

3745-50-51

**Permit modifications.**

(A) As used in this rule, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. "Modification application" means a request for a modification submitted in accordance with division (I) of section 3734.05 of the Revised Code. A hazardous waste facility permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

- (1) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;
- (2) New information or data justify permit conditions in addition to or different from those in the existing permit;
- (3) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;
- (4) The permittee proposes to transfer the permit to another person.

(B) Owners or operators of facilities operating pursuant to paragraph (C)(1) of rule 3745-50-40 of the Administrative Code who submit modifications ~~must~~shall comply with ~~the requirements of~~ this rule and, in lieu of the modification application submittal requirements of paragraph (D)(1)(b), (D)(2)(a), or (D)(3)(c) of this rule, ~~must~~shall submit a revised "Part A" permit application that does all of the following:

- (1) Describes the exact changes to be made to the facility;
- (2) Identifies the modification as either a "Class 1," "Class 2," or "Class 3" modification;
- (3) Explains why the modification is needed; ~~and~~.

- (4) Provides the applicable information required by rules 3745-50-43 and 3745-50-62 of the Administrative Code.
- (C) When a permit is modified, only the conditions subject to modification may be reviewed as part of the modification procedure.
- (D) Modifications ~~must~~shall be classified by the director as "Class 1," "Class 2," or "Class 3" modifications. Modification requests classified as "Class 3" modifications ~~must~~shall be further classified by the director as "Class 3" modifications that are to be approved or disapproved by the director in accordance with either paragraph (D)(4) or (D)(5) of this rule. To determine whether a "Class 3" modification request ~~must~~shall be approved or disapproved in accordance with ~~the requirements of~~ paragraph (D)(5) of this rule, the director ~~must~~shall use the criteria in paragraph (D)(3)(b) of this rule.
- (1) "Class 1" modifications.
- (a) Except as provided in paragraph (D)(1)(b) of this rule, the permittee may implement "Class 1" modifications listed in the appendix to this rule, or modifications classified as "Class 1" modifications by the director pursuant to paragraph (E) of this rule, under the following conditions:
- (i) The permittee ~~must~~shall notify the director of the modification by certified mail or other means that establish proof of delivery within seven days after the change is implemented. This notice ~~must~~shall specify the changes made to permit conditions or supporting documents referenced by the permit and ~~must~~shall explain why ~~they~~the changes are necessary. Along with the notice, the permittee ~~must~~shall provide the applicable information required by rules 3745-50-43, 3745-50-44, and 3745-50-62 of the Administrative Code.
- (ii) The permittee ~~must~~shall send a notice of the "Class 1" modification to all persons on the agency mailing list maintained by the director, the board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which the hazardous waste facility is located. This notification ~~must~~shall be made within ninety days after the change is implemented. For "Class 1" modifications that require prior director approval, the notification ~~must~~shall be made within ninety days after the director approves the modification application.

- (iii) Any person may request the director to review, and the director may, for cause, reject any "Class 1" modification. The director ~~must~~shall inform the permittee by certified mail that a "Class 1" modification has been rejected, ~~explaining and explain~~ the reasons for the rejection. If a "Class 1" modification has been rejected, the permittee ~~must~~shall comply with the original permit conditions.
  - (b) "Class 1" modifications identified in the appendix to this rule by an asterisk may be made only with the prior written approval of the director. The director's prior written approval is also required for those modifications classified by the director as "Class 1" modifications ~~needing that require~~ prior written approval pursuant to paragraph (E) of this rule. The director ~~must~~shall approve or disapprove an application for a "Class 1" modification that requires the director's approval within sixty days after ~~receiving receipt of~~ the modification application. The approval or disapproval by the director of a "Class 1" modification is not a final action that is appealable under Chapter 3745. of the Revised Code.
  - (c) For a "Class 1" modification, the permittee may elect to follow the procedures in paragraph (D)(2) of this rule for "Class 2" modifications instead of the procedures in paragraph (D)(1) of this rule. The permittee ~~must~~shall inform the director of this decision in the notice required in paragraph (D)(1)(a)(i) of this rule.
- (2) "Class 2" modifications.
- (a) "Class 2" modification applications ~~must~~shall be approved or disapproved by the director. For "Class 2" modifications listed in the appendix to this rule, or modifications classified as "Class 2" modifications by the director pursuant to paragraph (E) of this rule, the permittee ~~must~~shall submit a modification application to the director that:
    - (i) Describes the exact change to be made to the facility that would require the permit to be modified and the proposed changes to the permit conditions and supporting documents referenced by the permit;
    - (ii) Identifies the modification as a "Class 2" modification;
    - (iii) Explains why the modification is needed; and

- (iv) Provides the applicable information required by rules 3745-50-43, 3745-50-44, and 3745-50-62 of the Administrative Code.
- (b) The permittee ~~must~~shall send a notice of the modification application to all persons on the agency mailing list maintained by the director, the board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which the hazardous waste facility is located, and ~~must~~shall publish this notice in a major local newspaper of general circulation. This notice ~~must~~shall be mailed and published within seven days before or after the date of submittal of the modification application to the director, and the permittee ~~must~~shall provide to the director evidence of the mailing and publication. The notice ~~must~~shall include:
- (i) Announcement of a sixty day comment period, in accordance with paragraph (D)(2)(e) of this rule, and the name and address of an ~~agency~~Ohio EPA contact person to whom comments ~~must~~shall be sent;
  - (ii) Announcement of the date, time, and place for a public meeting held in accordance with paragraph (D)(2)(d) of this rule;
  - (iii) Name and telephone number of the permittee's contact person;
  - (iv) Name and telephone number of an ~~agency~~Ohio EPA contact person;
  - (v) Location where a copy of the modification application and any supporting documents can be viewed and copied; and
  - (vi) The following statement: "The permittee's compliance history during the life of the permit that is being modified is available from the ~~agency~~Ohio EPA contact person."
- (c) The permittee ~~must~~shall place a copy of the permit modification application and supporting documents in a location accessible to the public in the vicinity of the facility.

- (d) The permittee ~~must~~shall hold a public meeting no earlier than fifteen days after the publication of the notice required by paragraph (D)(2)(b) of this rule and no later than fifteen days before the close of the sixty day comment period. The meeting ~~must~~shall be held, to the extent practicable, in the vicinity of the facility.
- (e) The public ~~must~~shall be provided sixty days to comment on the modification application. The comment period ~~must~~shall begin on the date the permittee publishes the notice in the local newspaper. Comments ~~must~~shall be submitted to the ~~agency~~Ohio EPA contact person identified in the public notice.
- (f)
  - (i) No later than ninety days after receipt of the modification application, the director ~~must~~shall:
    - (a) Approve the modification application, with or without changes, and modify the permit accordingly; or
    - (b) Disapprove the application; or
    - (c) Determine that the modification application ~~must~~shall follow the procedures in paragraph (D)(3) of this rule for "Class 3" modifications for either of the following reasons:
      - (i) There is significant public concern about the proposed modification; or
      - (ii) The complex nature of the change justifies the more extensive procedures for "Class 3" modifications; or
    - (d) Approve the application, with or without changes, as a temporary authorization for a term of up to one hundred eighty days; or
    - (e) Notify the permittee that ~~he~~the director will decide on the application within the next thirty days.

- (ii) If the director notifies the permittee of a thirty day extension for a decision, the director ~~must~~shall take one of the following actions no later than one hundred twenty days after receipt of the modification application:
- (a) Approve the modification application, with or without changes, and modify the permit accordingly; or
  - (b) Disapprove the application; or
  - (c) Determine that the modification application ~~must~~shall follow the procedures in paragraph (D)(3) of this rule for "Class 3" modifications for either of the following reasons:
    - (i) There is significant public concern about the proposed modification; or
    - (ii) The complex nature of the change justifies the more extensive procedures for "Class 3" modifications; or
  - (d) Approve the application, with or without changes, as a temporary authorization for a term of up to one hundred eighty days.
- (iii) If the director fails to take one of the actions specified in paragraph (D)(2)(f)(i) or (D)(2)(f)(ii) of this rule by the one hundred twentieth day after receipt of the modification application, the permittee ~~must~~shall be automatically authorized to conduct the activities described in the modification application for up to one hundred eighty days, without formal agency action. The authorized activities ~~must~~shall be conducted as described in the permit modification application and ~~must~~shall be conducted in compliance with all applicable standards of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code. If the director approves, with or without changes, or disapproves the modification application during the term of the temporary or automatic authorization provided for in paragraph (D)(2)(f)(i)(d), (D)(2)(f)(ii)(d), or (D)(2)(f)(iii) of this rule, such action ~~must~~shall replace the temporary or automatic authorization.
- (iv)

- (a) In the case of an automatic authorization under paragraph (D)(2)(f)(iii) of this rule, or a temporary authorization under paragraph (D)(2)(f)(i)(d) or (D)(2)(f)(ii)(d) of this rule, if the director has not approved or disapproved the modification application within two hundred fifty days after receipt of the modification application, the permittee ~~must~~shall, within seven days after that time, send a notice to all persons on the agency mailing list and make a reasonable effort to notify other persons who submitted written comments on the modification application, that:
- (i) The permittee has been authorized temporarily to conduct the activities described in the modification application; and
  - (ii) Unless the director approves or disapproves the application by the end of the authorization period, the permittee will be automatically authorized to conduct such activities for the life of the permit.
- (b) If the permittee fails to send a notice to all persons on the agency mailing list by the date specified in paragraph (D)(2)(f)(iv)(a) of this rule, the effective date of the final automatic authorization will be deferred until fifty days after the permittee sends a notice to all persons on the agency mailing list.
- (v) If the director does not approve or disapprove a modification application before the end of the automatic or temporary authorization period or reclassify the "Class 2" modification application as a "Class 3" modification, the permittee is authorized to conduct the activities described in the modification application for the life of the permit unless modified later under this rule. The activities authorized under paragraph (D)(2) of this rule ~~must~~shall be conducted as described in the modification application and ~~must~~shall be conducted in compliance with all applicable standards of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code.

[Comment: The director is required to approve or disapprove an application for a "Class 2" modification within three hundred days after its receipt. The three hundred day time period includes the automatic or temporary authorization periods ~~set forth~~provided in paragraphs (D)(2)(f)(i)(d), (D)(2)(f)(ii)(d), (D)(2)(f)(iii), and (F)(4) of this rule. As described in paragraph (D)(2)(f)(v) of this rule, the permittee will be automatically authorized to conduct the activity described in the "Class 2" modification application if the director does not approve or disapprove the application within three hundred days.]

- (vi) In deciding to approve or disapprove a modification application, or to issue a temporary authorization, or to reclassify a "Class 2" modification as a "Class 3" modification, the director ~~must~~shall consider all comments received during the public comment period ~~relating to~~regarding the modification application, written materials submitted at the public meeting ~~relating to~~regarding the application, and any other documents ~~relating to~~regarding the director's decision, and ~~must~~shall respond in writing to all significant comments. The approval or disapproval by the director of a "Class 2" modification is a final action that is appealable under Chapter 3745. of the Revised Code. The administrative record for appeal of a "Class 2" modification ~~must~~shall include the comments, materials, and documents described in this paragraph.
- (vii) If the director approves the application for the "Class 2" modification, ~~he must~~the director shall issue the modified permit upon such terms and conditions as ~~he~~the director finds are reasonable to ensure that the operation, maintenance, closure, and post-closure care of the hazardous waste facility are conducted in accordance with Chapter 3734. of the Revised Code, the hazardous waste rules, and such additional terms and conditions as ~~he~~the director determines are necessary to protect human health and the environment.
- (g) The director may disapprove or change the terms of a "Class 2" modification application, under paragraph (D)(2)(f)(i), (D)(2)(f)(ii), or (D)(2)(f)(iii) of this rule, for any of the following reasons:
  - (i) The modification application is incomplete;

- (ii) The requested modification does not comply with the applicable requirements of Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code or other applicable requirements in the hazardous waste rules; or
  - (iii) The conditions of the requested modification are inadequate to protect human health and the environment.
- (h) The permittee may perform any construction associated with a "Class 2" modification application beginning sixty days after the submittal of the application to the director unless the director establishes a later date for commencing construction and notifies the permittee in writing prior to the sixtieth day after the submittal of the application.
- (3) "Class 3" modifications.
- (a) "Class 3" modification applications ~~must~~shall be approved or disapproved by the director. Paragraphs (D)(3)(c) to (D)(3)(g) of this rule ~~set forth~~provide the procedures governing all "Class 3" modification applications. In addition to the procedures ~~set forth~~provided in paragraphs (D)(3)(c) to (D)(3)(g) of this rule, "Class 3" modifications are subject to the following additional procedures:
    - (i) Requests for "Class 3" modifications that do not meet the criteria of paragraph (D)(3)(b) of this rule ~~must~~shall be approved or disapproved in accordance with paragraph (D)(4) of this rule.
    - (ii) Requests for "Class 3" modifications that do meet the criteria of paragraph (D)(3)(b) of this rule ~~must~~shall be approved or disapproved in accordance with paragraph (D)(5) of this rule.
  - (b) The director will use the procedures in paragraph (D)(5) of this rule for any of the following categories of "Class 3" modifications:
    - (i) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

- (ii) Modification or addition of a "hazardous waste management unit," as defined in rule 3745-50-10 of the Administrative Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate authorized by the permit, or an increase in a facility's disposal capacity over the capacity authorized by the permit. The authorized disposal capacity for a facility ~~must~~shall be calculated from the approved design plans for the disposal units at that facility. During a five year period, a facility's storage capacity or treatment rate ~~must~~shall not be modified to increase by more than twenty-five per cent in the aggregate without the director's approval pursuant to paragraph (D)(5) of this rule;
  - (iii) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste;
  - (iv) Authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit; and
  - (v) Authority to treat, store, or dispose of waste types listed or characterized as reactive wastes or explosive wastes in rules 3745-51-20 to 3745-51-24 or 3745-51-30 to 3745-51-35 of the Administrative Code, or any acute hazardous waste listed in paragraph (E) of rule 3745-51-33 of the Administrative Code at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit, unless the requested authority is limited to wastes that no longer exhibit characteristics ~~meeting that~~ meet the criteria for listing or for characterization as reactive wastes or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes because of the requirements established in rule 3745-51-03 of the Administrative Code (e.g., the "mixture," "contained in," or "derived-from" provisions).
- (c) The permittee ~~must~~shall submit a modification application to the director that:

- (i) Describes the exact changes to be made to the facility that would require the permit to be modified and the proposed changes to the permit conditions and supporting documents referenced by the permit;
  - (ii) Identifies the modification as a "Class 3" modification;
  - (iii) Explains why the modification is needed; and
  - (iv) Provides the applicable information required by rules 3745-50-43, 3745-50-44, and 3745-50-62 of the Administrative Code.
- (d) The permittee ~~must~~shall send a notice of the modification application to all persons on the agency mailing list maintained by the director, the board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located, and ~~must~~shall publish this notice in a major local newspaper of general circulation. This notice ~~must~~shall be mailed and published within seven days before or after the date of submittal of the modification application to the director, and the permittee ~~must~~shall provide to the director evidence of the mailing and publication. The notice ~~must~~shall include:
- (i) Announcement of a sixty day comment period, and the name and address of an ~~agency~~Ohio EPA contact person to whom comments ~~must~~shall be sent;
  - (ii) Announcement of the date, time, and place for a public meeting on the modification application, to be held in accordance with paragraph (D)(3)(f) of this rule;
  - (iii) Name and telephone number of the permittee's contact person;
  - (iv) Name and telephone number of an ~~agency~~Ohio EPA contact person;
  - (v) Location where a copy of the modification application and any supporting documents can be viewed and copied; and

- (vi) The following statement: "The permittee's compliance history during the life of the permit that is being modified is available from the ~~agency~~Ohio EPA contact person."
  - (e) The permittee ~~must~~shall place a copy of the permit modification application and supporting documents in a location accessible to the public in the vicinity of the facility.
  - (f) The permittee ~~must~~shall hold a public meeting no earlier than fifteen days after the publication of the notice required by paragraph (D)(3)(d) of this rule and no later than fifteen days before the close of the sixty day comment period. The meeting ~~must~~shall be held, to the extent practicable, in the vicinity of the facility.
  - (g) The public ~~must~~shall be provided at least sixty days to comment on the modification application. The comment period ~~must~~shall begin on the date the permittee publishes the notice in the local newspaper. Comments ~~must~~shall be submitted to the ~~agency~~Ohio EPA contact person identified in the notice.
- (4) "Class 3" modifications that do not meet the criteria of paragraph (D)(3)(b) of this rule.
- (a) After the conclusion of the sixty day comment period described in paragraph (D)(3)(g) of this rule and the completion of the review of the "Class 3" modification application, the director ~~must~~shall:
    - (i) Issue a draft modified permit or a notice of intent to deny the modification application; and
    - (ii) Respond in writing to all written comments that pertain to the subject matter of the permit modification application received during the sixty day comment period provided in paragraph (D)(3)(g) of this rule, place a copy of the response at the location where a copy of the application and the draft modified permit or notice of intent to deny the modification application are available for inspection, and mail a copy of the response to each of the persons ~~submitting~~who submitted written comments during that comment period; and

- (iii) Give public notice of the issuance of the draft modified permit or notice of intent to deny the modification application in a newspaper having general circulation in the county in which the facility is located and over a local radio station. The notice ~~must~~shall contain a summary of the modification application and the draft modified permit or notice of intent to deny the modification application, the location of the facility, a description of the proposed modification, the location where a copy of the application and the draft modified permit or notice of intent to deny the modification application are available for inspection, and the statement that any person may submit written comments relevant to the permit modification request and draft modified permit or notice of intent to deny the modification application, or may request a public meeting thereon within forty-five days after the public notice. The public ~~must~~shall be provided at least forty-five days to comment on the modification application. The comment period ~~must~~shall begin on the date the notice is published in the newspaper. Comments ~~must~~shall be submitted to the ~~agency~~Ohio EPA contact person identified in the notice; and
- (iv) If significant interest is shown in a public meeting, the director ~~must~~shall promptly fix and give public notice in a newspaper having general circulation in the county in which the facility is located and over a local radio station, of a date for a public meeting which ~~must~~shall be held in the county in which the facility is located, not fewer than thirty days after public notice of the public meeting. At the public meeting, any person may submit written or oral comments relevant to the modification application and draft modified permit or notice of intent to deny the modification application; and
- (v) If the director approves the application for the "Class 3" modification, ~~the director must issue~~ the modified permit shall be issued upon such terms and conditions as ~~he~~the director finds are reasonable to ensure that the operation, maintenance, closure, and post-closure care of the hazardous waste facility are conducted in accordance with Chapter 3734. of the Revised Code, the hazardous waste rules, and such additional terms and conditions as ~~he~~the director determines are necessary to protect human health and the environment.

- (b) The director ~~must~~shall approve or disapprove an application for a "Class 3" modification within three hundred sixty-five days after ~~receiving~~receipt of the modification application. In deciding to approve or disapprove such a "Class 3" modification application, the director ~~must~~shall consider all comments received during the public comment periods required in paragraphs (D)(3)(g) and (D)(4)(a) of this rule ~~relating to~~regarding the modification application, written materials submitted at the public meetings ~~relating to~~regarding the application, and any other documents ~~relating to~~regarding the director's decision, and ~~must~~shall respond in writing to all significant comments. The approval or disapproval by the director of a "Class 3" modification application is a final action that is appealable under Chapter 3745. of the Revised Code. The administrative record for appeal of a "Class 3" modification ~~must~~shall include the comments, materials, and documents described in this paragraph.
- (5) "Class 3" modifications that do meet the criteria of paragraph (D)(3)(b) of this rule.
- (a) After the conclusion of the sixty day comment period described in paragraph (D)(3)(g) of this rule, the director ~~must~~shall consider the "Class 3" modification application to determine whether the application meets the requirements of paragraph (A) of rule 3745-50-38 of the Administrative Code.
- (b) Upon completion of the review pursuant to paragraph (D)(5)(a) of this rule, the director will approve or disapprove the "Class 3" modification application in accordance with the procedures in paragraph (D)(4) of this rule.
- (E) Other modifications.
- (1) In the case of modifications not explicitly listed in the appendix to this rule, the permittee may:
- (a) Request a determination by the director that the proposed modification be reviewed and processed in accordance with the "Class 1" or "Class 2" modification procedures identified in this rule. To make such a request, the permittee ~~must~~shall submit a modification classification request which contains the information necessary to support the request. A modification classification request is not a modification application; or

- (b) Submit a "Class 1" or "Class 2" modification application to the director. No later than thirty days after ~~receiving~~receipt of the modification application, the director will evaluate the classification of this modification using the criteria ~~found~~ in paragraph (E)(2) of this rule and will notify the permittee of Ohio EPA's determination on the proper classification of the modification; or
- (c) Submit a "Class 3" modification application to the director.
- (2) The director ~~must~~shall make the classification determination described in paragraph (E)(1)(a) of this rule not later than thirty days after ~~receiving~~receipt of the request and ~~must~~shall notify the permittee of the classification. In making a classification determination, the director ~~must~~shall consider the similarity of the modification to other modifications ~~found~~ in the appendix to this rule and all of the following criteria:
- (a) "Class 1" modifications apply to minor changes to the facility or its operations. These changes do not necessitate substantial alteration of the permit conditions and do not reduce the capacity of the facility to protect human health or the environment. In the case of "Class 1" modifications, the director's prior approval may be required.
- (b) "Class 2" modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:
- (i) Common variations in the types and quantities of the wastes managed under the facility permit;
- (ii) Technological advancements; or
- (iii) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.
- (c) "Class 3" modifications apply to changes that substantially alter the facility or its operations.
- (3) After the director has notified the permittee of the classification determination pursuant to paragraph (E)(2) of this rule, the permittee ~~must~~shall initiate the appropriate modification procedures ~~as set forth~~ in paragraph (D)(1), (D)(2), or (D)(3) of this rule.

(F) Temporary authorizations.

(1) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization, in accordance with ~~this~~ paragraph (F) of this rule, to conduct the activity described in a temporary authorization request. A temporary authorization ~~must~~shall have a term of not more than one hundred eighty days.

(2) Request for temporary authorization.

(a) The permittee may request a temporary authorization for:

(i) Any "Class 2" modification that meets the criteria in paragraph (F)(3)(b) of this rule; and

(ii) Any "Class 3" modification that meets the criteria in paragraph (F)(3)(b)(i) or (F)(3)(b)(ii) of this rule, or that meets the criteria in paragraphs (F)(3)(b)(iii) to (F)(3)(b)(v) of this rule and provides improved management or treatment of a hazardous waste already included in the facility permit.

(b) The temporary authorization request ~~must~~shall include:

(i) A description of the activities to be conducted under the temporary authorization;

(ii) An explanation of why the temporary authorization is necessary; and

(iii) Sufficient information to ensure compliance with the applicable requirements of Chapters 3745-54 to 3745-57, and 3745-205 of the Administrative Code.

(c) The permittee ~~must~~shall send a notice about the temporary authorization request to all persons on the agency mailing list maintained by the director, the board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located. This notification ~~must~~shall be made within seven days after submittal of the authorization request.

- (3) The director ~~must~~shall grant or deny the temporary authorization request as quickly as practical. In deciding to grant a temporary authorization, the director ~~must~~shall find that:
- (a) The authorized activities will be conducted in compliance with the standards of Chapters 3745-54 to 3745-57, 3745-205, and 3745-266 of the Administrative Code.
  - (b) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
    - (i) To facilitate timely implementation of closure or corrective action activities;
    - (ii) To allow treatment or storage in tanks or containers, or in containment buildings, of land disposal restricted wastes in accordance with Chapter 3745-270 of the Administrative Code;
    - (iii) To prevent disruption of ongoing waste management activities;
    - (iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
    - (v) To facilitate other changes to protect human health and the environment.
- (4) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a "Class 2" or "Class 3" modification for the activity authorized by the temporary authorization, and:
- (a) The reissued temporary authorization constitutes the director's decision on a "Class 2" modification in accordance with paragraph (D)(2)(f)(i) or (D)(2)(f)(ii) of this rule, or
  - (b) The director determines that the reissued temporary authorization ~~involving~~of a "Class 3" modification request is warranted to allow the authorized activities to continue while the modification procedures of paragraph (D)(3) of this rule are conducted.

## (G) Public notice and appeals of permit modification decisions.

- (1) The director ~~must~~shall send a notice to all persons on the agency mailing list, the board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located, within ten days after any decision under this rule to approve or disapprove a "Class 2" or "Class 3" modification application. The director ~~must~~ also shall send a notice to such persons within ten days after an automatic or temporary authorization for a "Class 2" modification goes into effect under paragraph (D)(2)(f)(iii), (D)(2)(f)(v), (F)(3), or (F)(4) of this rule, or a temporary authorization for a "Class 3" modification goes into effect under paragraph (F)(3) or (F)(4) of this rule.
- (2) An automatic authorization that takes effect under paragraph (D)(2)(f)(iii) or (D)(2)(f)(v) of this rule may be appealed pursuant to Chapter 3745. of the Revised Code.

## (H) Permit by rule for newly regulated wastes or hazardous waste management units.

- (1) The permittee who is treating, storing, or disposing of hazardous waste on the effective date of statutory or regulatory changes under Chapter 3734. of the Revised Code that render the permittee subject to additional hazardous waste permitting requirements for newly regulated hazardous waste or hazardous waste management ~~unit(s)~~units will be deemed to have a permit by rule for such newly regulated waste or ~~unit~~units if:
  - (a) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the Ohio statutory or regulatory change ~~listing that lists~~ or ~~identifying~~identifies the waste, or ~~regulating that regulates~~ the unit;
  - (b) The permittee submits a "Class 1" modification application no later than thirty days after the date on which the waste or unit becomes subject to the new requirements;
  - (c) The permittee is in compliance with the applicable standards of Chapters 3745-65 to 3745-69 and 3745-256, of the Administrative Code;

- (d) The permittee also submits a complete "Class 2" or "Class 3" modification application no later than one hundred eighty days after the director requests the modification application or upon a later date if the permittee demonstrates to the director good cause for the late submittal; and
- (e) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code for ground water monitoring and financial responsibility on the date three hundred sixty-five days after the effective date of the Ohio statutory or regulatory change ~~identifying or listing~~that lists or identifies the waste as hazardous, or ~~regulating~~that regulates the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the permittee will not have authority to operate under paragraph (H) of this rule.
- (2) The director ~~must~~shall approve or disapprove the "Class 2" or "Class 3" modification application submitted pursuant to paragraph (H)(1)(d) of this rule in accordance with paragraphs (D)(2)(f)(vii) and (D)(2)(g) of this rule or with paragraphs (D)(4)(a) and (D)(4)(b) of this rule. If a "Class 3" modification application submitted pursuant to paragraph (H)(1)(d) of this rule is from a permit by rule facility conducting thermal treatment of hazardous waste in a boiler or industrial furnace, the director ~~must~~shall approve or disapprove the application in accordance with paragraph (D)(5) of this rule and division (D)(2) of section 3734.05 of the Revised Code, except that the director ~~must~~shall not disapprove an application for the thermal treatment on the basis of the criteria ~~set forth~~ in division (D)(2)(g) or (D)(2)(h) of section 3734.05 of the Revised Code.
- (3) New wastes or units added to a facility's permit under paragraph (H) of this rule do not constitute expansions for the purpose of the twenty-five per cent capacity expansion limit for "Class 2" or "Class 3" modifications.
- (I) Hazardous waste military munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions ~~barring~~that bar the permittee from accepting off-site wastes, if all of the following:
- (1) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

- (2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a "Class 1" modification request to remove or amend the permit provision ~~restricting that~~ restricts the receipt of off-site waste military munitions; ~~and.~~
  - (3) The permittee submits a complete "Class 2" modification request within one hundred eighty days after the date when the waste military munitions became subject to hazardous waste regulatory requirements.
- (J) The director may initiate a permit modification of a hazardous waste facility installation and operation permit by doing all of the following:
- (1) Issuing a draft modified permit; ~~and.~~
  - (2) Giving public notice of the issuance of the draft permit modification, at a minimum, in a newspaper having general circulation in the county in which the facility is located and over a local radio station. The notice ~~must~~ shall contain, at a minimum, a summary of the draft permit modification, the location of the facility, a description of the facility, the location where copies of the draft modified permit are available for inspection, and the statement that any person may submit written comments relevant to the draft permit modification or may request a public meeting thereon within forty-five days after the issuance of the public notice; ~~and.~~
  - (3) If significant interest is shown in a public meeting, promptly fixing and giving public notice, at a minimum, in a newspaper having general circulation in the county in which the facility is located and over a local radio station, of a date for a public meeting which ~~must~~ shall be held in the county in which the facility is located, not fewer than thirty days after public notice of the public meeting. At the public meeting, any person may submit written or oral comments relevant to the proposed modified permit; ~~and.~~
  - (4) Within sixty days after the public meeting or close of the public comment period, by issuing the modified permit upon such terms and conditions as ~~he~~ the director finds are reasonable to ensure that the operation, maintenance, closure, and post-closure care of the hazardous waste facility are conducted in accordance with Chapter 3734. of the Revised Code, the hazardous waste rules, and such additional terms and conditions as ~~he~~ the director determines are necessary to protect human health and the environment. In approving such a modification, the director ~~must~~ shall consider all comments received during the public comment period required in paragraph (J)(2) of this rule ~~relating~~ regarding the modification, written materials submitted at the public

meeting ~~relating to~~regarding the modification, and any other documents ~~relating to~~regarding the director's decision, and ~~must~~shall respond in writing to all significant comments. The approval by the director of the modification is a final action that is appealable under Chapter 3745. of the Revised Code. The administrative record for appeal of the modification ~~must~~shall include the comments, materials, and documents described in this paragraph.

- (K) Permit modification list. The director ~~must~~shall maintain a list of all approved permit modifications and ~~must~~shall publish a notice once a year in a newspaper having general circulation throughout the state of Ohio that an updated list is available for review.
- (L) Combustion facility changes to meet 40 CFR Part 63 maximum achievable control technology (MACT) standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under the appendix to this rule.
- (1) Facility owners or operators ~~must~~shall be in compliance with the "Notification of Intent to Comply (NIC)" requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000, (see 40 CFR 63.1200 to 40 CFR 63.1499 revised as of July 1, 2000) in order to request a permit modification under this rule for the purpose of technology changes needed to meet the standards under 40 CFR 63.1203, 40 CFR 63.1204, and 40 CFR 63.1205.
  - (2) Facility owners or operators ~~must~~shall comply with the NIC requirements of 40 CFR 63.1210(b) and 40 CFR 63.1212(a) before a permit modification may be requested under this rule for the purpose of technology changes needed to meet the standards in 40 CFR 63.1215, 40 CFR 63.1216, 40 CFR 63.1217, 40 CFR 63.1218, 40 CFR 63.1219, 40 CFR 63.1220, and 40 CFR 63.1221.
  - (3) If the director does not approve or deny the request within ninety days after ~~receiving~~the director receives it, the request will be deemed approved. The director may, at his discretion, extend this ninety day deadline one time for up to thirty days by notifying the facility owner or operator.
- (M) Waiver of hazardous waste permit conditions in support of transition to the 40 CFR Part 63 MACT standards.
- (1) The owner or operator may request to have specific hazardous waste operating and emission limits waived by submitting a "Class 1" permit modification request under the appendix to this rule. The owner or operator ~~must~~shall do all of the following:

- (a) Identify the specific hazardous waste permit operating and emission limits which is the subject of the waiver request; ~~and~~.
  - (b) Provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the hazardous waste permit and MACT compliance; ~~and~~.
  - (c) Discuss how the revised provisions will be sufficiently protective.
  - (d) The director will approve or deny the request within thirty days after receipt of the request. The director may, ~~in~~ at his discretion, extend this thirty day deadline one time for up to thirty days by notifying the facility owner or operator.
- (2) To request this modification in conjunction with MACT performance testing where permit limits may only be waived during actual test events and pretesting, as described in 40 CFR 63.1207(h)(2)(i) and 40 CFR 63.1207(h)(2)(ii), for an aggregate time not to exceed seven hundred twenty hours of operation (renewable at the discretion of the director) the owner or operator ~~must~~ shall do all of the following:
- (a) Submit the modification request to the director at the same time the test plans are submitted to the director; ~~and~~.
  - (b) The director may elect to approve or deny the request contingent upon approval of the test plans.

(N) Reserved.

[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: 10/31/2015

Five Year Review (FYR) Dates: 07/01/2015 and 07/01/2020

CERTIFIED ELECTRONICALLY

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Certification

10/07/2015

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Date

Promulgated Under: 119.03  
Statutory Authority: 3734.05, 3734.12  
Rule Amplifies: 3734.05, 3734.12  
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10/20/1998, 12/07/2000, 07/27/2001, 03/13/2002,  
12/07/2004, 02/16/2009, 09/05/2010, 03/17/2012

3745-50-51

1

## Appendix to rule 3745-50-51 of the Administrative Code

	Modification	Classi- fication
A.	General permit provisions subject to the director's jurisdiction under paragraph (D)(5) of this rule. The provisions in section A. of this appendix will fall under the director's jurisdiction under paragraph (D)(5) of this rule unless the activities described are implemented pursuant to permit by rule as described in paragraph (H)(3) of this rule.	
1.	Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for that category of treatment, storage, or disposal activity by the facility's permit.	3**
2.	Modification or addition of a "hazardous waste management unit," as defined in rule 3745-50-10 of the Administrative Code, that results in an increase in a facility's storage capacity of more than 25% over the capacity authorized by the facility's permit. <sup>A</sup>	3**
3.	Modification or addition of a "hazardous waste management unit," as defined in rule 3745-50-10 of the Administrative Code, that results in an increase in a facility's treatment rate of more than 25% over the rate authorized by the facility's permit. <sup>A</sup>	3**
4.	Modification or addition of a "hazardous waste management unit," as defined in rule 3745-50-10 of the Administrative Code, that results in an increase in a facility's disposal capacity over the capacity authorized by the facility's permit. <sup>B</sup>	3**
5.	Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store, treatment at a facility not previously authorized to treat, or disposal at a facility not previously authorized to dispose of hazardous waste.	3**
6.	Authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit, except as provided in section E.3. of this appendix.	3**

Modification	Classification
<p>7. Authority to treat, store, or dispose of waste types listed or characterized as reactive <u>wastes</u> or explosive, <u>wastes</u> in rules 3745-51-20 to 3745-51-24 or 3745-51-30 to 3745-51-35 of the Administrative Code, or any acute hazardous waste listed in paragraph (E) of rule 3745-51-33 of the Administrative Code at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit, unless the requested authority is limited to wastes that no longer exhibit characteristics <del>meeting</del><u>that meet</u> the criteria for listing or characterization as reactive <u>wastes</u> or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes because of the requirements established in rule 3745-51-03 of the Administrative Code (e.g., the "mixture," "contained-in," or "derived-from" provisions).</p>	3**
<p>B. General permit provisions.</p> <p>1. Administrative and informational changes</p> <p>2. Correction of typographical errors.</p> <p>3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).</p> <p>4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:</p> <p>a. To provide for more frequent monitoring, reporting, sampling, or maintenance.</p> <p>b. Other changes.</p> <p>5. Schedule of compliance:</p> <p>a. Changes in interim compliance dates, with prior approval of the director.</p> <p>b. Extension of final compliance date.</p> <p>6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director.</p> <p>7. Changes in ownership:</p> <p>a. Changes in the owner or operator of a facility that is not an "off-site facility" as defined in section 3734.41 of the Revised Code.</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>2</p> <p>1 *</p> <p>3</p> <p>1 *</p> <p>1 *</p>

Modification	Classification
<ul style="list-style-type: none"> <li>b. Changes in the owner or operator of a facility that is an “off-site facility” as defined in section 3734.41 of the Revised Code, provided the procedures of paragraphs (C)(2) to (C)(2)(b) of rule 3745-50-52 of the Administrative Code are followed.</li> </ul>	3
<ul style="list-style-type: none"> <li>8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which <del>they</del> <u>the permit conditions</u> are based are no longer applicable to the facility).</li> </ul>	1 *
<p>C. General Facility Standards.</p> <ul style="list-style-type: none"> <li>1. Changes to waste sampling or analysis methods: <ul style="list-style-type: none"> <li>a. To conform with agency guidance or regulations. 1</li> <li>b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods. 1</li> <li>c. To incorporate changes associated with underlying hazardous constituents in ignitable <u>wastes</u> or corrosive wastes. 1 *</li> <li>d. Other changes. 2</li> </ul> </li> <li>2. Changes to analytical quality <del>assurance/control</del> <u>assurance or quality control</u> plan: <ul style="list-style-type: none"> <li>a. To conform with agency guidance or regulations. 1</li> <li>b. Other changes. 2</li> </ul> </li> <li>3. Changes in procedures for maintaining the operating record. 1</li> <li>4. Changes in frequency or content of inspection schedules. 2</li> <li>5. Changes in the training plan: <ul style="list-style-type: none"> <li>a. That affect the type or decrease the amount of training given to employees. 2</li> <li>b. Other changes. 1</li> </ul> </li> <li>6. Contingency plan: <ul style="list-style-type: none"> <li>a. Changes in emergency procedures (i.e., spill or release response procedures). 2</li> <li>b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed. 1</li> <li>c. Removal of equipment from emergency equipment list. 2</li> </ul> </li> </ul>	

Modification	Classification
<p>d. Changes in name, address, or <del>phone</del><u>telephone</u> number of coordinators or other persons or agencies identified in the plan.</p> <p>7. Reserved.</p> <p>8. Financial assurance.</p> <p>a. Changes to financial assurance mechanisms due to annual inflationary adjustments.</p> <p>b. Change in the type of mechanism used to comply with financial assurance requirements.</p> <p>Comment: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change <del>must</del><u>shall</u> be reviewed under the same procedures as the permit modification. Only those aspects of the hazardous waste management units, facility plans, or facility standards that are proposed to change or <del>must</del><u>shall</u> change to give effect to the requested modification <del>must</del><u>shall</u> be reviewed as part of Ohio EPA's evaluation of a modification application.</p>	<p>1</p> <p>1</p> <p>1 *</p>
<p>D. Ground water Protection.</p> <p>1. Changes to wells:</p> <p>a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system.</p> <p>b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.</p> <p>2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the director.</p> <p>3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the director.</p> <p>4. Changes in point of compliance.</p> <p>5. Changes in indicator parameters, hazardous constituents, or concentration limits (including <del>ACLs</del><u>alternate concentration limits</u>):</p> <p>a. As specified in the ground water protection standard.</p> <p>b. As specified in the detection monitoring program.</p>	<p>2</p> <p>1</p> <p>1 *</p> <p>1 *</p> <p>2</p> <p>3</p> <p>2</p>

Modification		Classification
6.	Changes to a detection monitoring program as required by paragraph (H) of rule 3745-54-98 of the Administrative Code, unless otherwise specified in this appendix.	2
7.	Compliance monitoring program:	
a.	Addition of compliance monitoring program as required by paragraph (G)(4) of rule 3745-54-98 and rule 3745-54-99 of the Administrative Code.	3
b.	Changes to a compliance monitoring program as required by paragraph (J) of rule 3745-54-99 of the Administrative Code, unless otherwise specified in this appendix.	2
8.	Corrective action program:	
a.	Addition of a corrective action program as required by paragraph (H)(2) of rule 3745-54-99 and by rule 3745-54-100 of the Administrative Code.	3
b.	Changes to a corrective action program as required by paragraph (H) of rule 3745-54-100 of the Administrative Code, unless otherwise specified in this appendix.	2
E.	Closure.	
1.	Changes to the closure plan:	
a.	Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the director.	1 *
b.	Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the director.	1 *
c.	Changes in the expected year of final closure, where the permit conditions are not changed, with prior approval of the director.	1 *
d.	Changes in procedures for decontamination of facility equipment or structures, with prior approval of the director.	1 *
e.	Changes in approved closure plan resulting from unexpected events <del>occurring</del> <u>that occur</u> during partial or final closure, unless otherwise specified in this appendix.	2

Modification		Classification
f.	Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under paragraphs (D) and (E) of rule 3745-55-13 of the Administrative Code.	2
2.	Creation of a new landfill unit as part of closure.	
a.	Creation of a new landfill unit as part of closure if the facility DOES NOT already have a landfill unit on its approved permit.	3**
b.	Creation of a new landfill unit as part of closure if the facility DOES already have a landfill unit on its approved permit, provided the additional landfill unit does not increase the facility's disposal capacity, and does not increase the facility's storage or treatment capacity by more than 25% in the aggregate.	3
c.	Creation of a new landfill unit as part of closure if the facility DOES already have a landfill unit on its approved permit, if the additional landfill unit increases the facility's disposal capacity, or increases the facility's storage or treatment capacity by more than 25% in the aggregate.	3**
3.	Addition of the following new units to be used temporarily for closure activities:	
a.	Surface impoundments.	3
b.	Incinerators.	3
c.	Waste piles that do not comply with paragraph (C) of rule 3745-56-50 of the Administrative Code.	3
d.	Waste piles that comply with paragraph (C) of rule 3745-56-50 of the Administrative Code.	2
e.	Tanks or containers (other than specified below).	2
f.	Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the director.	1 *
g.	Staging piles.	2
F.	Post-Closure.	
1.	Changes in name, address, or <del>phone</del> <u>telephone</u> number of contact in post-closure plan.	1
2.	Extension of post-closure care period.	2

Modification		Classi- fication
3.	Reduction in the post-closure care period.	3
4.	Changes to the expected year of final closure, where other permit conditions are not changed.	1
5.	Changes in post-closure plan necessitated by events <del>occurring that</del> <u>occur</u> during the active life of the facility, including partial and final closure.	2
G.	Containers.	
1.	Modification or addition of container units:	
a.	Resulting in greater than 25% increase in the facility's container storage capacity. <sup>A</sup>	3
b.	Resulting in up to 25% increase in the facility's container storage capacity. <sup>A</sup>	2
2.	a. Modification of a container unit without increasing the capacity of the unit.	2
b.	Addition of a roof to a container unit without alteration of the containment system.	1
3.	Storage of different wastes in containers, except as provided in section A.7. and section G.4. of this appendix:	
a.	That require additional or different management practices from those authorized in the permit.	3
b.	That do not require additional or different management practices from those authorized in the permit.	2
	Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.	
4.	Storage or treatment of different wastes in containers:	
a.	That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards in Chapter 3745-270 of the Administrative Code. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).	1 *

Modification	Classification
<p>b. That do not require the addition of units or change in treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p>	1
<p>H. Tanks.</p> <p>1. a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank treatment rate or storage capacity. <sup>A</sup></p> <p>b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank treatment rate or storage capacity, except as provided in H.1.d of this appendix. <sup>A</sup></p> <p>c. Addition of a new tank that will operate for more than ninety days using any of the following physical or chemical treatment methods: neutralization, dewatering, phase separation, or component separation.</p> <p>d. Addition of a new tank that will operate for up to ninety days using any of the following physical or chemical treatment methods: neutralization, dewatering, phase separation, or component separation.</p> <p>2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.</p> <p>3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided:</p> <ul style="list-style-type: none"> <li>- The capacity difference is no more than 1500 gallons,</li> <li>- The facility's permitted tank capacity is not increased, and</li> <li>- The replacement tank meets the same conditions in the permit.</li> </ul> <p>4. Modification of a tank management practice.</p> <p>5. Management of different wastes in tanks except as provided in section A.7. of this appendix:</p> <p>a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in section H.5.c. of this appendix.</p>	<p>3</p> <p>2</p> <p>2</p> <p>1 *</p> <p>2</p> <p>1</p> <p>2</p> <p>3</p>

Modification	Classification
<p>b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in section H.5.d. of this appendix.</p> <p>c. That require addition of units or change in treatment process or management standards, provided that the units are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards in Chapter 3745-270 of the Administrative Code. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p> <p>d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p> <p>Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.</p>	<p>2</p> <p>1 *</p> <p>1</p>
<p>I. Surface Impoundments.</p> <p>1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity. <sup>A</sup></p> <p>2. Replacement of a surface impoundment unit.</p> <p>3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment rate and without modifying the unit's liner, leak detection system, or leachate collection system.</p> <p>4. Modification of a surface impoundment management practice.</p> <p>5. Treatment, storage, or disposal of different wastes in surface impoundments except as provided in section A.7. of this appendix:</p> <p>a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.</p> <p>b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.</p>	<p>3</p> <p>3</p> <p>2</p> <p>2</p> <p>3</p> <p>2</p>

Modification	Classification
<p>c. That are wastes restricted from land disposal that meet the applicable treatment standards in Chapter 3745-270 of the Administrative Code, and provided that the unit meets the minimum technology requirements stated in 40 CFR 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p> <p>d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p> <p>6. Reserved.</p> <p>7. Reserved.</p> <p>Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.</p>	<p>1</p> <p>1</p>
<p>J. Enclosed Waste Piles. For all waste piles except those <del>complying in</del> <u>compliance</u> with paragraph (C) of rule 3745-56-50 of the Administrative Code, modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles <del>complying in</del> <u>compliance</u> with paragraph (C) of rule 3745-56-50 of the Administrative Code.</p> <p>1. Modification or addition of waste pile units:</p> <p>a. Resulting in up to 25% increase in the facility's waste pile storage capacity. <sup>A</sup></p> <p>b. Resulting in greater than 25% increase in the facility's waste pile storage capacity. <sup>A</sup></p> <p>c. Resulting in up to 25% increase in the facility's waste pile treatment rate. <sup>A</sup></p> <p>d. Resulting in greater than 25% increase in the facility's waste pile treatment rate. <sup>A</sup></p> <p>2. Modification of waste pile unit without increasing the capacity of the unit.</p>	<p>2</p> <p>3</p> <p>2</p> <p>3</p> <p>2</p>

Modification	Classification
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and <del>meeting</del> <u>that meets</u> all waste pile conditions in the permit.	1
4. Modification of a waste pile management practice.	2
5. Storage or treatment of different wastes in waste piles except as provided in section A.7. of this appendix:	
a. That require additional or different management practices or different design of the unit.	3
b. That do not require additional or different management practices or different design of the unit.	2
6. Conversion of an enclosed waste pile to a containment building unit. Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.	2
K. Landfills and Unenclosed Waste Piles.	
1. Modification or addition of landfill units that result in increasing the facility's disposal capacity over the capacity authorized in the permit. <sup>B</sup>	3**
2. Replacement of a landfill.	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system.	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system.	2
5. Modification of a landfill management practice.	2
6. Landfill different wastes, except as provided in section A.7. of this appendix:	
a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.	3
b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.	2

Modification	Classification
<p>c. That are wastes restricted from land disposal that meet the applicable treatment standards in Chapter 3745-270 of the Administrative Code, and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p> <p>d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).</p> <p>7. Reserved.</p> <p>8. Reserved.</p> <p>Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.</p>	<p>1</p> <p>1</p>
<p>L. Land Treatment.</p> <p>1. Lateral expansion of or other modification of a land treatment unit to increase areal extent, except as provided in sections A.1. and A.3. of this appendix.</p> <p>2. Modification of run-on control system.</p> <p>3. Modification of run-off control system.</p> <p>4. Other modifications of land treatment unit component specifications or standards required in permit.</p> <p>5. Management of different wastes in land treatment units, except as provided in section A.7. of this appendix:</p> <p>a. That require a change in permit operating conditions or unit design specifications.</p> <p>b. That do not require a change in permit operating conditions or unit design specifications.</p> <p>Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.</p>	<p>3</p> <p>2</p> <p>3</p> <p>2</p> <p>3</p> <p>2</p>

Modification		Classi- fication
6.	Modification of a land treatment unit management practice, except as provided in section A.3. of this appendix, to:	
a.	Increase rate or change method of waste application.	3
b.	Decrease rate of waste application.	1
7.	Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions.	2
8.	Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to alter operating plans for distribution of animal feeds resulting from such crops.	3
9.	Modification of operating practice due to detection of releases from the land treatment unit pursuant to paragraph (G)(2) of rule 3745-56-78 of the Administrative Code.	3
10.	Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.	3
11.	Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components <del>having that have</del> specifications different from permit requirements.	2
12.	Changes in background values for hazardous constituents in soil and soil-pore liquid.	2
13.	Changes in sampling, analysis, or statistical procedure.	2
14.	Changes in land treatment demonstration program prior to or during the demonstration.	2
15.	Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the director's prior approval has been received.	1 *

Modification		Classification
16.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the director.	1 *
17.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.	3
18.	Changes in vegetative cover requirements for closure.	2
M.-	Incinerators, boilers, and industrial furnaces.	
1.	Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a <del>chlorine/chloride</del> <u>chlorine or chloride</u> feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
2.	Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed limit, a <del>chlorine/chloride</del> <u>chlorine or chloride</u> feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means. <sup>A</sup>	2
3.	Modification of an incinerator, boiler, or an industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove <u>HCl/Cl<sub>2</sub> hydrochloric acid or chlorine gas</u> , metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3

Modification	Classification
<p>4. Modification of an incinerator, boiler, or an industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards.</p>	2
<p>5. Operating requirements.</p>	
<p>a. Modification of the limits specified in the permit for minimum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.</p>	3
<p>b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit <del>concerning</del> regarding emergency shutdown or automatic waste feed cutoff procedures or controls.</p>	3
<p>c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.</p>	2
<p>6. Incineration of different wastes, except as provided in section A.7. of this appendix:</p>	
<p>a. If the waste contains a <u>principal organic hazardous constituent</u> (POHC) that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.</p>	3
<p>b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.</p>	2
<p>Comment: See paragraph (H) of this rule for modification procedures to be used for the management of newly listed or identified wastes.</p>	

Modification		Classi- fication
7.	Shakedown and trial burn:	
a.	Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn.	2
b.	Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director.	1 *
c.	Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received prior approval of the director.	1 *
d.	Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received prior approval of the director.	1 *
8.	Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit.	1
9.	Technology changes needed to meet standards under 40 CFR Part 63 subpart EEE (national emission standards for hazardous air pollutants from hazardous waste combustors), provided the procedures of paragraph (L) of this rule are followed.	1 *
10.	Changes in hazardous waste permits needed to support transition to 40 CFR Part 63 subpart EEE (national emission standards for hazardous air pollutants from hazardous waste combustors), provided the procedures of paragraph (M) of this rule are followed.	1 *
N.	Containment buildings.	
1.	Modification or addition of containment building units:	
a.	Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity.	3
b.	Resulting in up to 25% increase in the facility's containment building storage or treatment capacity.	2
2.	Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.	2
3.	Replacement of a containment building with a containment building that meets the same design standards provided:	

Modification	Classification
a. The unit capacity is not increased.	1
b. The replacement containment building meets the same conditions in the permit.	1
4. Modification of a containment building management practice.	2
5. Storage or treatment of different wastes in containment buildings:	
a. That require additional or different management practices.	3
b. That do not require additional or different management practices.	2
O. Corrective action.	
1. Approval of a corrective action management unit pursuant to rule 3745-57-72 of the Administrative Code.	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to rule 3745-57-73 of the Administrative Code.	2
3. Approval of a staging pile or staging pile operating term extension pursuant to rule 3745-57-74 of the Administrative Code.	2
P. Burden reduction.	
1. Reserved.	
2. Development of one contingency plan based on the “National Response Team’s Integrated Contingency Plan Guidance” (“One Plan”) pursuant to paragraph (B) of rule 3745-54-52 of the Administrative Code.	1
3. Changes to recordkeeping and reporting requirements pursuant to paragraph (I) of rule 3745-54-56, paragraph (G) of rule 3745-54-100, paragraph (E)(5) of rule 3745-55-13, paragraph (F) of rule 3745-55-96, and paragraph (A)(2) of rule 3745-57-43 of the Administrative Code.	1
4. Changes to inspection frequency for tank systems pursuant to paragraph (B) of rule 3745-55-95 of the Administrative Code.	1
5. Changes to detection and compliance monitoring program pursuant to paragraphs (D), (G)(2), and (G)(3) of rule 3745-54-98 and paragraphs (F) and (G) of rule 3745-54-99 of the Administrative Code.	1

Modification	Classi- fication
<p>Notes:</p> <p>* “Class 1” modifications <del>requiring</del><u>that require the</u> director's prior approval.</p> <p>** “Class 3” modifications under the director's jurisdiction under paragraph (D)(5) of this rule.</p> <p>A During a five year period, a facility's storage capacity or treatment rate <del>must</del><u>shall</u> not be modified to increase by more than 25% in the aggregate without the director's approval in accordance with paragraph (D)(5) of this rule.</p> <p>B The authorized disposal capacity for a facility <del>must</del><u>shall</u> be calculated from the approved design plans for the disposal units at that facility.</p>	

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