

US EPA ARCHIVE DOCUMENT

and enforce the Federal plan (68 FR 5144, January 31, 2003) for small municipal waste combustor (MWC) units under sections 111(d) and 129 of the Clean Air Act (the "Act"). The request for delegation was submitted as a means to fulfill requirements of the Clean Air Act (the Act). In the Final Rules section of this **Federal Register**, EPA is approving Maryland's delegation request as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by September 12, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number RO3-OAR-2005-MD-0007 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *Agency Web site:* <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. *E-mail:* [http://wilkie.walter@epa.gov](mailto:wilkie.walter@epa.gov).

D. *Mail:* RO3-OAR-2005-MD-0007, Walter Wilkie, Chief, Air Quality Analysis Branch, Mailcode 3 AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to RME ID No. RO3-OAR-2005-MD-0007. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes

information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://regulations.gov) Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, Maryland, 21230.

**FOR FURTHER INFORMATION CONTACT:** James B. Topsale, P.E., at (215) 814-2190, or by e-mail at [topsale.jim@epa.gov](mailto:topsale.jim@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 5, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 05-15921 Filed 8-10-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7951-2]

### Ohio: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Ohio has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is proposing to authorize the State's changes through this proposed final action.

**DATES:** Written comments must be received on or before September 12, 2005.

**ADDRESSES:** Send written comments to Gary Westefer, Ohio Regulatory Specialist, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please refer to Docket Number OH ARA 6. We must receive your comments by September 12, 2005. You can view and copy Ohio's application from 9 a.m. to 4 p.m. at the following addresses: Ohio Environmental Protection Agency, Lazarus Government Center, 122 South Front Street, Columbus, Ohio, (mailing address P.O. Box 1049, Columbus, Ohio 43216) contact Kit Arthur (614) 644-2932; and EPA Region 5, contact Gary Westefer at the following address.

**FOR FURTHER INFORMATION CONTACT:** Gary Westefer, Ohio Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450.

#### SUPPLEMENTARY INFORMATION:

##### A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the

changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in This Rule?**

We conclude that Ohio's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Ohio Final authorization to operate its hazardous waste program with the changes described in the authorization application. Ohio has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Ohio, including

issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today's Authorization Decision?**

This decision means that a facility in Ohio subject to RCRA will now have to comply with the authorized State requirements (listed in section F of this action) instead of the equivalent Federal requirements in order to comply with RCRA. Ohio has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Ohio is being authorized by today's action are already effective, and are not changed by today's action.

**D. What Happens If EPA Receives Comments That Oppose This Action?**

If EPA receives comments that oppose this authorization, we will address all public comments in a later **Federal**

**Register**. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

**E. What Has Ohio Previously Been Authorized for?**

Ohio initially received Final authorization on June 28, 1989, effective June 30, 1989 (54 FR 27170) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on April 8, 1991, effective June 7, 1991 (56 FR 14203) as corrected June 19, 1991, effective August 19, 1991 (56 FR 28088); July 27, 1995, effective September 25, 1995 (60 FR 38502); October 23, 1996, effective December 23, 1996 (61 FR 54950); and January 24, 2003, effective January 24, 2003 (68 FR 3429).

**F. What Changes Are We Authorizing With Today's Action?**

On October 18, 2004, Ohio submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, subject to receipt of written comments that oppose this action, that Ohio's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we propose to grant Ohio Final authorization for the following program changes:

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Listing of Spent Pickle Liquor (K062) Correction 2. Checklist 26.2.	August 3, 1987, 52 FR 28697.	Ohio Administrative Code (OAC) 3745-51-32; Effective December 28, 1987.
Standards For Generators; Waste Minimization Certifications. Checklist 32.	October 1, 1986, 51 FR 35190.	OAC 3745-52-20; Effective December 30, 1989.
HSWA Codification Rule 2; Permit Modification. Checklist 44D.	December 1, 1987, 52 FR 45788.	OAC 3745-50-51; Effective June 15, 1992.
HSWA Codification Rule 2; Post-Closure Permits. Checklist 44G.	December 1, 1987, 52 FR 45788.	OAC 3745-50-45; Effective September 2, 1997.
Land Disposal Restriction Amendments to First Third Scheduled Wastes (Technical Correction to Checklist 50). Checklist 62.	May 2, 1989, 54 FR 18836	OAC 3745-270-40; Effective February 11, 1992 Re-numbered from OAC 3745-59-40 on December 7, 2000.
Wood Preserving Listings. Checklist 82 .....	December 6, 1990, 55 FR 50450.	OAC 3745-50-44; 3745-51-04; 3745-51-11; 3745-51-20; 3745-51-30; 3745-51-31; 3745-51-35; 3745-52-34; 3745-55-90; 3745-57-80; 3745-57-81; 3745-57-82; 3745-57-83; 3745-57-84; 3745-57-85; 3745-66-90; 3745-69-40; 3745-69-41; 3745-69-42; 3745-69-43; 3745-69-44; 3745-69-45; Effective September 2, 1997.
Wood Preserving Listing; Technical Correction. Checklist 92.	July 1, 1991, 56 FR 30192	OAC 3745-50-44; 3745-51-04; 3745-51-35; 3745-52-34; 3745-57-80; 3745-57-81; 3745-57-82; 3745-57-83; 3745-57-84; 3745-57-85; 3745-69-40; 3745-69-43; Effective September 2, 1997.
Land Disposal Restrictions for Electric Arc Furnace Dust (K061). Checklist 95.	June 8, 2000, 56 FR 41164	OAC 3745-51-03; 3745-51-04; 3745-270-40; 3745-270-42; Effective February 14, 1995 and September 2, 1997.

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Second Correction to the Third Third Land Disposal Restrictions. Checklist 102 as amended Checklist 102.1.	March 6, 1992, 57 FR 8086 March 17, 1993, 58 FR 14317.	OAC 3745-54-13; 3745-65-13; 3745-270-03; 3745-270-40; 3745-270-42; Effective December 7, 2000.
Hazardous Debris Case-by-Case Capacity Variance. Checklist 103.	May 15, 1992, 57 FR 20766.	OAC 3745-270-35; Effective December 7, 2000.
Lead Bearing Hazardous Materials Case-by-Case Capacity Variance. Checklist 106.	June 26, 1992, 57 FR 28628.	OAC 3745-270-35; Effective December 7, 2000.
Toxicity Characteristics Revision; Technical Corrections. Checklist 108.	July 10, 1992, 57 FR 30657	OAC 3745-51-04; 3745-68-011; Effective February 14, 1995, and September 2, 1997.
Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris. Checklist 109.	August 18, 1992, 57 FR 37194.	OAC 3745-50-10; 3745-50-43; 3745-50-44; 3745-50-51; 3745-51-03; 3745-52-34; 3745-55-10; 3745-55-11; 3745-55-12; 3745-55-40; 3745-55-42; 3745-66-10; 3745-66-11; 3745-66-12; 3745-66-40; 3745-66-42; 3745-67-21; 3745-218-01; 3745-218-011; 3745-218-02; 3745-248-01; 3745-248-011; 3745-248-02; 3745-270-02; 3745-270-05; 3745-270-07; 3745-270-09; 3745-270-40; 3745-270-42; 3745-270-45; 3745-270-50; Effective December 7, 2000.
Recycled Used Oil Management Standards. Checklist 112.	September 10, 1992, 57 FR 41566.	OAC 3745-50-10; 3745-51-03; 3745-51-05; 3745-51-06; 3745-279-01; 3745-279-10; 3745-279-11; 3745-279-12; 3745-279-20; 3745-279-21; 3745-279-22; 3745-279-23; 3745-279-24; 3745-279-30; 3745-279-31; 3745-279-32; 3745-279-40; 3745-279-41; 3745-279-42; 3745-279-43; 3745-279-44; 3745-279-45; 3745-279-46; 3745-279-47; 3745-279-50; 3745-279-51; 3745-279-52; 3745-279-53; 3745-279-54; 3745-279-55; 3745-279-56; 3745-279-57; 3745-279-58; 3745-279-59; 3745-279-60; 3745-279-61; 3745-279-62; 3745-279-63; 3745-279-64; 3745-279-65; 3745-279-66; 3745-279-67; 3745-279-70; 3745-279-71; 3745-279-72; 3745-279-73; 3745-279-74; 3745-279-75; 3745-279-80; 3745-279-81; 3745-279-82; Effective October 20, 1998.
Hazardous Soil Case-by-Case Capacity Variance. Checklist 116.	October 20, 1992, 57 FR 47772.	OAC 3745-270-35; Effective December 7, 2000.
Mixture and Derived From Rules; Response to Court Remand. Checklist 117A.	March 3, 1992, 57 FR 7628	OAC 3745-51-03; Effective December 7, 2000.
Mixture and Derived From rules; Technical Correction. Checklist 117A.1.	June 1, 1992, 57 FR 23062	OAC 3745-51-03; Effective December 7, 2000.
Mixture and Derived From Rules; Final Rule. Checklist 117A.2.	October 20, 1992, 57 FR 49278.	OAC 3745-51-03; Effective December 7, 2000.
Wood Preserving: Amendments to Listings and Technical Requirements. Checklist 120.	December 24, 1992, 57 FR 61492.	OAC 3745-51-31; 3745-57-80; 3745-57-81; 3745-57-82; 3745-57-83; 3745-69-40; 3745-69-41; 3745-69-42; 3745-69-43; Effective September 2, 1997.
Recycled Used Oil Management Standards; Technical Amendments and Corrections. Checklist 122 as Amended checklist 122.1.	May 3, 1993, 58 FR 26420 June 17, 1993, 58 FR 33341.	OAC 3745-270-35; Effective December 7, 2000.
Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance Checklist 123.	May 14, 1993, 58 FR 28506.	OAC 3745-270-35; Effective December 7, 2000.

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated. Checklist 124.	May 24, 1993, 58 FR 29860.	OAC 3745-50-51; 3745-54-01; 3745-65-01; 3745-270-01; 3745-270-02; 3745-270-07; 3745-270-09; 3745-270-37; 3745-270-40; 3745-270-42; Effective December 7, 2000.
Hazardous Waste Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards. Checklist 130.	March 4, 1994, 59 FR 10550.	OAC 3745-279-01; 3745-279-10; 3745-279-20; 3745-279-41; 3745-279-44; 3745-279-46; 3745-279-53; 3745-279-63; Effective October 20, 1998.
Hazardous Waste Management System; Correction of Listing of P015—Beryllium Powder. Checklist 134.	June 20, 1994, 59 FR 31551.	OAC 3745-51-11; 3745-51-33; 3745-270-42; Effective September 2, 1997.
Standards for the Management of Specific Hazardous Wastes; Amendment to Subpart C—Recyclable Materials Used in a Manner Constituting Disposal; Final Rule. Checklist 136.	August 24, 1994, 59 FR 43496.	OAC 3745-266-20; 3745-270-40; Effective December 7, 2000.
Land Disposal Restrictions Phase II—Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristics Wastes and Newly Listed Waste. Checklist 137 as amended Checklist 137.1.	September 19, 1994, 59 FR 47982. January 3, 1995, 60 FR 242.	OAC 3745-50-23; 3745-50-24; 3745-50-26; 3745-51-02; 3745-54-01; 3745-65-01; 3745-266-20; 3745-266-23; 3745-270-01; 3745-270-02; 3745-270-07; 3745-270-09; 3745-270-38; 3745-270-40; 3745-270-42; 3745-270-45; 3745-270-48; 3745-270-49; Effective December 7, 2000.
Universal Waste Rule; Administrative Requirements (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule. Checklist 142A.	May 11, 1995, 60 FR 25492.	OAC 3745-50-10; 3745-50-45; 3745-51-05; 3745-51-09; 3745-52-10; 3745-52-11; 3745-54-01; 3745-65-01; 3745-270-01; 3745-273-01; 3745-273-03; 3745-273-05; 3745-273-06; 3745-273-10; 3745-273-11; 3745-273-12; 3745-273-14; 3745-273-15; 3745-273-16; 3745-273-17; 3745-273-18; 3745-273-19; 3745-273-20; 3745-273-30; 3745-273-31; 3745-273-32; 3745-273-34; 3745-273-35; 3745-273-36; 3745-273-37; 3745-273-38; 3745-273-39; 3745-273-40; 3745-273-50; 3745-273-51; 3745-273-52; 3745-273-53; 3745-273-54; 3745-273-55; 3745-273-56; 3745-273-60; 3745-273-61; 3745-273-62; 3745-273-70; Effective September 2, 1997 and October 20, 1998.
Universal Waste Rule; Covered Batteries (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule. Checklist 142B.	May 11, 1995, 60 FR 25492.	OAC 3745-50-10; 3745-50-45; 3745-51-06; 3745-51-09; 3745-54-01; 3745-65-01; 3745-266-80; 3745-270-01; 3745-273-01; 3745-273-02; 3745-273-06; 3745-273-13; 3745-273-14; 3745-273-33; 3745-273-34; Effective September 2, 1997.
Universal Waste Rule; Covered Pesticides (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule. Checklist 142C.	May 11, 1995, 60 FR 25492.	OAC 3745-50-10; 3745-50-45; 3745-54-01; 3745-65-01; 3745-270-01; 3745-273-01; 3745-273-03; 3745-273-06; 3745-273-13; 3745-273-14; 3745-273-32; 3745-273-33; 3745-273-34; Effective September 2, 1997.
Universal Waste Rule; Covered Thermostats (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule. Checklist 142D.	May 11, 1995, 60 FR 25492.	OAC 3745-50-10; 3745-50-45; 3745-51-09; 3745-54-01; 3745-65-01; 3745-270-01; 3745-273-01; 3745-273-04; 3745-273-06; 3745-273-13; 3745-273-14; 3745-273-33; 3745-273-34; Effective September 2, 1997.
Universal Waste Rule; Petitions to Include Other Wastes (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule. Checklist 142E.	May 11, 1995, 60 FR 25492.	OAC 3745-50-20; 3745-273-80; 3745-273-81; Effective September 2, 1997.
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners. Checklist 151 as Amended; Checklist 151.1 as Amended; Checklist 151.2 as Amended; Checklist 151.3 as Amended; Checklist 151.4 as Amended; Checklist 151.5 as Amended; and Checklist 151.6.	April 8, 1996, 61 FR 15566 April 8, 1996, 61 FR 15660; April 30, 1996, 61 FR 19117; June 28, 1996, 61 FR 33680; July 10, 1996, 61 FR 36419; August 26, 1996, 61 FR 43924; and February 19, 1997, 62 FR 7502.	OAC 3745-270-01; 3745-270-02; 3745-270-03; 3745-270-07; 3745-270-09; 3745-270-39; 3745-270-40; 3745-270-42; 3745-270-44; 3745-270-48; Effective December 7, 2000.
Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs. Checklist 153.	July 1, 1996, 61 FR 34252	OAC 3745-51-05; Effective December 7, 2000.
Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance. Checklist 155.	January 14, 1997, 62 FR 1992.	OAC 3745-270-39; Effective December 7, 2000.

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Land Disposal Restrictions Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions. Checklist 157.	May 12, 1997, 62 FR 25998.	OAC 3745-51-01; 3745-51-02; 3745-51-04; 3745-51-06; 3745-270-01; 3745-270-04; 3745-270-07; 3745-270-09; 3745-270-30; 3745-270-40; 3745-270-42; 3745-270-44; Effective December 7, 2000.
Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions. Checklist 159.	June 17, 1997, 62 FR 32974.	OAC 3745-51-11; 3745-51-30; 3745-51-32; 3745-51-33; 3745-270-39; 3745-270-40; Effective December 7, 2000.
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance. Checklist 160.	July 14, 1997, 62 FR 37694	OAC 3745-270-39; Effective December 7, 2000.
Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production. Checklist 161.	August 28, 1997, 62 FR 45568.	OAC 3745-270-40; 3745-270-48; Effective December 7, 2000.
Clarification of Standards for Hazardous Waste LDR Treatment and Clarification. Checklist 162.	December 5, 1997, 62 FR 64504.	OAC 3745-270-44; Effective December 7, 2000.
Recycled Used Oil Management Standards; Technical Correction and Clarification Checklist 166 as Amended. Checklist 166.1.	May 6, 1998, 63 FR 24963 July 14, 1998, 63 FR 37780	OAC 3745-51-05; 3745-51-06; 3745-270-10; 3745-270-22; 3745-270-45; 3745-270-54; 3745-270-64; 3745-270-74; Effective December 7, 2000.
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes. Checklist 167A.	May 26, 1998, 63 FR 28556.	OAC 3745-270-02; 3745-270-03; 3745-270-34; 3745-270-40; 3745-270-48; Effective December 7, 2000.
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions. Checklist 167B.	May 26, 1998, 63 FR 28556.	OAC 3745-270-02; 3745-270-07; 3745-270-44; 3745-270-49; Effective December 7, 2000.
Land Disposal Restrictions Phase IV—Corrections Checklist 167C as amended. Checklist 167C.1.	May 26, 1998, 63 FR 28556.	OAC 3745-270-04; 3745-270-07; 3745-270-40; 3745-270-42; 3745-270-45; 3745-270-48; Effective December 7, 2000.
Mineral Processing Secondary Materials Exclusion. Checklist 167D.	June 8, 1998, 63 FR 31266 May 26, 1998, 63 FR 28556.	OAC 3745-51-02; 3745-51-04; Effective December 7, 2000.
Bevill Exclusion Revisions and Clarification. Checklist 167E.	May 26, 1998, 63 FR 28556.	OAC 3745-51-03; 3745-51-04; Effective December 7, 2000.
Exclusion of Recycled Wood Preserving Wastewaters. Checklist 167F.	May 26, 1998, 63 FR 28556.	OAC 3745-51-04; Effective December 7, 2000.
Petroleum Refining Process Wastes. Checklist 169 .....	August 6, 1998, 63 FR 42110.	OAC 3745-51-03; 3745-51-04; 3745-51-06; 3745-51-30; 3745-51-31; 3745-51-32; 3745-270-35; 3745-270-40; Effective December 7, 2000.
Land Disposal Restrictions Phase IV; Zinc Micronutrient Fertilizers, Administrative Stay. Checklist 170.	August 31, 1998, 63 FR 46332.	OAC 3745-270-40; Effective December 7, 2000.
Emergency Revisions of LDR Treatment Standards for Listed Hazardous Wastes from Carbamate Production. Checklist 171.	September 4, 1998, 63 FR 47409.	OAC 3745-270-40; 3745-270-48; Effective December 7, 2000.
Land Disposal Restrictions Phase IV—Extension of Compliance Date. Checklist 172.	September 9, 1998, 63 FR 48124.	OAC 3745-270-34; Effective December 7, 2000.
Land Disposal Restrictions Treatment Standards for Spent Potliners from Primary Aluminum Production (K088). Checklist 173.	September 24, 1998, 63 FR 51254.	OAC 3745-270-39; 3745-270-40; Effective December 7, 2000.
Petroleum Refining Process Wastes; Exemption for Leachate from Non-Hazardous Waste Landfill. Checklist 178.	February 11, 1999, 64 FR 6806.	OAC 3745-51-04; Effective December 7, 2000.
Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards. Checklist 179.	May 11, 1999, 64 FR 25408.	OAC 3745-51-02; 3745-51-04; 3745-52-34; 3745-270-02; 3745-270-07; Corrections and 3745-270-09; 3745-270-40; 3745-270-48; 3745-270-49; Effective December 7, 2000.
Land Disposal Restrictions; Wood Preserving Wastes, Metal Wastes, Zinc Micronutrients Fertilizer, etc.; Correction. Checklist 183.	October 20, 1999, 64 FR 56469.	OAC 3745-51-32; 3745-52-34; 3745-270-07; 3745-270-40; 3745-270-49; Effective December 7, 2000.
Organobromine Production Wastes. Checklist 185 .....	March 17, 2000, 65 FR 14472.	OAC 3745-51-11; 3745-51-30; 3745-51-32; 3745-51-33; 3745-270-40; 3745-270-48; Effective December 7, 2000.
Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments. Checklist 187.	June 8, 2000, 65 FR 36365	OAC 3745-51-31; Effective December 7, 2000.
Sharing of Information with the Agency for Toxic Substances and Disease Registry. Checklist SI.	July 15, 1985 .....	OAC 3745-49-031; 3745-50-30; Effective February 23, 1989 and December 30, 1989.

TABLE 2.—EQUIVALENT STATE-INITIATED CHANGES

Ohio Amendment	Description of Change	Sections Affected and Effective Date
HB435 .....	HB435: permitting system, signed May 20, 1996.	OAC 3745-50-21; 3745-50-40; 3745-50-41; 3745-50-43; 3745-50-46; 3745-50-51; 3745-50-52; Effective July 14, 1997.
CL-UW .....	Housekeeping: universal waste set	OAC 3745-50-10; 3745-50-11; 3745-50-221; 3745-50-33 (broader in scope, see section G); 3745-50-44; 3745-50-45; 3745-50-62; 3745-51-03; 3745-51-04; 3745-51-06; 3745-51-11; 3745-51-21; 3745-51-22; 3745-51-23; 3745-51-24; 3745-51-30; 3745-51-31; 3745-51-35; 3745-52-11; 3745-52-34; 3745-52-41; 3745-52-54; 3745-54-01; 3745-54-13; 3745-54-73; 3745-54-97; 3745-54-98; 3745-55-41; 3745-55-43; 3745-55-45; 3745-55-47; 3745-55-51; 3745-55-92; 3745-55-97; 3745-55-98; 3745-57-14; 3745-57-16; 3745-58-70; 3745-65-01; 3745-65-73; 3745-65-90; 3745-65-91; 3745-66-14; 3745-66-43; 3745-66-45; 3745-66-47; 3745-66-94; 3745-66-98; 3745-67-73; 3745-68-14; 3745-68-16; 3745-69-06; Effective September 2, 1997.
HB647 .....	HB647: hazardous waste transporter registration change, rule changes.	OAC 3745-53-11; Effective September 2, 1997.
CL-UO .....	Housekeeping: Used Oil Set .....	OAC 3745-50-10; 3745-50-34 (broader in scope, see section G); 3745-50-44; 3745-50-45; 3745-50-51; 3745-50-57; 3745-50-58; 3745-51-02; 3745-51-03; 3745-51-04; 3745-51-05; 3745-51-06; 3745-51-10; 3745-52-10; 3745-52-11; 3745-52-32; 3745-52-34; 3745-52-41; 3745-54-01; 3745-54-13; 3745-54-90; 3745-54-91; 3745-54-99; 3745-55-01; 3745-55-12; 3745-55-42; 3745-55-75; 3745-56-50; 3745-56-80; 3745-59-07; 3745-59-09; 3745-65-01; 3745-65-15; 3745-65-33; 3745-68-83; Effective October 20, 1998.
CT-Batteries .....	DC Circuit Court of Appeals decision on battery recyclers v. U.S. EPA (April 21, 2000); supercedes part of May 26, 1998 amendments to 40 CFR Part 261.2(c)(3) and Table 1, column 3 heading.	OAC 3745-51-02; Effective December 7, 2000.
CL-LDR-1 .....	Housekeeping: LDRs plus set .....	OAC 3745-49-031; 3745-50-10; 3745-50-11; 3745-50-311; 3745-50-40; 3745-50-43; 3745-50-44; 3745-50-45; 3745-50-48; 3745-50-50; 3745-50-51; 3745-50-57; 3745-50-314; 3745-51-01; 3745-51-02; 3745-51-03; 3745-51-04; 3745-51-05; 3745-51-06; 3745-51-07; 3745-51-08; 3745-51-09; 3745-51-20; 3745-52-10; 3745-52-11; 3745-52-34; 3745-52-41; 3745-52-54; 3745-52-70; 3745-53-12; 3745-54-01; 3745-54-03; 3745-54-11; 3745-54-12; 3745-54-13; 3745-54-14; 3745-54-16; 3745-54-17; 3745-54-18; 3745-54-73; 3745-54-74; 3745-54-77; 3745-55-011; 3745-55-10; 3745-55-11; 3745-55-12; 3745-55-40; 3745-55-42; 3745-55-43; 3745-55-45; 3745-55-51; 3745-55-71; 3745-55-75; 3745-55-93; 3745-55-98; 3745-56-29; 3745-56-30; 3745-56-56; 3745-56-81; 3745-57-12; 3745-57-14; 3745-57-16; 3745-57-83; 3745-58-30; 3745-58-32; 3745-58-33; 3745-58-40; 3745-58-45; 3745-58-46; 3745-58-60; 3745-58-70; 3745-65-01; 3745-65-12; 3745-65-13; 3745-65-14; 3745-65-16; 3745-65-17; 3745-65-52; 3745-65-56; 3745-65-73; 3745-65-74; 3745-65-76; 3745-66-10; 3745-66-11; 3745-66-12; 3745-66-13; 3745-66-18; 3745-66-19; 3745-66-40; 3745-66-41; 3745-66-43; 3745-66-45; 3745-66-71; 3745-66-91; 3745-66-93; 3745-66-98; 3745-66-992; 3745-67-21; 3745-67-29; 3745-67-56; 3745-67-81; 3745-68-12; 3745-68-16; 3745-68-52; 3745-273-01; 3745-273-03; 3745-273-13; 3745-273-17; 3745-273-33; 3745-273-37; 3745-273-54; 3745-273-60; 3745-279-01; 3745-279-10; 3745-279-11; 3745-279-12; 3745-279-22; 3745-279-40; 3745-279-44; 3745-279-45; 3745-279-52; 3745-279-53; 3745-279-54; 3745-279-56; 3745-279-57; 3745-279-59; 3745-279-63; 3745-279-64; 3745-279-65; 3745-279-74; 3745-279-81; Effective December 7, 2000.

TABLE 2.—EQUIVALENT STATE-INITIATED CHANGES—Continued

Ohio Amendment	Description of Change	Sections Affected and Effective Date
J 5 .....	Consolidated rule review per 119.032—review date was October 30, 2001 (Year 5/All).	OAC 3745–50–10; 3745–50–40; 3745–50–43; 3745–50–44; 3745–50–45; 3745–50–46; 3745–50–51; 3745–50–52; 3745–50–57; 3745–50–58; 3745–50–62; 3745–51–02; 3745–51–03; 3745–51–04; 3745–51–05; 3745–52–11; 3745–52–20; 3745–52–34; 3745–52–41; 3745–54–01; 3745–54–10; 3745–54–13; 3745–54–56; 3745–54–70; 3745–54–73; 3745–54–75; 3745–54–76; 3745–54–77; 3745–54–90; 3745–54–91; 3745–54–97; 3745–54–98; 3745–54–99; 3745–55–01; 3745–55–12; 3745–55–17; 3745–55–18; 3745–55–42; 3745–55–44; 3745–55–75; 3745–56–28; 3745–56–50; 3745–56–80; 3745–56–81; 3745–57–02; 3745–58–33; 3745–58–45; 3745–65–01; 3745–65–15; 3745–65–33; 3745–65–54; 3745–65–56; 3745–65–75; 3745–65–92; 3745–65–93; 3745–66–12; 3745–66–20; 3745–66–42; 3745–66–44; 3745–66–74; 3745–67–76; 3745–68–10; 3745–270–04; 3745–270–06; 3745–270–42; 3745–279–01; 3745–279–42; 3745–279–51; 3745–279–62; 3745–279–73; Effective March 13, 2002.
Ohio Checklist 78.1 .....	Housekeeping: LDR Third Third ....	OAC 3745–57–16; 3745–68–16; 3745–270–07; Effective February 11, 1992 and December 7, 2000.

In CL–LDR–2, a state initiated change, effective December 7, 2000. These 3745–59 to OAC 3745–270 and are Ohio has renumbered their Land Disposal Restrictions Regulations, regulations were moved from OAC equivalent to 40 CFR part 268.

TABLE 3.—RENUMBERING OF CHAPTER 3745–59

Former Ohio rule (rescinded)	Current Ohio rule	Federal equivalent
OAC 3745–59–01 .....	OAC 3745–270–01 .....	40 CFR 268.1
OAC 3745–59–02 .....	OAC 3745–270–02 .....	40 CFR 268.2
OAC 3745–59–03 .....	OAC 3745–270–03 .....	40 CFR 268.3
OAC–3745–59–04 .....	OAC 3745–270–04 .....	40 CFR 268.4
OAC–3745–59–05 .....	OAC 3745–270–05 .....	40 CFR 268.5
OAC–3745–59–06 .....	OAC 3745–270–06 .....	40 CFR 268.6
OAC–3745–59–07 .....	OAC 3745–270–07 .....	40 CFR 268.7
OAC–3745–59–09 .....	OAC 3745–270–09 .....	40 CFR 268.9
OAC–3745–59–30 .....	OAC 3745–270–30 .....	40 CFR 268.30
OAC–3745–59–31 .....	OAC 3745–270–31 .....	40 CFR 268.31
OAC–3745–59–32 .....	Rescinded .....	40 CFR 268.32*
OAC–3745–59–33 .....	Rescinded .....	40 CFR 268.33*
OAC–3745–59–34 .....	OAC 3745–270–34 .....	40 CFR 268.34
OAC–3745–59–35 .....	OAC 3745–270–35 .....	40 CFR 268.35
OAC–3745–59–40 .....	OAC 3745–270–40 .....	40 CFR 268.40
OAC–3745–59–41 .....	Rescinded .....	None
OAC–3745–59–42 .....	OAC 3745–270–42 .....	40 CFR 268.42
OAC–3745–59–43 .....	Rescinded .....	None
OAC–3745–59–44 .....	OAC 3745–270–44 .....	40 CFR 268.44
OAC–3745–59–50 .....	OAC 3745–270–50 .....	40 CFR 268.50

\*These U.S. EPA rules have been rescinded and replaced by totally different rules.

U.S. EPA promulgated a new 268.33 on November 8, 2000; Ohio has an effective rule for this new rule at OAC 3745–270–33 effective December 7, 2004. It will not be authorized in this action.

The tables that were Federal sections 268.41 and 268.43 were moved into 268.40. The rescission of OAC 3745–59–41 and 3745–59–43 maintains Ohio’s consistency with the Federal rule.

**G. Where Are the Revised State Rules Different From the Federal Rules?**

Ohio has excluded the non-delegable Federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3. EPA

will continue to implement those requirements.

In this package, Ohio has also amended Broader in Scope provisions in State initiated changes HB 147 (OAC 3745–50–34), HB 215 biennium budget bill (OAC 3745–50–33, 3745–50–35), CL–UW (OAC 3745–50–33) and CL–UO (see State initiated changes above) (OAC 3745–50–34).

In Checklists 112, 137 and 169, Ohio is not requesting authorization for that portion covering 266.100 because they are not authorized for Boilers and Industrial Furnaces. This section will be added in ARA 7.

**H. Who Handles Permits After the Authorization Takes Effect?**

Ohio will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA

requirements for which Ohio is not yet authorized.

### I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Ohio?

Ohio is not authorized to carry out its hazardous waste program in "Indian Country," as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Ohio;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country. Therefore, EPA retains the authority to implement and administer the RCRA program in Indian Country. However, at this time, there is no Indian Country within the State of Ohio.

### J. What Is Codification and Is EPA Codifying Ohio's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. Ohio's rules, up to and including those revised January 4, 2001, have previously been codified through the incorporation-by-reference effective December 24, 2001 (66 FR 53728, October 24, 2001). We reserve the amendment of 40 CFR part 272, subpart KK for the codification of Ohio's program changes until a later date.

### K. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA section 3006 and imposes requirements other than those imposed by State law (see Supplementary Information, Section A. Why are Revisions to State Programs Necessary?). Therefore this rule complies with applicable executive orders and statutory provisions as follows:

#### 1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993).

#### 2. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### 3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### 4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

#### 5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government).

#### 6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian Tribes, or on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes).

#### 7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it is not based on environmental health or safety risks.

#### 8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

#### 9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of

a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

#### 10. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

#### 11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

#### 12. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) To the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 22, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 05-15922 Filed 8-10-05; 8:45 am]

**BILLING CODE 6560-50-P**