



Ohio Administrative Code Rule 3745-266-112 Regulation of residues.

Effective: June 12, 2023

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a "hazardous waste" under paragraph (B)(4), (B)(7), or (B)(8) of rule 3745-51-04 of the Administrative Code unless the device and the owner or operator meet the following requirements:

(A) The device meets the following criteria:

(1) Boilers. Boilers shall burn at least fifty per cent coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

(2) Ore or mineral furnaces. Industrial furnaces subject to paragraph (B)(7) of rule 3745-51-04 of the Administrative Code shall process at least fifty per cent by weight normal, nonhazardous raw materials;

(3) Cement kilns. Cement kilns shall process at least fifty per cent by weight normal cement-production raw materials;

(B) The owner or operator demonstrates that the hazardous waste does not significantly affect the residue by demonstrating conformance with either of the following criteria:

(1) Comparison of waste-derived residue with normal residue. The waste-derived residue shall not contain constituents in the appendix to rule 3745-51-11 of the Administrative Code (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in appendix B to this rule that may be generated as products of incomplete combustion. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-



furans, analyses shall be performed to determine specific congeners and homologues, and the results converted to 2,3,7,8-TCDD equivalent values using the procedure specified in section 4.0 of the appendix to rule 3745-266-103 of the Administrative Code.

(a) Normal residue. Concentrations of toxic constituents of concern in normal residue shall be determined based on analyses of a minimum of ten samples representing a minimum of ten days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed twenty-four hours. The upper tolerance limit (at ninety-five per cent confidence with a ninety-five per cent proportion of the sample distribution) of the concentration in the normal residue shall be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations shall be revised or statistically-derived concentrations of toxic constituents in normal residue shall be established for a new mode of operation with the new raw material or fuel. To determine the upper tolerance limit in the normal residue, the owner or operator shall use statistical procedures prescribed in "Statistical Methodology for Beville Residue Determinations" in the appendix to rule 3745-266-103 of the Administrative Code.

(b) Waste-derived residue. Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each twenty-four-hour period has concentrations of toxic constituents that are higher than the concentrations established for the normal residue under paragraph (B)(1)(a) of this rule. If so, hazardous waste burning has significantly affected the residue and the residue shall not be excluded from the definition of a "hazardous waste." Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a twenty-four-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed twenty-four hours. If more than one sample is analyzed to characterize waste-derived residues generated over a twenty-four-hour period, the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; or

(2) Comparison of waste-derived residue concentrations with health-based limits.



(a) Nonmetal constituents. The concentration of each nonmetal toxic constituent of concern [specified in paragraph (B)(1) of this rule] in the waste-derived residue shall not exceed the health-based level specified in appendix A to this rule, or the level of detection, whichever is higher. If a health-based limit for a constituent of concern is not listed in appendix A to this rule, then a limit of 0.002 micrograms per kilogram or the level of detection (which shall be determined by using appropriate analytical procedures), whichever is higher, shall be used. The levels specified in appendix A to this rule (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Footnote 1 of appendix A to this rule) are administratively stayed by U.S. EPA, under the condition, for those constituents specified in paragraph (B)(1) of this rule, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in rule 3745-270-40 of the Administrative Code for F039 nonwastewaters. Ohio EPA will interpret this rule consistent with U.S. EPA's administrative stay. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable agency guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by rule 3745-270-40 of the Administrative Code for F039 nonwastewaters. In complying with the rule 3745-270-40 of the Administrative Code for F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans, analyses shall be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans.

[Comment: The U.S. EPA administrative stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in rule 3745-270-40 of the Administrative Code for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations. Ohio EPA will interpret this rule consistent with U.S. EPA's administrative stay.]

(b) Metal constituents. The concentration of metals in an extract obtained using the toxicity characteristic leaching procedure of rule 3745-51-24 of the Administrative Code shall not exceed the levels specified in appendix A to this rule; and



(c) Sampling and analysis. Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each twenty-four-hour period has concentrations of toxic constituents that are higher than the health-based levels. Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a twenty-four-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed twenty-four hours. If more than one sample is analyzed to characterize waste-derived residues generated over a twenty-four-hour period, the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; and

(C) Records sufficient to document compliance with the provisions of this rule shall be retained until closure of the boiler or industrial furnace unit. At a minimum, the following shall be recorded:

(1) Levels of constituents in the appendix to rule 3745-51-11 of the Administrative Code that are present in waste-derived residues;

(2) If the waste-derived residue is compared with normal residue under paragraph (B)(1) of this rule:

(a) The levels of constituents in the appendix to rule 3745-51-11 of the Administrative Code that are present in normal residues; and

(b) Data and information, including analyses of samples as necessary, obtained to determine if changes in raw materials or fuels would reduce the concentration of toxic constituents of concern in the normal residue.

[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."]