

**7045.0121 TREATABILITY STUDY EXEMPTIONS.**

Subpart 1. **Applicability.** Except as provided in subpart 2, persons who generate or collect samples for the purpose of conducting treatability studies, as defined in part 7045.0020, are not subject to any requirement of parts 7045.0102 to 7045.0397, or to the notification requirements of the Resource Conservation and Recovery Act, United States Code, title 42, section 6930, as amended, when:

A. the sample is being collected and prepared for transportation by the generator or sample collector;

B. the sample is being accumulated or stored by the generator or sample collector before transportation to a laboratory or testing facility; or

C. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

Subp. 2. **Conditions of exemption.** The exemption in subpart 1 is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

A. no more than 1,000 kilograms of nonacute hazardous waste, one kilogram of acute hazardous waste, or 250 kilograms of soils, water, or debris contaminated with acute hazardous waste is used for each process being evaluated for each generated waste stream;

B. each sample shipment does not exceed 1,000 kilograms of nonacute hazardous waste, one kilogram of acute hazardous waste, or 250 kilograms of soils, water, or debris contaminated with acute hazardous waste;

C. the sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of either of the following subitems are met:

(1) the transportation of each sample shipment complies with United States Department of Transportation, United States Postal Service, and any other applicable shipping requirements; or

(2) if the United States Department of Transportation, United States Postal Service, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: the name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of shipment; and a description of the sample, including its Environmental Protection Agency hazardous waste number;

D. the sample is shipped to a laboratory or testing facility that is exempt under this part, or has an appropriate permit under the Resource Conservation and Recovery Act, United States Code, title 42, section 6901 et seq., as amended, or interim status;

E. the generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

- (1) copies of shipping documents;
- (2) a copy of the contract with the facility conducting the treatability study;

and

(3) documentation showing the amount of waste shipped under this exemption; the name, address, and identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator;

F. the generator reports the information required under item E, subitem (3), in its report to the commissioner as specified in part 7045.0248.

Subp. 3. **Facilities and sample handling.** A mobile treatment unit may qualify as a laboratory or testing facility subject to requirements of this subpart. Where a group of mobile treatment units are located at the same site, the limitations specified in this subpart apply to the entire group of mobile treatment units involved in treatability studies collectively as if the group were one mobile treatment unit. Samples undergoing treatability studies and the laboratory or testing facility conducting the treatability studies, to the extent the facilities are engaged directly in treatability studies and are not otherwise subject to the Resource Conservation and Recovery Act requirements, United States Code, title 42, section 6901 et seq., as amended, are not subject to any requirements of Code of Federal Regulations, title 40, part 124, as amended; parts 7045.0102 to 7045.0685 except this part and applicable references; part 7045.1390; chapter 7001; or to the notification requirements of the Resource Conservation and Recovery Act, United States Code, title 42, section 6930, as amended, providing that the conditions in items A to K are met.

A. No less than 45 days before conducting treatability studies, the facility operator notifies the commissioner in writing that it intends to conduct treatability studies under this item.

B. The laboratory or testing facility conducting the treatability study has an identification number.

C. No more than a total of 250 kilograms of hazardous waste sample of which no more than one kilogram may be acute hazardous waste, as received, is subjected to initiation of treatment in all treatability studies in any single day. The term "as received" refers to the hazardous waste sample in the form received in the shipment from the generator or sample collector for the purpose of evaluation in treatability studies.

D. The quantity of as received hazardous waste sample stored at the facility for the purpose of evaluation in treatability studies does not exceed 1,000 kilograms, the total of which can include 500 kilograms of soils, water, or debris contaminated with acute hazardous waste or one kilogram of acute hazardous waste. This quantity limitation does not include:

- (1) treatability study residues; and
- (2) treatment materials, including nonhazardous solid waste, added to as received hazardous waste sample.

E. Any unused sample or residues generated from the treatability study must be returned to the generator or sample collector, or must be sent to a designated facility with a current identification number within 90 days after completion of the treatability study or within one year of the date the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date occurs first.

F. The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

G. The facility maintains records for three years following completion of each treatability study conducted and these records track compliance with the limits on treatment rate, storage time, and quantity and also include the following information:

- (1) the name, address, and identification number of the generator or sample collector of each hazardous waste sample;
- (2) the date the waste sample shipment was received;
- (3) the quantity of waste sample accepted;
- (4) the quantity of as received waste sample in storage each day;
- (5) the date the treatment study was initiated, and the amount of as received waste sample introduced to treatment each day;
- (6) the date the treatability study was concluded; and
- (7) the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and its identification number.

H. The facility must keep, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

I. The facility prepares and submits a report to the commissioner by March 15 of each year that estimates the number of studies and the amount of waste expected to be used

in treatability studies during the current year and includes the following information for the previous calendar year:

- (1) the name, address, and identification number of the facility conducting the treatability studies;
- (2) the types, by process, of treatability studies conducted;
- (3) the names and addresses of persons for whom studies have been conducted, including their identification numbers;
- (4) the total quantity of waste in storage each day;
- (5) the quantity and types of waste subjected to treatability studies;
- (6) when each treatability study was conducted; and
- (7) the final disposition of residues and unused sample from each treatability study.

J. The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under parts 7045.0102 to 7045.0143, and, if so, are subject to chapters 7001 and 7045, unless the residues and unused samples are returned to the sample originator, in which case the sample originator is responsible to make this determination.

K. The facility notifies the commissioner by letter when the facility is no longer planning to conduct any treatability studies at the site.

**Statutory Authority:** *MS s 14.07; 116.07*

**History:** *14 SR 2248; 16 SR 2102; 18 SR 1565; 20 SR 715; 22 SR 5; 33 SR 2042*

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