. These allowed uses correspond to chemicalfunctional uses enumerated under the "Chemical Data Reporting Rule"of the Toxic Substances Control Act (40 CFR Part 704, 40 CFR Part 710, and 40CFR Part 711), including industrial function codes U015 (solvents consumed in areaction to produce other chemicals) and U030 (solvents become part of themixture);

(e) After remanufacturing one or more of the solvents listed inparagraph (A)(27)(a) of this rule, the use of the remanufactured solvent doesnot involve cleaning or degreasing oil, grease, or similar material fromtextiles, glassware, metal surfaces, or other articles (these disallowedcontinuing uses correspond to chemical functional uses in industrial functioncode U029 under the "Chemical Data Reporting Rule" of the ToxicsSubstances Control Act); and

(f) Both the hazardous secondary material generator and theremanufacturer shall:

(i) Notify the director and update the notification every two years in accordance with 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), or 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 accordance with 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 is not 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 ofsuch facility has established contractual requirements or other appropriatenotification or inspection procedures to assure that hazardous wastes are notreceived 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 agriculturalcrops.

(b) The raising of animals, including animalmanures.

(3) Mining overburden returned to the mine site.

(4)

(a) Fly ash waste, bottom ash waste, slag waste, and flue gasemission control waste generated primarily from the combustion of coal or otherfossil fuels, except as provided by rule 3745-266-112 of the AdministrativeCode for facilities that burn or process hazardous waste.

(b) The following wastes generated primarily from processes thatsupport the combustion of coal or other fossil fuels that are co-disposed withthe wastes in paragraph (B)(4)(a) of this rule, except as provided by rule3745-266-112 of the Administrative Code for facilities that burn or process hazardous waste. For purposes of paragraph (B)(4) of this rule:

(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 run-off, collected by yard drains and sumps located outside the power plant building.

(viii) "Wastewater treatment sludges" refers to 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)

(a) Wastes which fail the test for the toxicity characteristicbecause chromium is present or wastes which are listed as a hazardous waste inrules 3745-51-30 to 3745-51-35 of the Administrative Code due to the presenceof chromium, which do not fail the test for the toxicity characteristic for anyother constituent or are not listed due to the presence of any otherconstituent, and which do not fail the test for any other characteristic, if awaste generator or waste generators show that:

(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 thespecific wastes do not fail the test for the toxicity characteristic for anyother 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 followingactivities:

(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 fromthe processing of ores and minerals includes only the following wastes asgenerated:

(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 processingsecondary materials with normal beneficiation raw materials or with normalmineral processing raw materials remains excluded under paragraph (B) of thisrule if the owner or operator:

(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 groundwater that is hazardous only because the injected groundwater exhibits the toxicity characteristic (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 groundwater 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) will qualify for this compliance date extension (until January 25, 1993) only if:

(a) Operations are performed pursuant to a written stateagreement or order that includes a provision

to assess the groundwater and theneed for further remediation once the free phase recovery is completed;and

(b) A copy of the written agreement or order has been submittedto "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 wastes 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 filterdome end and hot-draining;

(b) Hot-draining and crushing;

(c) Dismantling and hot-draining; or

(d) Any other equivalent hot-draining method which removes usedoil.

(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 listingdescriptions 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 paragraph (B)(15)(a) of this rulewere disposed prior to the following effective dates of thelistings:

(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 anycharacteristic of hazardous waste nor are derived from any other listedhazardous waste.

(d) Discharge of the leachate or gas condensate, includingleachate or gas condensate transferred from the landfill to a POTW by truck,rail, or dedicated pipe, is subject to regulation under Section 307(b) orSection 402 of the Clean Water Act.

(e) As of February 13, 2001, leachate or gas condensate derivedfrom K169 to K172 is no longer exempt if such leachate or gas condensate isstored or managed in a surface impoundment prior to discharge. As of November21, 2003, leachate or gas condensate derived from K176, K177, and K178 is nolonger exempt if such leachate or gas condensate is stored or managed in asurface impoundment prior to discharge. After February 26, 2007, leachate orgas condensate derived from K181 is no longer exempt if such leachate or gascondensate is stored or managed in a surface impoundment prior to discharge.There is one exception: If the surface impoundment is used to temporarily storeleachate or gas condensate in response to an emergency situation (e.g.,shutdown of wastewater treatment system), provided the impoundment has a doubleliner, and provided the leachate or gas condensate is removed from theimpoundment and continues to be managed in compliance with the conditions ofthis 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:

(a) The solvent-contaminated wipes, when accumulated, stored, andtransported, are contained in non-leaking, closed containers that are labeled"Excluded Solvent-Contaminated Wipes." The containers shall be ableto contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between thefitted lid and the rim, except when necessary to add or removesolvent-contaminated wipes. When the container is full, or when thesolvent-contaminated wipes are no longer being accumulated, or when thecontainer is being transported, the container shall be sealed with all lidsproperly and securely affixed to the container and all openings tightly boundor closed sufficiently to prevent leaks and emissions;

(b) The solvent-contaminated wipes may be accumulated by thegenerator for up to one hundred eighty days after the start date ofaccumulation for each container prior to being sent for disposal;

(c) At the point of being transported for disposal, thesolvent-contaminated wipes shall contain "no free liquids" as definedin rule 3745-50-10 of the Administrative Code;

(d) Free liquids removed from the solvent-contaminated wipes orfrom the container holding the wipes shall be managed according to theapplicable rules in Chapters 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, 3745-267, 3745-270, and 3745-273 of the Administrative Code;

(e) Generators shall maintain at the site the followingdocumentation:

(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 fordisposal:

(i)

(a) 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

(b) 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 a hazardous waste landfill unit regulated under Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code, or is an authorized hazardous waste landfill in another authorized state; or

(ii) 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 Chapter 3745-50, 3745-52, 3745-53, 3745-54 to 3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, or 3745-270 of the Administrative Code, or to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, until the hazardous waste exits the unit in which the 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 any requirement of Chapter 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, 3745-267, or 3745-270 of the Administrative Code, or to the requirement to notify Ohio EPA or U.S. EPA of regulated waste activity, when:

(a) The sample is being transported to a laboratory for thepurpose of testing; or

(b) The sample is being transported back to the sample collectorafter testing; or

(c) The sample is being stored by the sample collector beforetransport 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 butbefore the sample is returned to the sample collector; or

(f) The sample is being stored temporarily in the laboratoryafter testing for a specific purpose (for example, until conclusion of a courtcase or enforcement action where further testing of the sample may benecessary).

(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:

(a) Comply with DOT requirements, United States postal service(USPS), or any other applicable shipping requirements; or

(b) Comply with the following requirements if the samplecollector determines that DOT, USPS, or other shipping requirements do notapply to the shipment of the sample:

(i) Assure that 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 any requirement of Chapter 3745-51, 3745-52, or 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 and the accumulation limits in paragraph (A)(3) of rule 3745-52-14, paragraph

(A)(4) of rule 3745-52-14, and paragraph (B)(1) of rule 3745-52-16 of the Administrative Code when:

(a) The sample is being collected and prepared for transportationby the generator or sample collector; or

(b) The sample is being accumulated or stored by the generator orsample collector prior to transportation to a laboratory or testing facility;or

(c) The sample is being transported to the laboratory or testingfacility 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:

(a) The generator or sample collector uses (in "treatabilitystudies") no more than ten thousand kilograms of media contaminated withnon-acute hazardous waste, one thousand kilograms of non-acute hazardous wasteother than contaminated media, one kilogram of acute hazardous waste, two thousand five hundred kilograms of media contaminated with acute hazardouswaste for each process being evaluated for each generated waste stream;and

(b) The mass of each sample shipment does not exceed ten thousandkilograms; the ten thousand kilograms quantity may be all media contaminatedwith non-acute hazardous waste, or may include two thousand five hundredkilograms of media contaminated with acute hazardous waste, one thousandkilograms of hazardous waste, and one kilogram of acute hazardous waste;and

(c) The sample shall be packaged so that the sample will notleak, spill, or vaporize from the sample's packaging during shipment, andthe requirements of paragraph (E)(2)(c)(i) or (E)(2)(c)(ii) of this rule aremet.

(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, 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 facilitywhich is exempt under paragraph (F) of this rule or has an appropriate federalRCRA permit or federal interim status or, in Ohio, is operating under an Ohiohazardous waste permit or permit by rule.

(e) The generator or sample collector maintains the followingrecords for a period ending three years after completion of the treatabilitystudy:

(i) Copies of the shipping documents;

(ii) A copy of the contract with the facility conducting the treatability study;

(iii) Documentation showing:

(a) The amount of waste shipped under this exemption;

(b) The name, address, and U.S. EPA identification number of the laboratory or testing facility that received the waste;

(c) The date the shipment was made; and

(d) Whether or not unused samples and residues were returned to the generator.

(f) The generator reports the information required underparagraph (E)(2)(e)(iii) of this rule in the generator's biennialreport.

(3) The director may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The director may grant requests on a case-by-case basis for quantity limits in excess of those specified in paragraphs (E)(2)(a), (E)(2)(b), and (F)(4) of this rule, for up to an additional five thousand kilograms of media contaminated with non-acute hazardous waste, five hundred kilograms of non-acute hazardous waste, two thousand five hundred kilograms of media contaminated with acute hazardous waste, and one kilogram of acute hazardous waste:

(a) In response to requests for authorization to ship, store, andconduct treatability studies on additional quantities in advance of commencingtreatability studies. Factors to be considered in reviewing such requestsinclude the nature of the technology, the type of process (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation toscale-up considerations), the time or quantity of material required to reachsteady state operating conditions, or test design considerations such as massbalance calculations.

(b) In response to requests for authorization to ship, store, andconduct treatability studies on additional quantities after initiation orcompletion of initial treatability studies, when:

(i) There has been an equipment or mechanical failure during the conduct of a treatability study;

(ii) There is a need to verify the results of a previously conducted treatability study;

(iii) There is a need to study and analyze alternative techniques within a previously evaluated treatment process; or

(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 time frames allowed inparagraphs (E)(3)(a) and (E)(3)(b) of this rule are subject to all theprovisions 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 shallprovide in writing 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 will 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 any requirement of Chapter 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, or 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) of this rule are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to paragraphs (F)(1) to (F)(11) of this rule. Where a group of MTUs are located at the same site, the limitations specified in paragraphs (F)(1) to (F)(11) 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 waste 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 after completion of each study that shows compliance with the treatment rate limits and the storage time limits and quantity limits. The following specific information shall be included for each treatability study conducted:

(a) The name, address, and U.S. EPA identification number of thegenerator 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 eachday;

(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 thetreatability study were returned to the generator or sample collector or, ifsent to a designated facility, the name of the facility and the U.S. EPAidentification 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 U.S. EPA by March fifteenth of each year that includes the following information for the previous calendar year:

(a) The name, address, and U.S. EPA identification number of thefacility conducting the treatability studies;

(b) The types (by process) of treatability studiesconducted;

(c) The names and addresses of persons for whom studies have beenconducted (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 treatabilitystudies;

(f) When each treatability study was conducted; and

(g) The final disposition of residues and unused sample from eachtreatability 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 3745-50, 3745-51, 3745-52, 3745-53, 3745-54 to 3745-57 and 3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, 3745-267, and 3745-270 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 the requirements of a permit that has been issued under Section 404 of the Federal Water Pollution Control Act or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 is not a hazardous waste. For this paragraph, the following definitions apply:

(1) The term "dredged material" has the same meaning as in 40 CFR 232.2;

(2) The term "permit" means:

(a) A permit issued by the United States army corps of engineersor an approved state under Section 404 of the Federal Water Pollution ControlAct;

(b) A permit issued by the corps of engineers under Section 103of the Marine Protection, Research, and Sanctuaries Act of 1972;or

(c) In the case of corps of engineers civil works projects, theadministrative equivalent of the permits referred to in paragraphs (G)(2)(a)and (G)(2)(b) of this rule, as provided for in corps of engineers regulations(for example, see 33 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 CFR Part 144 and 40 CFR Part 146 of the underground injection control program of the Safe Drinking Water Act, are not a hazardous waste, provided the conditions are met.

(1) Transportation of the carbon dioxide stream shall be in compliance with DOT requirements, including the pipeline safety laws (49 U.S.C. 60101) and regulations (49 CFR Part 190 to 49 CFR Part 199) of the DOT, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable.

(2) Injection of the carbon dioxide stream shall be in compliance with the applicable requirements for "Class VI" underground injection control wells, including the applicable requirements in 40 CFR Part 144 and 40 CFR Part 146;

(3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

(4)

(a) Any generator of a carbon dioxide stream, who claimsthat a carbon dioxide stream is excluded under paragraph (H) of this rule shallhave an authorized representative (as defined in rule 3745-50-10 of theAdministrative Code) sign a certification statement worded asfollows:

"I certify under penalty of law that thecarbon dioxide stream that I am claiming to be excluded under paragraph (H) ofrule 3745-51-04 of the Administrative Code has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (orhave contracted with a pipeline operator or transporter to transport the carbondioxide stream in compliance with) DOT requirements, including the pipelinesafety laws (49 U.S.C. 60101) and regulations (49 CFR Part 190 to 49 CFR Part199) of the DOT, and the pipeline safety regulations adopted and administeredby a state authority pursuant to a certification under 49 U.S.C. 60105, asapplicable, for injection into a well subject to the requirements for the"Class VI" underground injection control program of the Safe DrinkingWater Act."

(b) Any "Class VI" underground injection controlwell owner or operator who claims that a carbon dioxide stream is excludedunder paragraph (H) of this rule shall have an authorized representative (asdefined in rule 3745-50-10 of the Administrative Code) sign a certificationstatement worded as follows:

"I certify under penalty of law that thecarbon dioxide stream that I am claiming to be excluded under paragraph (H) ofrule 3745-51-04 of the Administrative Code has not been mixed with, orotherwise co-injected with, hazardous waste at the underground injectioncontrol "Class VI" permitted facility, and that injection of thecarbon dioxide stream is in compliance with the applicable requirements for underground injection control "Class VI" wells, including theapplicable requirements in 40 CFR Part 144 and 40 CFR Part 146."

(c) The signed certification statement shall be kepton-site for no less than three years, and shall be made available withinseventy-two hours after a written request from the director or thedirector's designee. The signed certification statement shall be renewedevery year that the exclusion is claimed, by having an authorizedrepresentative annually prepare and sign a new copy of the certificationstatement within one year after the date of the previous statement. The signed certification statement also shall be readily accessible on the facility'spublicly available web site (if such web site exists) as a public notificationwith the title of "Carbon Dioxide Stream Certification"

at the timethe exclusion is claimed.

(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 and 3745-205, 3745-65 to 3745-69 and 3745-256, 3745-266, 3745-267, or 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:

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

(b) The airbag waste is packaged in a container designed toaddress the risk posed by the airbag waste and labeled "Airbag Waste - DoNot Reuse";

(c) The airbag waste is sent directly to either:

(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 allapplicable DOT regulations in 49 CFR Part 171 to 49 CFR Part 180 duringtransit;

(e) The airbag waste handler maintains at the handler facilityfor no less than three years records of all off-site shipments of airbag wasteand all confirmations of receipt from the receiving facility. For eachshipment, these records, at a minimum, shall contain the name of thetransporter and date of the

shipment, name and address of the receivingfacility, and the type and quantity of airbag waste (i.e., airbag modules orairbag inflators) in the shipment. Confirmations of receipt shall include thename and address of the receiving facility, the type and quantity of the airbagwaste (i.e., airbag modules and airbag inflators) received, and the date whichthe airbag waste was received. Shipping records and confirmations of receiptshall be made available for inspection and may be satisfied by routine businessrecords (e.g., electronic or paper financial records, bills of lading, copiesof 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 the requirments of 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 paragraph (G) of rule 3745-51-02 of the Administrative Code.

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