

3745-270-07

Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities.

(A) Requirements for generators:

- (1) A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in rule 3745-270-40, 3745-270-45, or 3745-270-49 of the Administrative Code. This determination can be made concurrently with the hazardous waste determination required in rule 3745-52-11 of the Administrative Code, in either of two ways: by testing the waste, or by using knowledge of the waste.
 - (a) If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," U.S. EPA publication SW-846, depending on whether the treatment standard for the waste is expressed as a total concentration or as concentration of hazardous constituent in the waste's extract. [Alternatively, the generator must send the waste to a permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of rule 3745-54-13 of the Administrative Code and paragraph (B) of this rule.]
 - (b) In addition, some hazardous waste must be treated by particular treatment methods before they can be land disposed, and some soils are contaminated with such hazardous wastes. These treatment standards are in rule 3745-270-40 of the Administrative Code, and are described in detail in the table in rule 3745-270-42 of the Administrative Code. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested).
 - (c) If a generator determines that he is managing a waste, or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, he must comply with the special requirements of rule 3745-270-09 of the Administrative Code in addition to any applicable requirements in this rule.
- (2) If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the generator's

files. The notice must include the information in column A of table 1 of this rule. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA hazardous waste numbers and manifest number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make that determination.") No further notification is necessary until such time as the waste changes or the treatment or storage facility changes, in which case a new notification must be sent to the new treatment or storage facility and a copy must be placed in the generator's files.

- (a) For contaminated soil, the following certification statement should be included, signed by an authorized representative:

"I certify under penalty of law that I personally have examined this contaminated soil and it [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by paragraph (C) of rule 3745-270-49 of the Administrative Code."

- (b) Reserved.

- (3) If the waste or contaminated soil meets the treatment standard at the original point of generation:

- (a) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in the generator's files. The notice must include the information in column B of table 1 of this rule and the following certification statement, signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste, through analysis and testing or through knowledge of the waste, to support this certification that the waste complies with the treatment standards specified in rules 3745-270-40 to 3745-270-49 of the Administrative Code. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

- (b) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste, and place a

copy in the generator's files. The notice must include the information in column B of table 1 of this rule.

- (c) If the waste changes, the generator must send a new notice and certification to the receiving facility, and place a copy in their files. Generators of hazardous debris excluded from the definition of "hazardous waste" under paragraph (F) of rule 3745-51-03 of the Administrative Code are not subject to these requirements.
- (4) For reporting, tracking, and recordkeeping when exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed. There are certain exemptions from the requirements that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include, but are not limited to case-by-case extensions under rule 3745-270-05 of the Administrative Code, disposal in a no-migration unit under rule 3745-270-06 of the Administrative Code, or a national capacity variance or case-by-case capacity variance under rules ~~3745-270-30~~3745-270-20 to 3745-270-39 of the Administrative Code. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information in column C of table 1 of this rule. If the waste changes, the generator must send a new notice to the receiving facility, and place a copy in the generator's files.

Table 1: Generator Paperwork Requirements				
	Column A	Column B	Column C	Column D
Required Information	3745-270-07 (A)(2)	3745-270-07 (A)(3)	3745-270-07 (A)(4)	3745-270-07 (A)(9)
1. EPA hazardous waste numbers and manifest number of first shipment.	X	X	X	X
2. Statement: This waste is not prohibited from land disposal.			X	
3. The waste is subject to the land disposal restrictions (LDRs) of Chapter 3745-270 of the Administrative Code. The constituents of concern for F001 to	X	X		

F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.				
4. The notice must include the applicable wastewater/nonwastewater category (see the definitions of "wastewaters" and "nonwastewaters" in rule 3745-270-02 of the Administrative Code) and subdivisions made within an EPA hazardous waste number based on waste-specific criteria (such as D003 reactive cyanide).	X	X		
5. Waste analysis data (when available).	X	X	X	
6. Date the waste is subject to the prohibition.			X	
7. For hazardous debris, when treating with the alternate treatment technologies provided by rule 3745-270-45 of the Administrative Code: the contaminants subject to treatment, as described in paragraph (B) of rule 3745-270-45 of the	X		X	

Administrative Code; and an indication that these contaminants are being treated to comply with rule 3745-270-45 of the Administrative Code.				
8. For contaminated soil subject to LDRs as provided in paragraph (A) of rule 3745-270-49 of the Administrative Code, the constituents subject to treatment as described in paragraph (D) of rule 3745-270-49 of the Administrative Code, and the following statement: This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by paragraph (C) of rule 3745-270-49 of the Administrative Code or the universal treatment standards.	X	X		
9. A certification is needed (see applicable rule for exact wording).		X		X

- (5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under rule 3745-52-34 of the Administrative Code to meet applicable LDR treatment standards in rule 3745-270-40 of the Administrative Code, the generator must develop and follow a written waste analysis plan which describes the procedures he will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternate treatment standards of the table in rule

3745-270-45 of the Administrative Code, however, are not subject to this waste analysis requirement.) The plan must be kept on site in the generator's records, and the following requirements must be met:

- (a) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of Chapter 3745-270 of the Administrative Code, including the selected testing frequency.
 - (b) Such plan must be kept in the generator's on-site files and made available to inspectors.
 - (c) Wastes shipped off-site pursuant to paragraph (A)(5) of this rule must comply with the notification requirements of paragraph (A)(3) of this rule.
- (6)
- (a) If a generator determines that the waste or contaminated soil is restricted based solely on his knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files.
 - (b) If a generator determines that the waste is restricted based on testing this waste or an extract developed using the test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," U.S. EPA publication SW-846, and all waste analysis data must be retained on-site in the generator's files.
- (7) If a generator determines that he is managing a prohibited waste that is excluded from the definition of "hazardous waste" or "waste," or is exempt from regulation as a hazardous waste under rules 3745-51-02 to 3745-51-06 of the Administrative Code subsequent to the point of generation [including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified in paragraph (A)(2) of rule 3745-51-04 of the Administrative Code, or are CWA-equivalent, or are managed in an underground injection well regulated by the Safe Drinking Water Act], he must place in the generator's files a one-time notice describing such generation, subsequent exclusion from the definition of "hazardous waste" or "waste" or exemption from regulation as a hazardous waste, and the disposition of the waste.

- (8) Generators must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this rule for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the director. The requirements of this paragraph apply to the wastes even when the hazardous characteristic is removed prior to disposal, when the waste is excluded from the definition of "hazardous waste" or "waste" under rules 3745-51-02 to 3745-51-06 of the Administrative Code, or when the waste is exempted from regulation as a hazardous waste, subsequent to the point of generation.
- (9) If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs in paragraph (C) of rule 3745-270-42 of the Administrative Code:
- (a) With the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column D of table 1 of this rule, and the following certification. The certification, which must be signed by an authorized representative and must be placed in the generator's files, must say the following:
- "I certify under penalty of law that I personally have examined and am familiar with the waste, and that the lab pack contains only wastes that have not been excluded under appendix I to rule 3745-270-42 of the Administrative Code, and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs in paragraph (C) of rule 3745-270-42 of the Administrative Code. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."
- (b) No further notification is necessary until such time that the wastes in the lab pack change or the receiving facility changes, in which case a new notice and certification must be sent to the new receiving facility and a copy placed in the generator's files.
- (c) If the lab pack contains characteristic hazardous wastes (D001 to D043), "underlying hazardous constituents" {(as defined in rule 3745-270-02 of the Administrative Code)} need not be determined.
- (d) The generator must comply with the requirements in paragraphs (A)(6) and (A)(7) of this rule.

- (10) Small quantity generators with tolling agreements pursuant to paragraph (F) of rule 3745-52-20 of the Administrative Code must comply with the applicable notification and certification requirements of paragraph (A) of this rule for the initial shipment of the waste subject to the agreement. Such generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the director.
- (B) Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans as required by rule 3745-54-13 or 3745-65-13 of the Administrative Code. Such testing must be performed as provided in paragraphs (B)(1), (B)(2), and (B)(3) of this rule.
- (1) For wastes or contaminated soil with treatment standards expressed as concentrations in the waste extract (TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues, using test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," U.S. EPA publication SW-846, to assure that the treatment residues extract meet the applicable treatment standards in Chapter 3745-270 of the Administrative Code.
 - (2) For wastes or contaminated soil with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to assure that they meet the applicable treatment standards in Chapter 3745-270 of the Administrative Code.
 - (3) A one-time notice must be sent with the initial shipment of waste or contaminated soil to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.
 - (a) No further notification is necessary until such time that the waste changes or the receiving facility changes, in which case a new notice must be sent to the new receiving facility and a copy placed in the treatment facility's files.
 - (b) The one-time notice must include the requirements in table 2 of this rule:

Table 2: Treatment Facility Paperwork Requirements	
Required information	3745-270-07(B)
1. EPA hazardous waste numbers and manifest number of first shipment	X
2. The waste is subject to the LDRs of Chapter 3745-270 of the Administrative Code. The constituents of concern for F001 to F005 and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.	X
3. The notice must include the applicable wastewater/nonwastewater category [see the definitions of "wastewaters" and "nonwastewaters" in of rule 3745-270-02 of the Administrative Code and subdivisions made within an EPA hazardous waste number based on waste-specific criteria (such as D003 reactive cyanide)].	
4. Waste analysis data (when available)	X
5. For contaminated soil subject to LDRs as provided in paragraph (A) of rule 3745-270-49 of the Administrative Code, the constituents subject to treatment as described in paragraph (D) of rule 3745-270-49 of the Administrative Code, and the following statement: "This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by paragraph (C) of rule 3745-270-49 of the Administrative Code."	X
6. A certification is needed (see applicable rule for exact wording)	X

- (4) The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply

with the treatment standards specified in rule 3745-270-40 of the Administrative Code without impermissible dilution of the prohibited wastes. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

A certification is also necessary for contaminated soil, and it must state:

"I certify under penalty of law that I personally have examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in rule 3745-270-49 of the Administrative Code without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

- (a) A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes or if the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the file.
- (b) Debris excluded from the definition of "hazardous waste" under paragraph (F) of rule 3745-51-03 of the Administrative Code (i.e., debris treated by an extraction or destruction technology provided in the table in rule 3745-270-45 of the Administrative Code, and debris that the director has determined does not contain hazardous waste), however, is subject to the notification and certification requirements of paragraphs (D) to (D)(3) of this rule rather than the certification requirements of paragraphs (B)(4) to (B)(4)(e) of this rule.
- (c) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified in paragraph (D) of rule 3745-270-40 of the Administrative Code, the certification, signed by an authorized representative, must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in the table in rule 3745-270-42 of the Administrative Code. I have been unable to detect the nonwastewater

organic constituents, despite having used best good-faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

- (d) For characteristic wastes that are subject to the treatment standards in rule 3745-270-40 of the Administrative Code (other than those expressed as a method of treatment), or rule 3745-270-49 of the Administrative Code, and that contain "underlying hazardous constituents" as defined in rule 3745-270-02 of the Administrative Code; if these wastes are treated on-site to remove the hazardous characteristic; and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of rule 3745-270-40 or 3745-270-49 of the Administrative Code to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

- (e) For characteristic wastes that contain "underlying hazardous constituents" as defined in rule 3745-270-02 of the Administrative Code that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in the table in rule 3745-270-48 of the Administrative Code, the certification must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of rule 3745-270-40 of the Administrative Code to remove the hazardous characteristic, and that "underlying hazardous constituents" as defined in rule 3745-270-02 of the Administrative Code have been treated on-site to meet the standards in the table in rule 3745-270-48 of the Administrative Code. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

- (5) If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal facility sending the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this rule.
- (6) Where the wastes are recyclable materials used in a manner constituting

disposal subject to the provisions of paragraph (B) of rule 3745-266-20 of the Administrative Code regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler), for the initial shipment of waste, must prepare a one-time certification described in paragraph (B)(4) of this rule, and a one-time notice which includes the information in paragraph (B)(3) of this rule (except the manifest number). The certification and notification must be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the on-site files. In addition, the recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

(C) Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to paragraph (B) of rule 3745-266-20 of the Administrative Code, the owner or operator of any land disposal facility disposing any waste subject to restrictions under Chapter 3745-270 of the Administrative Code must:

(1) Have copies of the notice and certifications specified in paragraph (A) or (B) of this rule.

(2) Test the waste, or an extract of the waste or treatment residue developed using test method 1311 (the toxicity characteristic leaching procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," U.S. EPA publication SW-846) to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in rules 3745-270-40 to 3745-270-49 of the Administrative Code. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by rule 3745-54-13 or 3745-65-13 of the Administrative Code.

(D) Generators or treaters who first claim that hazardous debris is excluded from the definition of "hazardous waste" under paragraph (F) of rule 3745-51-03 of the Administrative Code (i.e., debris treated by an extraction or destruction technology provided in the table in rule 3745-270-45 of the Administrative Code, and debris that the director has determined does not contain hazardous waste) are subject to the following notification and certification requirements:

(1) A one-time notification including the following information must be submitted to the director:

(a) The name and address of the licensed solid waste landfill receiving the treated debris;

- (b) A description of the hazardous debris as initially generated, including the applicable EPA hazardous waste number(s); and
 - (c) For debris excluded under paragraph (F)(1) of rule 3745-51-03 of the Administrative Code, the technology from the table in rule 3745-270-45 of the Administrative Code used to treat the debris.
- (2) The notification must be updated if the debris is shipped to a different facility, and, for debris excluded under paragraph (F)(1) of rule 3745-51-03 of the Administrative Code, if a different type of debris is treated or if a different technology is used to treat the debris.
- (3) For debris excluded under paragraph (F)(1) of rule 3745-51-03 of the Administrative Code, the owner or operator of the treatment facility must document and certify compliance with the treatment standards from the table in rule 3745-270-45 of the Administrative Code as follows:
 - (a) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;
 - (b) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and
 - (c) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the treatment facility's files. The certification must state the following:

"I certify under penalty of law that the debris has been treated in accordance with the requirements of rule 3745-270-45 of the Administrative Code. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment."
- (E) Generators and treaters who first receive from Ohio EPA a determination that a given contaminated soil subject to LDRs as provided in paragraph (A) of rule 3745-270-49 of the Administrative Code no longer contains a listed hazardous waste and generators and treaters who first determine that a contaminated soil subject to LDRs as provided in paragraph (A) of rule 3745-270-49 of the Administrative Code no longer exhibits a characteristic of hazardous waste must:

- (1) Prepare a one-time only documentation of these determinations including all supporting information; and
- (2) Maintain that information in the facility files and other records for a minimum of three years.

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

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CERTIFIED ELECTRONICALLY

Certification

03/06/2012

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