

3745-266-240

Loss of conditional exemption for LLMW.

(A) How could you lose the conditional exemption for your low level mixed waste (LLMW) and what action ~~must~~shall you take?

(1) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in ~~paragraphs~~paragraph (C) to ~~(C)(2)(e)~~ of rule 3745-266-220 of the Administrative Code. When your LLMW loses the exemption, you ~~must~~shall immediately manage that waste which failed the condition as hazardous waste, and the storage unit storing the LLMW immediately becomes subject to hazardous waste container ~~and/or~~ tank storage requirements.

(a) If you fail to meet any of the conditions specified in ~~paragraphs~~paragraph (C) to ~~(C)(2)(e)~~ of rule 3745-266-220 of the Administrative Code you ~~must~~shall report to ~~us~~Ohio EPA and the nuclear regulatory commission (NRC), or the oversight agency in the NRC agreement state, in writing by certified delivery within thirty days ~~of~~after learning of the failure. Your report ~~must~~shall be signed by your authorized representative, certifying that the information provided is true, accurate, and complete. This report ~~must~~shall include:

(i) The specific ~~condition(s)~~conditions you failed to meet;

(ii) A description of the LLMW (including the waste name, EPA hazardous waste numbers, and quantity) and storage location at the facility; and

(iii) The ~~date(s)~~dates on which you failed to meet the ~~condition(s)~~conditions.

(b) If the failure to meet any of the conditions may endanger human health or the environment, you ~~must~~ also shall immediately notify ~~us~~Ohio EPA verbally within twenty-four hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you ~~must~~shall follow the provisions of your emergency plan.

[~~Note Comment:~~ CERCLA reportable quantities are those substances and quantities listed by the administrator of U.S. EPA under 40 CFR ~~part~~Part 302, table 302.4, ~~as amended.~~]

- (2) ~~We~~Ohio EPA may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any ~~requirement(s)~~requirements of rules 3745-266-210 to 3745-266-355 of the Administrative Code.

(B) If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

- (1) You may reclaim the storage and treatment exemption for your LLMW if:

(a) You again meet the conditions specified in ~~paragraphs~~paragraph (C) ~~to (C)(2)(e)~~ of rule 3745-266-220 of the Administrative Code; and

(b) You send ~~us~~Ohio EPA a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice ~~must~~shall be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you ~~must~~shall do the following:

(i) Explain the circumstances of each failure.

(ii) Certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify.

(iii) Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

(iv) Include any other information you want ~~us~~Ohio EPA to consider when ~~we review~~Ohio EPA reviews your notice reclaiming the exemption.

- (2) ~~We~~Ohio EPA may terminate a reclaimed conditional exemption if ~~we find~~Ohio EPA finds that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of ~~paragraphs~~Paragraph (C) ~~to (C)(2)(e)~~ of rule 3745-266-220 of the Administrative Code. In reviewing a reclaimed conditional exemption under ~~paragraphs~~paragraph (B) ~~to (B)(2)~~ of this rule, ~~we~~Ohio EPA may add

conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

~~[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."]~~

[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."]

Effective: 9/29/2021

Five Year Review (FYR) Dates: Exempt

CERTIFIED ELECTRONICALLY

Certification

09/14/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3734.12
Rule Amplifies: 3734.12
Prior Effective Dates: 12/07/2004