

**\*\*\* UPDATED CONCEPTUAL DRAFT - NOT FOR FILING\*\*\***

**\*\*\*May 24, 2013\*\*\***

**3745-599-01**      **Beneficial use - applicability.**

- (A) This chapter is the program chapter for the beneficial use of the following wastes placed on land or burned unless otherwise excluded as provided in rules 3745-599-05 to 3745-599-15 of the Administrative Code:
- (1) Solid waste as defined in Chapter 3734. of the Revised Code.
  - (2) Industrial waste as defined in section 6111.01 of the Revised Code.
  - (3) Other waste as defined in section 6111.01 of the Revised Code.
- (B) This beneficial use program chapter establishes a regulatory framework for beneficial use of a select waste and contains definitions, exclusions, and authorization and permit procedures applicable to any person beneficially using selected wastes.
- (C) When a select waste has been managed and beneficially used in accordance with this chapter, the select waste that has been beneficially used is not a solid waste under Chapter 3734. of the Revised Code.
- (D) A select waste that is not legitimately managed and beneficially used in accordance with this chapter may constitute disposal.
- (E) Use of a select waste as a fuel or an ingredient used in a combustion unit in accordance with rule 3745-599-110 of the Administrative Code may constitute beneficial use if legitimately managed and used in accordance with this chapter. If a solid waste is not legitimately managed and beneficially used pursuant to this chapter, the burning may constitute open burning.

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**3745-599-02 Beneficial use - definitions.**

As used in this chapter, terms are defined as follows:

(A)

(1) "Agricultural additive" means a select waste or mixture containing a select waste that will improve the physical, chemical, or biological characteristics of soil or other growth medium for crop production, plant growth, product quality, or yield prior to harvest.

[Comment: Agricultural additives may need to be registered with the Ohio department of agriculture.]

(2) "Asphalt" means a brown-black solid or semisolid mixture of bitumens obtained from native deposits or as a petroleum byproduct, used in paving, roofing, and waterproofing.

(3) "Asphalt concrete" means a composite material consisting of asphalt binder and mineral aggregate mixed together then laid down in layers and compacted.

(B)

(1) "Beneficial use" means the legitimate use of a select waste as an ingredient or product or in a manner that contributes to a manufacturing process or product, that does not constitute disposal or cause pollution of any waters of the state.

(2) "Best management practices" or "BMPs" means activities, prohibitions or practices, maintenance procedures, and other management practices intended to prevent or reduce the pollution of waters of the state. BMPs also include treatment, operating procedures, and practices intended to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material and select waste storage.

(C)

(1) "Cement" means a building material that can bind other materials together, is a powder, and to which both of the following apply:

(a) Includes a mixture of calcined limestone and clay.

(b) Sets and hardens independently.

(2) "Cement concrete" means a construction material that solidifies and hardens independently after mixing with water and that includes cement mixed with any of the following:

(a) Cementitious materials such as fly ash or slag cement.

(b) Aggregate (generally a coarse aggregate such as gravel, limestone, or granite, plus a fine aggregate such as sand).

(c) Chemical admixtures.

(3) "Chip and seal pavement" means a pavement surface treatment that combines a layer of asphalt with a layer of fine aggregate, constructed by evenly distributing a thin base of asphalt onto an existing pavement and then embedding finely graded aggregate into it.

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(D)

- (1) "Director" means the director of environmental protection or the director's authorized representative.
- (2) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any select waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, treatment, or beneficial use in accordance with this chapter.
- (3) "Distributor" means a person that allocates a select waste for beneficial use to another person.
- (4) "Drinking water source protection area for a community public water system using ground water" means the surface and subsurface area surrounding a community public water system's supply well that will provide water to the well within five years as delineated or endorsed by Ohio EPA under the wellhead protection program and the source water assessment and protection program.

(E)

- (1) "Emergency management zone" or "EMZ" means the surface and subsurface area in the immediate vicinity of a public water system intake as delineated or endorsed by the Ohio environmental protection agency under the source water assessment and protection program within which the public water supply owner or operator has little or no time to respond to potential contamination from a spill, release, or weather related event. The standard emergency management zone boundary consists of a semi-circle that extends five hundred feet upstream of the intake and one hundred feet downstream of the intake, except as modified due to local conditions. The standard emergency management zone boundary consists of a semi-circle that extends five hundred feet upstream of the intake and one hundred feet downstream of the intake except as modified due to local conditions.
- (2) "End user" means a person who owns the property on which a select waste is beneficially used.

(F) [Reserved.]

(G)

- (1) "Generator" means a person who initially generates a select waste.
- (2) "Ground water" means any water below the surface of the earth in a zone of saturation.
- (3) "Grout" means a construction material used to embed rebar in masonry walls, connect sections of pre-cast concrete, fill voids, and seal joints. Grout is generally composed of a mixture of water, cement, sand and sometimes fine gravel.

(H) "Hazardous waste" means waste that is listed specifically as hazardous waste or exhibits one or more characteristics of hazardous waste as defined in Chapter 3745-51 of the Administrative Code.

(I) "Industrial waste" has the same meaning as in section 6111.01 of the Revised Code.

(J) [Reserved.]

(K) [Reserved.]

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(L) [Reserved.]

(M)

(1) "Masonry Unit" means manufactured building product that includes burned clay, concrete, stone, glass, and gypsum.

(2) "Material change" means the composition of the select waste has changed such that either of the following occurs:

(a) The concentration of a known pollutant exceeds the concentration limits established in the general or individual permit issued pursuant to this chapter.

(b) A new pollutant is present in the select waste that was not present or known at the time of the previous characterization.

(N) [Reserved.]

(O)

(1) "Ohio EPA" means Ohio environmental protection agency.

(2) "Open burning" has the same meaning as in section 3734.01 of the Revised Code.

(3) "Open dumping" has the same meaning as in section 3734.01 of the Revised Code.

(4) "Other waste" has the same meaning as in section 6111.01 of the Revised Code.

(P)

(1) "Person" means the state, any political subdivision of the state or other state or local body, the United States and any agency or instrumentality thereof, and any legal entity or organization defined as a person under section 1.59 of the Revised Code, or other entity.

(2) "Permittee" means any person holding a general permit or an individual permit to beneficially use a select waste pursuant to this chapter.

(3) "Pollutant" means an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either the organism or offspring of the organism.

(Q) [Reserved.]

(R) "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) that can be expected to exhibit the average properties of the universe or whole.

(S)

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(1) "Select waste" means a solid waste, industrial waste, or other waste specifically identified for properties necessary or preferred for beneficial use.

(2) "Sewage sludge" has the same meaning as in division (Y)(8)(b) of section 3745.11 of the Revised Code.

(3) "Solid waste" has the same meaning as in Chapter 3734. of the Revised Code. As used in the definition of solid waste for the purposes of this chapter, "unwanted" means a material that is discarded by the generator or is used in a manner that shows the generator no longer reasonably needs or desires the select waste. Unwanted does not include a select waste that has been beneficially used in accordance with this chapter.

(T) [Reserved.]

(U) [Reserved.]

(V) [Reserved.]

(W) "Waters of the state" has the same meaning as in section 6111.01 of the Revised Code.

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**3745-599-03**      **Beneficial use - incorporation by reference.**

Incorporation by reference. The text of the incorporated materials is not included in the rules contained in this chapter. The materials are hereby made a part of this chapter. For materials subject to change, only the specific version specified in this rule is incorporated. Any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new version.

(A) Availability. The materials incorporated by reference are available as follows:

- (1) Specifications of the "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, third edition, including Volume IV, Field Manual (SW-846)." Information and copies may be obtained by writing to: "National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161." The full text is also available in electronic format at <http://www.epa.gov/epaoswer/hazwaste/test/main.htm>. These test methods are also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (2) Specifications of the "American Society for Testing and Materials" (ASTM). Information and copies may be obtained by writing to: "ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19426-2959." These documents are available for purchase at <http://www.astm.org>.
- (3) Other publications. The availability of these documents is provided in paragraph (B)(3) of this rule. However, many of the documents are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(B) Incorporated materials.

- (1) Appropriate "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)," as amended through January 3, 2008, including the following:
  - (a) Method 1311, "Toxicity Characteristic Leaching Procedure."
  - (b) Method 1312, "Synthetic Precipitation Leaching Procedure."
  - (c) Method 3050B, "Acid Digestion of Sediments, Sludges, and Soils."
  - (d) Method 3500C "Organic Extraction and Sample Preparation."
  - (e) Method 6010C, "Inductively Coupled Plasma ICP-Atomic Emission Spectrometry."
  - (f) Method 7000B or 7010, "Atomic Absorption Spectrophotometry."
  - (g) Method 8081B, "Organochlorine Pesticides by Gas Chromatography."
  - (h) Method 8082A, "Polychlorinated Biphenyls (PCBs) by Gas Chromatography."
  - (i) Method 8260B, "Volatile Organic Compounds by Gas Chromatography/ Mass Spectrometry (GC/MS)."
  - (j) Method 8270D, "Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)."

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(2) ASTM D3987-12, "Standard Test Method for Shake Extraction of Solid Waste with Water"; adopted November 1, 2012.

(3) Other publications as follows:

(a) 33 USC 1344. Title 33: "Navigation and Navigable Waters." United States Code. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the USC is also available in electronic format at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

(b) Ohio environmental protection agency, division of hazardous waste management, "Closure Plan Review Guidance for RCRA Facilities"; as amended through April 2009. Information and copies may be obtained by writing to "Ohio Environmental Protection Agency, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43215-1049." The full text is also available in electronic format at <http://epa.ohio.gov/portals/32/pdf/2008CPRG.pdf>.

(c) U.S. environmental protection agency, office of solid waste, "RCRA Waste Sampling Draft Technical Guidance. Planning Implementation and Assessment. EPA 530-D-02-002"; as amended through August 2002. Information and copies may be obtained by writing to "U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue N.W., Washington, DC 20460." The full text is also available in electronic format at [http://www.epa.gov/epawaste/hazard/testmethods/sw846/samp\\_guid.htm](http://www.epa.gov/epawaste/hazard/testmethods/sw846/samp_guid.htm).

(d) U.S. environmental protection agency, technical support center for monitoring and site characterization, "Statistical Software ProUCL 4.0 for Environmental Applications for Data Sets with and without Nondetect Observations"; this computer software and technical guide were published in April 2007.

(e) Matzke BD, Hassig NL, Wilson JE, Gilbert RO, Pulsipher BA, Nuffer LL, Dowson ST, Hathaway J, Murray CJ, and Segó LH. "Visual Sample Plan Version 5.0 User's Guide." PNNL-16939, Pacific Northwest National Library, Richland, Washington. The full text is also available in electronic format at <http://vsp.pnl.gov>.

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**3745-599-05**      **Beneficial use - general exclusions.**

General exclusions. This chapter is not applicable to the following:

- (A) Asbestos-containing waste material regulated pursuant to Chapter 3704. of the Revised Code and rules adopted thereunder.
- (B) Coal mining and reclamation operations regulated pursuant to Chapter 1513. of the Revised Code and rules adopted thereunder.
- (C) Composting regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (D) Construction and demolition debris, including clean hard fill, regulated pursuant to Chapter 3714. of the Revised Code and rules adopted thereunder.
- (E) Hazardous waste regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (F) Industrial minerals mining and reclamation operations regulated pursuant to Chapter 1501:14 of the Administrative Code.
- (G) Infectious waste regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (H) Lime mining wastes regulated pursuant to Chapter 1514. of the Revised Code and rules adopted thereunder.
- (I) Manure regulated pursuant to Chapter 903. of the Revised Code and rules adopted thereunder.
- (J) Polychlorinated biphenyls (PCBs) regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (K) Radioactive waste regulated pursuant to Chapter 3748. of the Revised Code and rules adopted thereunder.
- (L) Scrap tires regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (M) Sewage, sewage sludge, and sewage sludge materials including a select waste commingled with sewage, sewage sludge, and sewage sludge materials regulated pursuant to Chapter 6111. of the Revised Code and rules adopted thereunder.
- (N) Solid waste and other waste disposed or used in activities that occur within the approved limits of a disposal facility regulated pursuant to Chapters 3714. or 3734. of the Revised Code and rules adopted under those chapters. As used in this paragraph "disposal facility" includes incinerators or energy recovery facilities.
- (O) Used oil regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (P) Yard waste or commingled yard waste regulated pursuant to Chapter 3734. of the Revised Code and rules adopted thereunder.
- (Q) Waste from oil and gas exploration and production operations including brine, regulated pursuant to Chapter 1509. of the Revised Code and rules adopted thereunder.

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**3745-599-10 Beneficial use - exclusion for select waste incorporated into certain construction materials.**

(A) A select waste that is incorporated into one of the following construction materials meeting engineering construction specifications and placed on land as part of a construction project are excluded from regulation under this beneficial use program chapter:

(1) Asphalt concrete.

(2) Cement concrete.

(3) Chip and seal pavement.

(4) Grout.

(5) Glass.

(6) Masonry unit.

(B) Nothing in this rule limits the applicability of Chapters 3734., 6111., or 3704. of the Revised Code or rules adopted thereunder, or any other applicable environmental regulations.

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3745-599-15

**Beneficial use - exclusion for earth and contaminated soil.**

Reserved.

*Note: The Agency intends to explore the beneficial use of contaminated earth with stakeholders. Examples of beneficial uses for contaminated earth that the Agency has faced include: upland use of harbor and lake dredging sediments for agricultural use, and other use of other contaminated soils in remediation and economic development projects.*

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**3745-599-20**      **Beneficial use - prohibitions.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, test methods, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-599-03 of the Administrative Code titled "Incorporation by reference."]

- (A) Except as authorized or excluded by this chapter, no person shall beneficially use a select waste.
- (B) Except in accordance with an effective national pollutant discharge elimination system permit, no person shall place or cause to be placed a select waste in a location that results in a discharge to waters of the state.
- (C) Except in accordance with a water quality certification issued under Chapter 3745-32 of the Administrative Code, a permit issued under 33 U.S.C. 1344, or an isolated wetland permit or national pollutant discharge elimination system permit issued under Chapter 6111. of the Revised Code, whichever is applicable, no person shall beneficially use a select waste by placing the select waste into waters of the state.
- (D) No person shall beneficially use a select waste in a manner that is harmful to public health, safety, or the environment.
- (E) No person shall beneficially use a select waste at any location where the director determines beneficial use may endanger public health, safety, or the environment.
- (F) No person shall beneficially use a select waste in a manner that or in a location that creates a public nuisance, or causes or contributes to water pollution or air pollution.
- (G) No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person responsible for the open dumping, the owner of the property, or the person who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.

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3745-599-25 Signatures.

(A) When a document is required to be signed in accordance with this rule, the person signing that document shall be one of the following:

(1) In the case of a corporation, a principal executive officer of at least the level of vice president or a duly authorized representative, if such representative is responsible for the overall operations.

(2) In the case of a partnership, a general partner.

(3) In the case of a limited liability company, a manager, member, or other duly authorized representative of the limited liability company, if such representative is responsible for the overall operations.

(4) In the case of sole proprietorship, the owner.

(5) In the case of a municipal, state, federal, or other governmental facility, the principal executive officer, the ranking elected official, or other duly authorized employee.

(B) The signature on the document signed in accordance with this rule shall constitute personal affirmation that all statements and all assertions of fact made in the document to the best of the signatory's knowledge and belief are true, accurate, include all required information, and comply fully with applicable state requirements and shall subject the signatory to liability under section 2921.13 of the Revised Code.

(C) Unless an alternate certification is specifically required, a document signed in accordance with this rule shall include the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the requirements contained in Chapters 3734. and 6111. of the Revised Code, and all rules adopted thereunder, was prepared under my direction and supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

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**3745-599-30**      General requirements for the beneficial use of a select waste.

- (A) Any person beneficially using a select waste shall ensure that the beneficial use of a select waste complies with all applicable federal and state laws and regulations.
- (B) Any person beneficially using a select waste shall ensure that the beneficial use has been approved in accordance with either of the following:
- (1) A beneficial use general permit pursuant to rule 3745-599-200 of the Administrative Code.
  - (2) An individual beneficial use permit pursuant to rule 3745-599-300 of the Administrative Code.
- (C) The director may require a permittee who is approved under a beneficial use general permit to obtain an individual beneficial use permit.
- (D) Any person beneficially using a select waste shall ensure that the beneficial use of a select waste conforms to applicable accepted engineering standards or agronomic practices.
- (E) Any person beneficially using a select waste shall ensure that the beneficial use of a select waste conforms to best management practices for the select waste and the location of the beneficial use as specified in the permit.
- (F) A permit application shall develop and implement a written select waste characterization and analysis plan in accordance with rule 3745-599-50 of the Administrative Code, unless otherwise specified in the permit.
- (G) A permittee shall notify Ohio EPA not later than twenty-four hours after discovering non-compliance with the select waste characterization and analysis plan, the beneficial use general permit, or the individual beneficial use permit, unless an alternative timeframe has been established in the permit.
- (H) Ohio EPA, upon proper identification, may enter at reasonable times upon any public or private property, real or personal, to inspect or investigate, obtain samples, and examine or copy records to determine compliance with this chapter at any locations where a select waste is generated, used, distributed, processed, or placed.
- (I) A permittee who provides or distributes a select waste to another person for beneficial use in accordance with an individual or general permit shall provide the person receiving the select waste proper notification and necessary information pursuant to rule 3745-599-40 of the Administrative Code.

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**3745-599-35**      **Beneficial use - legitimacy criteria.**

A person shall demonstrate beneficial use of a select waste by doing the following:

- (A) Demonstrating compliance with a beneficial use general permit or individual beneficial use permit issued in accordance with this chapter.
- (B) Ensuring that the select waste is managed and stored as a valuable commodity and is adequately contained to prevent releases to the environment.
- (C) Demonstrating that the select waste is not accumulated speculatively. As used in this rule, a select waste is not accumulated speculatively if the person accumulating the select waste can show the following:
  - (1) The condition of the select waste is maintained and appropriate to be beneficially used in accordance with a beneficial use general permit, individual beneficial use permit, or general exclusion under rule 3745-599-05 of the Administrative Code.
  - (2) The select waste has a feasible means of being beneficially used in accordance with a beneficial use general permit, individual beneficial use permit, or general exclusion under rule 3745-599-05 of the Administrative Code.
  - (3) The select waste is being beneficially used over timeframes established in a beneficial use authorization. If the beneficial use authorization does not address such timeframe, then show that during the calendar year, commencing January first, the amount of select waste that is beneficially used, or transferred to a different site for beneficial use, equals at least seventy-five per cent by weight or volume of the amount of that select waste accumulated at the beginning of the calendar year. In calculating the percentage of turnover, the seventy-five per cent requirement is to be applied to select waste of the same type that is beneficially used in the same way (i.e., from which the same material is recovered or that is used in the same way).

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**3745-599-40**      **Beneficial use - notice and information for distribution.**

- (A) Unless otherwise specified in the beneficial use general permit or the individual beneficial use permit, any permittee who provides or distributes a select waste to another person for beneficial use shall provide the person receiving the select waste with the select waste's notice of necessary information prior to or with the initial shipment. The notice of necessary information shall include the following:
- (1) The name, address, and telephone number of the generator of the select waste.
  - (2) The type and number of each applicable beneficial use permit.
  - (3) A statement that the material is or contains a select waste that meets the constituent limits established in each applicable general or individual permit.
  - (4) A summary of results from any characterization required in accordance with rule 3745-599-50 of the Administrative Code.
  - (5) A list of the approved beneficial uses for the select waste.
- (B) Unless otherwise specified in the beneficial use general permit or the individual beneficial use permit, upon request by a person receiving the select waste, the permittee shall provide to that person the following:
- (1) A copy of the select waste characterization and analysis plan.
  - (2) A summary of results from any characterization required in accordance with this chapter.
  - (3) A copy of the beneficial use general permit under which coverage is authorized for the beneficial use of the select waste or a copy of the individual beneficial use permit issued for the beneficial use of the select waste, whichever is applicable.
- (C) Unless otherwise specified in the beneficial use general permit or the individual beneficial use permit, the permittee shall provide updates to the notice of necessary information to the person receiving the select waste for beneficial use annually on the anniversary of the first notice of necessary information and whenever a select waste being beneficially used undergoes a material change.

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**3745-599-45 Beneficial use - recordkeeping and reporting.**

- (A) A permittee who is a generator that intends to beneficially use a select waste shall submit to Ohio EPA an annual report signed in accordance with 3745-599-25 of the Administrative Code. The annual report shall be submitted on or before April first of each year for the previous calendar year and within thirty days of permit expiration or revocation on forms prescribed by the director and shall include at a minimum the following:
- (1) A description of the select waste including a description of the process used to generate the select waste and a list of the materials used to generate the select waste.
  - (2) A copy of the select waste characterization and analysis plan developed in accordance with rule 3745-599-50 of the Administrative Code unless otherwise specified in the beneficial use permit.
  - (3) All laboratory results and statistical analyses of the select waste performed or obtained in the initial characterization, re-characterization, and sample confirmation characterizations of the select waste in accordance with this chapter.
  - (4) Unless otherwise specified in the beneficial use general permit or the individual beneficial use permit, a list of all persons that received the select waste from the generator and the quantity of select waste distributed annually to each person expressed in dry tons or in volume.
  - (5) Any other information required by the generator's beneficial use permit.
- (B) A permittee who is a distributor of a select waste for beneficial use shall submit to Ohio EPA an annual report signed in accordance with 3745-599-25 of the Administrative Code. The annual report shall be submitted on or before April first of each year for the previous calendar year and within thirty days of permit expiration or revocation on forms prescribed by the director and shall include at a minimum the following:
- (1) Unless otherwise specified in the beneficial use general permit or the individual beneficial use permit, a list of all persons that received the select waste from the distributor and the quantity of select waste distributed annually to each person expressed in dry tons or in volume.
  - (2) The name, address, and telephone number of each generator of a select waste distributed by the permittee.
  - (3) All laboratory results and statistical analyses of each initial characterization, re-characterization, and sample confirmation characterizations of the select waste in accordance with this chapter if performed by the distributor.
  - (4) Any other information the beneficial use permit requires the distributor to maintain.
- (C) A person shall maintain all of the records required to be reported pursuant to paragraph (A) or (B) of this rule for a minimum of five years, as applicable.

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**3745-599-50 Select waste characterization and analysis plan.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, test methods, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-599-03 of the Administrative Code titled "Incorporation by reference."]

- (A) The applicant shall develop a select waste characterization and analysis plan in accordance with this rule for each select waste that the applicant is seeking to beneficially use or provide for beneficial use pursuant to this chapter.
- (B) When submitting an individual beneficial use permit application or a notice of intent to obtain coverage under a beneficial use general permit, the applicant shall demonstrate through generator knowledge or through sampling and analysis that the select waste is not a hazardous waste.
- (C) A select waste characterization and analysis plan shall be developed in accordance with this rule unless otherwise specified in the beneficial use general permit, and submitted with a notice of intent to obtain coverage under a beneficial use general permit as required by rule 3745-599-200 of the Administrative Code or with an application for an individual beneficial use permit as required by rule 3745-599-300 of the Administrative Code.
- (D) The director may conclude that the select waste characterization and analysis plan is deficient if the information requested in this rule is missing and there is no alternative information provided or there is no scientific justification for alternative information provided in the select waste characterization and analysis plan. The applicant shall ensure that the select waste characterization and analysis plan include at a minimum the following:
- (1) The name, address, and telephone number of the applicant and contact person.
  - (2) A physical and chemical description of the select waste proposed for beneficial use as generated, including a description of the generating process and a list of the feedstock, input materials, and raw materials used to generate the select waste.
  - (3) Each select waste shall be analyzed for all constituents reasonably expected to be present in the material identified in accordance with paragraph (D)(2) of this rule. These constituents will become the constituents of concern.
  - (4) The analyses performed on the constituents of concern shall be appropriate in consideration of the proposed beneficial use of the select waste and the potential for leaching of constituents of concern to the environment. If there is potential for the select waste to leach, the toxicity characteristic leaching procedure (TCLP), Synthetic Precipitation Leaching Procedure (SPLP), ASTM water leaching procedure (ASTM D3987-12), or similar analytical method shall be included. The select waste proposed to be placed on the land shall be analyzed for toxicity using the aquatic organisms (*P. promelas* and *C. dubia*) in accordance with methods specified in paragraphs (A)(1) to (A)(3) of rule 3745-1-03 of the Administrative Code.

[Comment: Applicants may refer to the following documents for guidance on how to choose a sampling strategy; determine the appropriate number of samples; evaluate whether a statistically significant set of samples has been acquired; and conclude that a statistically determined confidence interval (if practical)

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has represented the average properties of a select waste:

"RCRA Waste Sampling Draft Technical Guidance."

"SW-846 Chapter Nine."

"Statistical Software ProUCL 4.0 for Environmental Applications for Data Sets with and without Nondetect Observations."

"Visual Sample Plan Version 5.0 User's Guide."

Applicants may use other appropriate guidance.]

- (5) A description of whether the sampling is to characterize the constituent concentration of a single volume of select waste or to characterize a select waste stream that will be generated through time.
- (6) A description of the sample handling techniques and shipping procedures that will be implemented to ensure the sample integrity is maintained, including sample preservation and chain of custody. The description shall also set forth the quality control procedures and sampling protocols that will be used to obtain representative samples of the select waste.
- (7) A discussion of the sampling strategy including a description of the steps that will be followed to obtain representative samples of the select waste shall include the following:
- (a) A description of the sampling strategy for the select waste characterization using approved sampling and analysis procedures in accordance with rule 3745-599-60 of the Administrative Code.
  - (b) A justification of the sampling method or methods chosen. The justification shall take into account the specific physical and chemical characteristics and the heterogeneity of the select waste being sampled.
  - (c) The location and the number of all grab samples, composite samples and incremental samples that will be used to define the average properties of the select waste. The number and location of samples shall be chosen so as not to miss areas of high chemical concentration.
  - (d) A sufficient number of samples shall be collected by the applicant to ensure that the collected samples truly represent the average properties of the entire waste stream. In the case of simple random sampling using grab samples, the applicant shall perform a statistical analysis of the data. If composite or incremental samples are used for the sampling method, and a statistical analysis is not practical, the applicant shall demonstrate to the satisfaction of the director that the sampling method is valid and defensible for the purpose for which the data was collected.
- (8) A results section that contains at a minimum the following:
- (a) The raw data and results gathered in accordance with the sampling characterization and analysis plan.
  - (b) A summary table of all the raw data and the data analysis included in a computerized database or electronic spreadsheet.
  - (c) The analytical report containing enough detailed information so that the reported statistical analyses are reproducible.

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(d) A description of the statistical or empirical data evaluation methods that will be used to determine the representative average properties of the select waste.

(e) A data validation performed by a person not employed by the laboratory performing the characterization and analysis of the select waste.

(E) If deemed necessary to ensure the protection public health, safety, or the environment, the director may require sampling and monitoring for constituents in addition to those identified in the select waste characterization and analysis plan. In addition, the director may collect and analyze samples of the select waste to ensure compliance with applicable constituent limits.

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**3745-599-55      Annual sampling confirmation characterization.**

- (A) The permittee shall perform a sampling confirmation characterization of each select waste authorized for beneficial use pursuant to this chapter according to the approved characterization and analysis plan as follows:
- (1) At a minimum, annually for a permittee holding an individual permit.
  - (2) Annually or as specified in the general permit for a permittee covered under a beneficial use general permit to ensure compliance with applicable pollutant limits.
- (B) A sampling confirmation characterization is not required annually if the permittee has not beneficially used or distributed the select waste in the past year. Prior to resuming beneficial use or distribution of the select waste, the permittee shall perform the sampling confirmation characterization.
- (C) If at any time the results of a select waste sampling characterization indicate that any constituent concentration exceeds the pollutant limits in the beneficial use permit authorizing the select waste, the permittee shall cease beneficial use and distribution of the select waste until the permittee does one of the following:
- (1) Performs and submits to the director a complete sampling confirmation characterization or a constituent specific re-characterization of the select waste demonstrating that a material change to the select waste has not occurred.
  - (2) Submits a notice of intent and obtains coverage under a beneficial use general permit.
  - (3) Submits an application for and obtains a new or modified individual beneficial use permit.

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**3745-599-60**      **Approved sampling and testing procedures for the beneficial use of a select waste.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, test methods, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-599-03 of the Administrative Code titled "Beneficial use - incorporation by reference."]

Unless otherwise approved by the director, a characterization to determine whether a select waste can be beneficially used shall be performed by the applicant in accordance with one or a combination of the following applicable methods:

(A) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)," including the following:

- (1) Method 1311, "Toxicity Characteristic Leaching Procedure."
- (2) Method 1312, "Synthetic Precipitation Leaching Procedure."
- (3) Method 3050B, "Acid Digestion of Sediments, Sludges, and Soils."
- (4) Method 6010C, "Inductively Coupled Plasma-Atomic Emission Spectrometry."
- (5) Method 7000B or 7010, "Atomic Absorption Spectrometry."
- (6) Method 3500C "Organic Extraction and Sample Preparation."
- (7) Method 8260B, "Volatile Organic Compounds by Gas Chromatography/ Mass Spectrometry (GC/MS)."
- (8) Method 8270D, "Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)."
- (9) Method 8081B, "Organochlorine Pesticides by Gas Chromatography."
- (10) Method 8082A, "Polychlorinated Biphenyls (PCBs) by Gas Chromatography."

(B) ASTM D3987-12, "Standard Test Method for Shake Extraction of Solid Waste with Water."

(C) Other United States environmental protection agency methods or other methods that demonstrate to the satisfaction of the director that the results of the analysis adequately represent constituent concentrations in the select waste.

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[Pre-approved for beneficial use.](#)

[\[Reserved.\]](#)

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**3745-599-110**      Select waste used as fuels or ingredients in combustion units.

- (A) Any person proposing to use a select waste that is a solid waste as a fuel or an ingredient in a combustion unit is subject to this chapter.
- (B) Select waste that is used that is as a fuel or as an ingredient in a combustion unit regulated pursuant to rule 3745-17-10 of the Administrative Code (fuel-burning equipment), and the burning of fuel regulated pursuant to rule 3745-17-11 of the Administrative Code (industrial processes) is a beneficial use authorized under this chapter. A person may beneficially use a select waste by burning the select waste as a fuel either in an installation operated in accordance with rule 3745-17-10 of the Administrative Code or as part of a process, operation, or activity conducted in accordance with rule 3745-17-11 of the Administrative Code without first obtaining authorization in accordance with this chapter.
- (C) Any person using a select waste that is a solid waste as a fuel or an ingredient in a combustion unit that does not meet paragraph (B) of this rule shall apply for a beneficial use permit under this chapter. Such beneficial use permit application for use of a select waste shall be limited to combustion units regulated and holding the applicable air permits pursuant to Chapter 3704. of the Revised Code and rules adopted thereunder.

[Comment: Facilities that are solid waste incinerators or solid waste energy recovery facilities may be subject to rules 3745-27-50 to 3745-27-53 of the Administrative Code.]

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**3745-599-200**      **Beneficial use - general permit.**

- (A) A person may apply for coverage under a beneficial use general permit by submitting a notice of intent to obtain coverage in accordance with rule 3745-599-210 of the Administrative Code and this chapter.
- (B) The director may issue a beneficial use general permit without application. A general permit may address the following:
- (1) A specific category or categories of select wastes and beneficial uses by persons conducting similar activities.
  - (2) Establishment of general permit eligibility requirements.
  - (3) Establishment of requirements pertaining to the characterization of the select wastes.
  - (4) Establishment of restrictions on the beneficial uses of select wastes.
  - (5) Establishment of recordkeeping and reporting requirements.
  - (6) Establishment of requirements specific to the type of select waste and the beneficial uses authorized under the general permit.
  - (7) Establishment of a general permit expiration date and general permit renewal procedures.

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**3745-599-210 Notice of intent to obtain coverage under a beneficial use general permit.**

(A) Each person who seeks authorization to beneficially use a select waste or provide or distribute a select waste for beneficial use under a beneficial use general permit as set forth in this chapter shall submit the following to the director:

(1) A complete and accurate notice of intent to obtain coverage under a beneficial use general permit on forms prescribed by the director not later than sixty days prior to the anticipated date of commencing beneficial use of the select waste. The forms shall be signed in accordance with rule 3745-599-25 of the Administrative Code. At a minimum, such notice of intent shall contain the following:

(a) The beneficial use general permit number under which authorization to beneficially use a select waste is requested.

(b) The name, address, and telephone number of the applicant, and the name, address, telephone number, and title of the applicant's contact person.

(c) If different than the applicant, the name, address, and telephone number of the generator, and the name, address, telephone number, and title of the generator's contact person.

(d) If different than the applicant, the name, address, and telephone number of every intended distributor of the select waste, and the name, address, telephone number, and title of the distributor's contact person.

(e) A physical and chemical description of the select waste proposed for beneficial use as generated, including a description of the generating process and a list of the feedstock, input materials, and raw materials used to generate the select waste.

(f) A description of the proposed beneficial use of the select waste.

(g) Unless otherwise specified in the beneficial use general permit, each location of the proposed beneficial use of the select waste.

(h) An estimated volume of each select waste proposed for beneficial use on an annual basis.

(i) A description of the expected chemical characteristics including the leaching characteristics of runoff from the select waste if the select waste will be applied to the land.

(j) Any additional information requested by the director.

(2) A copy of the applicant's select waste characterization and analysis plan developed in accordance with rule 3745-599-400 of the Administrative Code.

(3) The analytical results of an initial characterization of each select waste intended for beneficial use.

(4) A nonrefundable application fee of xxx dollars.

(B) Any notice of intent or other documentation required to be submitted by this rule that fails to provide Ohio EPA with requested information needed to ascertain compliance with the applicable provisions of this chapter may be considered deficient. Ohio EPA may either request additional information or return the notice of intent to the applicant without further processing.

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3745-599-220      Coverage under a beneficial use general permit.

(A) Beneficial use general permit coverage.

- (1) Upon receipt of a complete notice of intent that demonstrates that the criteria for general permit coverage have been satisfied, the director may authorize the applicant for coverage under the beneficial use general permit.
- (2) No person is authorized to beneficially use a select waste under authority of a beneficial use general permit until the director issues a written notification to that person that the beneficial use of the select waste is authorized by a beneficial use general permit.
- (3) Unless otherwise specified in the beneficial use general permit, no person shall use a select waste at a location that has not been approved by Ohio EPA in the beneficial use general permit.

(B) The director may make an administrative change to any coverage under a beneficial use general permit. Coverage under a beneficial use general permit may be administratively changed to do either of the following:

- (1) To update or correct administrative information including but not limited to the telephone number, address, or contact person of the permittee, generator, or distributor.
- (2) To correct typographical errors contained in a beneficial use general permit.

(C) Change in characterization and analysis plan.

- (1) The permittee shall notify the director when a change in the generating process occurs or when the permittee anticipates a change in the feedstock, input materials, and raw materials used in the generating process.
- (2) If a change in the generating process, feedstock, input materials, and raw materials occurs, the director may require the permittee to re-characterize the select waste.
  - (a) The director may require the permittee to cease beneficial use and distribution of the select waste until a re-characterization of the select waste has occurred.
  - (b) If the permittee demonstrates that a change in the feedstock, input materials, and raw materials used in the generating process justifies a modified re-characterization and analysis plan, the director may approve a modified re-characterization and analysis plan of the constituents.

(3) If at any time the results of a select waste re-characterization indicate a material change, the permittee shall cease beneficial use and distribution of the select waste until the permittee does one of the following:

- (a) Performs and submits to the director a complete re-characterization or a constituent specific re-characterization of the select waste demonstrating that a material change to the select waste has not occurred.
- (b) Submits a notice of intent and obtains coverage under a beneficial use general permit.
- (c) Submits an application for and obtains an individual beneficial use permit.

(D) Denial of coverage under a beneficial use general permit.

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(1) The director may deny coverage for the beneficial use of a select waste at locations including but not limited to the following:

(a) Within a drinking water source protection area for a community public water system using ground water.

(b) Within five hundred feet of a well that provides potable drinking water for human or livestock consumption.

(c) Within an emergency management zone.

(2) The director may deny coverage for the beneficial use of a select waste in the construction of facilities used to treat, store, or convey potable water for human or livestock consumption.

(3) The director may deny coverage for the beneficial use of a select waste at any location where the director determines that the beneficial use may endanger public health, safety, or the environment or if the director determines the beneficial use may create a public nuisance, cause or contribute to water pollution or air pollution, or has ordered the abatement of violation.

(4) The director may deny coverage under a beneficial use general permit when there are any unresolved enforcement actions against the applicant or permittee by Ohio EPA.

(5) The director may deny coverage under a beneficial use general permit when the notice of intent is not in compliance with this chapter or with any requirements in the beneficial use general permit.

(6) If coverage under a beneficial use general permit is denied, an applicant may apply for an individual beneficial use permit in accordance with rule 3745-599-300.

(E) Suspension or revocation of coverage under a beneficial use general permit.

The director may suspend or revoke coverage under a beneficial use general permit in part or in whole if any of the following occur:

(1) The director finds that there has been a violation of law, rule, permit, or other authorization within the director's jurisdiction.

(2) The director has reasonable cause to suspect an adverse impact to public health, safety, or the environment from the beneficial use of the select waste.

(3) The director has reasonable cause to suspect that information submitted as the basis for the director's determination to authorize coverage was incomplete, incorrect, or are no longer valid.

(4) The permittee requests that the director suspend or revoke the permittee's coverage under a beneficial use general permit.

(F) If the director determines that a permittee who is approved under a beneficial use general permit no longer meets the criteria for coverage under the beneficial use general permit, the director may require the permittee to apply for an individual beneficial use permit.

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**3745-599-300**      **Beneficial use - individual permit.**

- (A) A person may apply for a beneficial use individual permit by submitting an application in accordance with rule 3745-599-310 of the Administrative Code and this chapter.
- (B) An individual beneficial use permit shall include requirements for the applicant to submit sampling confirmation characterizations and analysis in accordance with rule 3745-599-50 of the Administrative Code including all applicable fees prior to the beneficial use.
- (C) Expiration of an individual beneficial use permit.
- (1) An individual beneficial use permit shall be effective for five years from the effective date of the permit unless otherwise stated in the permit, or revoked or suspended in accordance with rule 3745-599-350 of the Administrative Code.
- (2) Permittees under an expired permit shall cease beneficial use of a select waste.
- (3) A permittee wishing to continue beneficially using a select waste after the expiration of the individual beneficial use permit will need to follow the requirements in rule 3745-599-340 of the Administrative Code for obtaining renewal of the permit.

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**3745-599-310      Application for a beneficial use individual permit.**

A person applying for an individual beneficial use permit shall submit the following to the director:

- (A) An application for an individual beneficial use permit on forms prescribed by the director, signed by the applicant in accordance with rule 3745-599-25 of the Administrative Code, that includes the following:
- (1) The name, address, and telephone number of the applicant and the name, address, telephone number, and title of the applicant's contact person.
  - (2) If different than the applicant, the name, address, and telephone number of the generator, and the name, address, telephone number, and title of the generator's contact person.
  - (3) If different than the applicant, the name, address, telephone number, and title of each intended distributor of the select waste and the name, address, telephone number, and title of the distributor's contact person.
  - (4) A physical and chemical description of the select waste proposed for beneficial use as generated, including a description of the generating process and a list of the feedstock, input materials and raw materials used to generate the select waste.
  - (5) A description of the manner in which the select waste is intended to be beneficially used and a demonstration that the beneficial use is legitimate in accordance with rule 3745-599-35 of the Administrative Code. The description shall address the following:
    - (a) The select waste provides a useful contribution to the commercial, production or manufacturing process. The select waste provides a useful contribution if the select waste does any of the following:
      - (i) Contributes valuable ingredient to a product or process intermediate.
      - (ii) Replaces a catalyst or carrier in the process.
      - (iii) Is the source of a valuable constituent recovered in the process.
      - (iv) Is recovered or regenerated by the process.
      - (v) Is used as an effective substitute for a commercial product or process intermediate.
    - (b) The select waste is used to produce a valuable product or intermediate. A product or intermediate is valuable if sold to a third party; or used by a recycler or the generator as an effective substitute for a commercial product, a soil additive or amendment, or as an ingredient or intermediate in an industrial process.
  - (6) A description of the BMPs that will be used when transporting, handling, storing, and beneficially using the select waste to minimize loss, including the activities necessary to ensure that the select waste is not released to the environment.
  - (7) A description of the expected chemical characteristics, including the leaching characteristics, of runoff from the select waste if the select waste will be applied to the land.
  - (8) Unless otherwise specified in the individual beneficial use permit application, each location of the proposed

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beneficial use of the select waste.

(9) The estimated annual volume of the select waste proposed for beneficial use.

(10) A description of any other beneficial use permits that have been issued for the site where the select waste will be applied.

(11) Any additional information requested by the director.

(B) A copy of the applicant's select waste characterization and analysis plan developed in accordance with rule 3745-599-50 of the Administrative Code.

(C) The analytical results of an initial characterization of each select waste intended for beneficial use.

(D) A nonrefundable application fee of xxx dollars.

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**3745-599-320**      **Issuance of a beneficial use individual permit.**

- (A) Upon written request, if the director determines that additional information is necessary to determine whether an application satisfies the requirements of rule 3745-599-310 of the Administrative Code, the applicant shall supply such additional information for further consideration of the application. If the director determines that an application for a beneficial use individual permit is incomplete, the director may deny the permit or return the application to the applicant with a notice that the application is incomplete.
- (B) If an applicant fails to submit a complete revised application within one hundred eighty days of the date of the notice that the application is incomplete, the director may deny the application or return any revised application to the applicant.
- (C) Upon receipt of a complete application for a beneficial use individual permit and a determination that the criteria for a beneficial use individual permit have been met, the director may issue a beneficial use individual permit to the applicant.
- (1) The director may require use restrictions appropriate to prevent adverse impacts to public health, safety, and the environment.
- (2) The director may establish setbacks from waters of the state for the beneficial use of a select waste permitted pursuant to this chapter.
- (3) The director may impose additional terms and conditions in an individual beneficial use permit as authorized under Chapters 3734, and 6111. of the Revised Code.
- (4) An individual beneficial use permit will require the permittee to submit sampling characterization and analysis plans to the director in accordance with rule 3745-599-50 of the Administrative Code. If the director determines from the analyses that pollutants in a characterization and analysis plan submitted by the permittee are not in accordance with the effective beneficial use permit pollutant limits, the director may require the submittal of a permit modification application or a new individual beneficial use permit application including all applicable fees prior to the beneficial use or continued beneficial use of a select waste.

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**3745-599-330**      Changes to a beneficial use individual permit.

(A) The director may make an administrative change to an individual beneficial use permit. An administrative change to an individual beneficial use permit is an amendment that does not result in a modification. An individual beneficial use permit may be administratively changed to do the following:

- (1) To update administrative information including the telephone number, address, or contact person of the permittee, generator, or distributor.
- (2) To correct typographical errors contained in an individual beneficial use permit.

(B) Change in characterization and analysis plan.

(1) The permittee shall provide written notification to the director prior to a change in the generating process or when the permittee anticipates a change in the raw materials or the raw material makeup used in the generating process.

- (a) If a change in the generating process, raw materials, or the raw material makeup occurs, the director may require the permittee to re-characterize the select waste.
- (b) The director may require the permittee to cease beneficial use and distribution of the select waste until a re-characterization of the select waste has occurred.
- (c) If the permittee demonstrates that a change in the raw materials or the raw material makeup used in the generating process justifies a modified re-characterization, the director may approve a modified re-characterization and analysis plan of the constituents.

(2) If at any time the results of a select waste re-characterization indicate a material change, the permittee shall cease beneficial use and distribution of the select waste until the permittee does one of the following:

- (a) Performs and submits to the director a complete re-characterization or a constituent specific re-characterization of the select waste demonstrating that a material change to the select waste has not occurred.
- (b) Submits a notice of intent and obtains coverage under a beneficial use general permit.
- (c) Submits an application for and obtains a new or modified individual beneficial use permit.

[Comment: If the permittee performs a complete re-characterization or a constituent specific re-characterization of the select waste demonstrating that a material change to the select waste has occurred, the permittee may choose to submit and obtain a new or modified individual beneficial use permit.]

(C) Modification of an individual beneficial use permit.

(1) The director may modify an individual beneficial use permit in response to changes in applicable laws, regulations, rules, or other factors affecting compliance with the terms and conditions of the individual beneficial use permit.

(2) The permittee may also request a modification of an individual beneficial use permit by submitting a request

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to modify. A request to modify shall at a minimum contain the following:

(a) A completed form prescribed by the director.

(b) A brief narrative explanation of the modification being requested.

(c) Identification of the specific permit requirements related to the requested modification.

(d) The rationale for the modification and an evaluation that the modification:

(i) Maintains equivalent protection as specified in the individual beneficial use permit.

(ii) Does not affect any requirements in the individual beneficial use permit that are not part of the modification request.

(e) A non-refundable fee of xxx dollars.

(3) The modification shall be effective upon the effective date specified in the modified individual beneficial use permit issued by the director.

(4) The modified permit shall expire on the expiration date of the unmodified individual beneficial use permit unless otherwise stated in the modified permit.

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**3745-599-340 Renewal of an individual beneficial use permit.**

- (A) A permittee who seeks to continue beneficial use of a select waste after the expiration of an individual beneficial use permit may submit to the director an application for a renewal of the permit not later than one hundred eighty days prior to the permit's expiration. An application for renewal shall include the application requirements specified in paragraphs (A) and (B) of rule 3745-599-310 of the Administrative Code including the non-refundable application fee of xxx dollars. In addition, the application shall include a copy of the laboratory results for any sampling confirmation characterizations that have occurred since the approval of the individual beneficial use permit.
- (B) If an applicant submits a complete application for renewal of an individual beneficial use permit not later than one hundred eighty days prior to the expiration of the existing permit and Ohio EPA has not approved or denied the application for renewal prior to the expiration of the existing permit, the existing permit shall be effective until the application for renewal is either approved or denied by the director.
- (C) If an applicant submits an application for renewal not later than one hundred eighty days prior to the expiration date of the existing permit and the application for renewal is denied by the director, the existing permit expires on the effective date of the denial of the application for renewal or the expiration date of the existing permit, whichever is later.
- (D) If an applicant fails to submit an application for renewal not later than one hundred eighty days prior to the expiration of the existing permit, the existing permit expires on the expiration date specified in the permit and the permittee shall not continue beneficial use of the select waste until coverage for the beneficial use under a beneficial use general permit has been obtained in accordance with rule 3745-599-200 of the Administrative Code or the beneficial use is authorized under a new individual beneficial use permit issued in accordance with rule 3745-599-300 of the Administrative Code.
- (E) An applicant seeking renewal of a beneficial use individual permit shall submit to the Ohio EPA a revised application for an individual beneficial use permit not later than ninety days after the date of written notification that the application is administratively incomplete. The director may deny an incomplete application or return the application to the applicant.
- (F) If the director identifies that additional information is necessary to determine whether an application for renewal satisfies this chapter, upon written request the applicant shall supply such additional information.
- (G) Renewal of an individual beneficial use permit is subject to the same requirements as a new individual beneficial use permit pursuant to this chapter.

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**3745-599-350**      **Denial, suspension, and revocation of a beneficial use individual permit.**

(A) Denial of an individual beneficial use permit. The director may deny an individual beneficial use permit application or a renewal application for the beneficial use of a select waste for any of the following reasons:

(1) The beneficial use of a select waste is proposed at one or more of the following locations:

(a) Within a drinking water source protection area for a community public water system using ground water.

(b) Within five hundred feet of a well that provides potable drinking water for human or livestock consumption.

(c) Within an emergency management zone.

(2) The beneficial use of a select waste is proposed for use in the construction of facilities used to treat, store, or convey potable water for human or livestock consumption.

(3) The beneficial use of a select waste is proposed at any location where the director determines that the beneficial use may endanger public health, safety, or the environment, create a public nuisance, or cause or contribute to water pollution or air pollution.

(4) The applicant is the subject of one or more unresolved enforcement actions by Ohio EPA.

(5) The application is not in compliance with this chapter.

(B) Permit suspension or revocation. The director may suspend or revoke an individual beneficial use permit if any of the following occur:

(1) The director finds that there has been a violation of law, rule, permit, or other authorization in the director's jurisdiction.

(2) The director has reasonable cause to suspect an adverse impact to public health, safety, or the environment or an adverse effect on public health, safety, or the environment from the beneficial use of the select waste.

(3) The director has reasonable cause to suspect that information submitted as the basis for the director's determination were incomplete, incorrect, or are no longer valid.

(4) At the request of the permit holder.

(C) The director may limit the suspension of an individual beneficial use permit to a specified area of the permit's authorized beneficial use activities. Such limited suspensions shall be specific to an identified beneficial use, beneficial use location, or select waste if the director finds that a violation of law, rule, permit, or other authorization within the director's jurisdiction, or that an adverse impact to public health, safety, or the environment is related to the specifically identified beneficial use, beneficial use location, or select waste. Other areas of the permit's authorized beneficial use activities not specifically identified in the suspension would remain effective during the period of the suspension.