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## Maintaining Exempt Status as a Legitimate Recycling Facility

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### What is a Legitimate Recycling Facility (LRF)?

An **LRF** is an engineered facility or site where recycling of material other than scrap tires is the primary objective of the facility.

As stated in OAC 3745-27-01(C)(2), legitimate recycling facilities are:

1. Facilities that accept only source separated recyclables, except scrap tires, and/or mixed recyclables which are currently recoverable utilizing existing technology; **OR**
2. Facilities that:
  - a. accept mixed or source separated solid waste streams; and
  - b. recover for beneficial use not less than sixty percent of the volume of solid wastes brought to the facility each month (as averaged monthly) for not less than eight months in each calendar year; and
  - c. properly dispose of not more than forty percent of

the total volume of solid wastes brought to the facility each month (as averaged monthly) for not less than eight months in each calendar year.

An LRF does not include any facility identified as a solid waste disposal facility, nor does it include any facility identified as a scrap tire collection, storage, monofill, monocell, or recovery facility or any premises at which the beneficial use of scrap tires occurs.

### What if a facility does not meet the definition of an LRF?

An owner or operator of a facility that conducts legitimate recycling and wants to be exempt from the requirement to obtain a permit as a solid waste transfer station and an annual operating license, must:

1. meet the definition of an LRF in OAC 3745-27-01(C)(2); **and**
2. comply with the record keeping requirements contained in

OAC 3745-27-03(F).

Ohio EPA has not been given regulatory authority to issue a formal permit, registration or any other type of approval to classify businesses or sites as LRFs. Therefore, Ohio EPA and the LRF have to rely on facility records to establish whether the facility is an LRF or a transfer facility. Failure to maintain these records would eliminate the ability to qualify for the exemption.

### Record Keeping Requirements

If an owner or operator wants to qualify for the exemption stated in OAC 3745-27-03, the following information must be collected:

1. the total volume of wastes received per month;
2. the total volume of materials recovered for beneficial use per month; and
3. the volume and disposal location of

unrecoverable materials.

As required by rule, this information must be recorded and made available for inspection by the director, the health commissioner, or their authorized representatives upon request. The records must be maintained on facility premises for the current year and the previous two calendar years or the total period the facility has been in existence, if less than two years.

### Maintaining LRF Status

LRF status is determined per calendar year. To maintain LRF status, an owner/operator must recover at least sixty percent (by volume) not less than 8 out of 12 months. The LRF exemption expires the last day of the fifth month the facility owner/operator does not achieve the 60 percent recovery rate.

However, OAC 3745-27-03(F)(3) provides an owner/operator a "second-chance" six-month period to demonstrate

applicability of this exemption to their facility should they not be able to maintain the sixty percent recovery rate for eight months.

**What are my obligations as owner/operator if my facility loses its exempt status?**

If a facility has lost its status as an LRF, the owner/operator must:

1. Immediately begin to operate the facility in compliance with the operational requirements of OAC 3745-27-23 (*transfer facility operational rules*);

**and either**

2. Within fifteen days of the expiration of the exemption notify the Ohio EPA District Office, DSIWM and the appropriate health district in writing of the change in facility status from an LRF to a regulated solid waste transfer facility. The notification must either state the owner/operator's intent to submit a permit to install and solid waste transfer facility license application within 120 days of the expiration of the exemption;

**OR**

3. Within fifteen days of the expiration of the exemption provide written notice to the

Ohio EPA District Office, DSIWM and the appropriate health district of their intent to enter into a "second chance" six-month demonstration period.

For the six month period immediately following the expiration of the exemption the owner/operator must:

- a. operate the facility in accordance with the transfer facility operational rules;
- b. submit monthly, by the fifteenth day of each month, the information in (F)(1)(a); and
- c. attempt to achieve 60% recovery rate 5 of the next 6 months.

***Refer to the attachment for detailed scenarios of responsibilities and options an owner/operator has to either regain their LRF status or become a transfer facility.***

Local Health Departments may inspect your facility for compliance with the transfer facility operational rules and other environmental compliance issues.

**Voluntary Submittal of PTI and License Applications**

If owner/operators of facilities that have not yet lost their status as an LRF are concerned about meeting the licensing and permitting timeframes, they may choose to voluntarily submit and receive a PTI for a solid waste transfer facility ahead of time. Some owners/operators choose to do this contingency measure to maintain compliance in the event their LRF status is lost instead of attempting to demonstrate that the exemption applies to their facility. Permit application and background check fees would apply.

Permits issued to such facilities will have obligations/conditions regarding notification of Health Districts and requirements to obtain financial assurance and an operating license. The owner/ operator is only required to comply with the conditions of the transfer facility PTI when they lose their exempt status.

**Operating Issues at LRFs**

An owner/operator of an LRF must take measures

to operate the facility so that nuisance conditions such as vectors and odors do not occur. If materials are stored and nuisance conditions develop, the owner/operator may be cited by health district and/or Ohio EPA for open dumping or nuisance violations.

In accordance with OAC 3745-27-03(B), there is a seven day limit for storing putrescible solid waste.

**For more information contact the appropriate district office below:**

Northwest District Office  
347 North Dunbridge Rd.  
Bowling Green, OH 43402  
(419) 352-8461

Northeast District Office  
2110 E. Aurora Rd.  
Twinsburg, OH 44087  
(330) 425-9171

Southeast District Office  
2195 Front St.  
Logan, OH 43138  
(740) 385-8501

Southwest District Office  
401 E. Fifth St.  
Dayton, OH 45402-2911  
(937) 285-6357

Central District Office  
3232 Alum Creek Drive  
Columbus, OH 43207  
(614) 728-3778