

3745-50-45

Special inclusions and exclusions for hazardous waste permits.

- (A) Scope of hazardous waste permit requirements. Chapter 3734. of the Revised Code requires a permit for the "treatment," "storage," or "disposal" of any hazardous waste as identified or listed in Chapter 3745-51 of the Administrative Code. The terms "treatment," "storage," "disposal," and "hazardous waste" are defined in rule 3745-50-10 of the Administrative Code. Owners and operators of hazardous waste management units shall have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to rule 3745-66-15 of the Administrative Code) after January 26, 1983, shall have post-closure permits, unless the owner or operator demonstrates closure by removal or decontamination as provided under paragraphs (E) and (F) of this rule or obtain an enforceable document in lieu of a post-closure permit, as provided under paragraph (G) of this rule. If a post-closure permit is required, the permit shall address applicable ground water monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements under Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this rule.
- (B) Specific inclusions. Owners and operators of certain facilities require hazardous waste permits as well as permits under other environmental programs for certain aspects of the facility's operation. Hazardous waste permits are required for the treatment, storage, or disposal of hazardous waste at facilities requiring an Ohio national pollutant discharge elimination system permit or an Ohio underground injection control permit. The owner and operator of a publicly owned treatment work (POTW) receiving hazardous waste will be deemed to have a hazardous waste permit for that waste if the POTW is in compliance with rule 3745-50-46 of the Administrative Code.
- (C) Specific exclusions and exemptions. The following persons are among those who are not required to obtain a hazardous waste permit:
- (1) Generators who accumulate or conduct treatment of hazardous waste that is generated on-site ~~as provided for in rule 3745-52-34~~ in compliance with all of the conditions for exemption in rules 3745-52-14, 3745-52-15, 3745-52-16, and 3745-52-17 of the Administrative Code.
 - (2) Farmers who dispose of hazardous waste pesticides from the farmers' own use as provided for in rule 3745-52-70 of the Administrative Code.
 - (3) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under rule 3745-51-04 or 3745-52-14 of the Administrative Code.

- (4) Owners or operators of "totally enclosed treatment facilities" as defined in rule 3745-50-10 of the Administrative Code.
- (5) Owners and operators of "elementary neutralization units" or "wastewater treatment units" as defined in rule 3745-50-10 of the Administrative Code.
- (6) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of rule 3745-52-30 of the Administrative Code at a transfer facility for a period of ten days or less.
- (7) Persons adding sorbent material to waste in a "container" as defined in rule 3745-50-10 of the Administrative Code, and persons adding waste to sorbent material in a container, provided that these actions occur at the time waste is first placed in the container, and paragraph (B) of rule 3745-54-17 and rules 3745-55-71 and 3745-55-72 of the Administrative Code are complied with.
- (8) "Universal waste handlers" and "universal waste transporters" as defined in rule 3745-50-10 of the Administrative Code managing the wastes listed in paragraphs (C)(8)(a) to (C)(8)(c) of this rule. These handlers are subject to regulation under Chapter 3745-273 of the Administrative Code when managing the following universal wastes:
 - (a) Batteries as described in rule 3745-273-02 of the Administrative Code.
 - (b) Pesticides as described in rule 3745-273-03 of the Administrative Code.
 - (c) Mercury-containing equipment as described in rule 3745-273-04 of the Administrative Code.
 - (d) Lamps as described in rule 3745-273-05 of the Administrative Code.
 - (e) Ohio-specific universal waste, which include the following:
 - (i) Aerosol containers as described in paragraph (A) of rule 3745-273-89 of the Administrative Code.
 - (ii) Antifreeze as described in paragraph (B) of rule 3745-273-89 of the Administrative Code.
 - (iii) Paint and paint-related wastes as described in paragraph (C) of rule 3745-273-89 of the Administrative Code.
- (9) Reverse distributors accumulating "potentially creditable hazardous waste pharmaceuticals" and "evaluated hazardous waste pharmaceuticals" as defined

in rule 3745-266-500 of the Administrative Code. Reverse distributors are subject to regulation under rules 3745-266-500 to 3745-266-510 of the Administrative Code for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(D) Further exclusions.

- (1) A person is not required to obtain a hazardous waste permit for treatment or containment activities taken during immediate response to any of the following situations:
 - (a) A discharge of a hazardous waste.
 - (b) An imminent and substantial threat of a discharge of hazardous waste.
 - (c) A discharge of a material which, when discharged, becomes a hazardous waste.
 - (d) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an "explosive or munitions emergency response specialist" as defined in rule 3745-50-10 of the Administrative Code.
 - (2) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of rules 3745-50-40 to 3745-50-235 of the Administrative Code for those activities.
 - (3) In the case of emergency responses involving military munitions, the responding explosives or munitions emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the names of the responsible persons responding, the type and description of material addressed, and the disposition of such material.
- (E) Closure by removal. Owners or operators of surface impoundments, land treatment units, ~~or~~ and waste piles closing by removal or decontamination under Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code shall obtain a post-closure permit unless the owner or operator demonstrates to the director that the closure met the standards for closure by removal or decontamination in rule 3745-56-28, paragraph (E) of rule 3745-56-80, or rule 3745-56-58 of the Administrative Code. The demonstration may be made in the following ways:

- (1) If the owner or operator has submitted a "Part B" application for a post-closure permit, the owner or operator may request a determination, based on information ~~contained~~ in the application, that the closure by removal standards in ~~Chapter 3745-56~~ Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code were met and that no post-closure permit is required.
 - (2) If the owner or operator has not submitted a "Part B" application for a post-closure permit, the owner or operator may petition the director for a determination that a post-closure permit is not required because the closure met the applicable closure standards in ~~Chapter 3745-56~~ Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code. The petition shall include data demonstrating that closure by removal or decontamination standards were met, or the petition shall demonstrate that the unit closed under state requirements that met or exceeded the applicable closure by removal standards in ~~Chapter 3745-56~~ Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code.
 - (3) The director will approve or deny the request or petition in accordance with paragraph (F) of this rule.
- (F) Procedures for closure equivalency determination.

- (1) If a facility owner or operator submits an equivalency demonstration under paragraph (E) of this rule, the director will provide the public, through a newspaper notice, the opportunity to submit written comments, within thirty days after the date of the notice, on the information submitted by the owner or operator. The director will also, in response to a request or at the director's own discretion, hold a public hearing ~~whenever~~ when such a hearing might clarify one or more issues concerning the equivalency demonstration. The director will give public notice of the hearing at least thirty days before the hearing occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.
- (2) The director will make a determination, within ninety days after the close of the public comment period specified in paragraph (F)(1) of this rule, as to whether the closure under Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code met the requirements for closure by removal or decontamination under Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code. If the director finds that the closure did not meet the applicable standards under Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code, the director will provide the owner or operator with a

written statement of the reasons why the closure failed to meet the standards under Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code.

- (3) Within thirty days after receipt of the director's determination pursuant to paragraph (F)(2) of this rule, the owner or operator may submit additional information in support of the equivalency demonstration.
 - (4) If additional information is submitted by the owner or operator pursuant to paragraph (F)(3) of this rule, the director will review the additional information submitted and, within sixty days after receipt of the additional information, will make a final determination as to whether the closure under Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code met the requirements for closure by removal or decontamination under Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code.
 - (5) If the director determines that the facility did not close in accordance with the closure by removal standards in Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code, the facility is subject to post-closure permitting requirements.
- (G) Enforceable documents for post-closure care. At the discretion of the director, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of rule 3745-66-21 of the Administrative Code. "Enforceable document" means an order, a plan, or other document issued by Ohio EPA including, but not limited to, a corrective action order issued by Ohio EPA under sections 3734.13, 3734.20, and 6111.03 of the Revised Code, or a closure or post-closure plan.

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CERTIFIED ELECTRONICALLY

Certification

09/21/2020

Date

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