

3750-1-01

Definitions and incorporation by reference.

[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 paragraph (YY) of this rule titled "Referenced materials."]

Terms defined in section 11049 of the Emergency Planning and Community Right to Know Act of 1986 and in 40 CFR Parts 350, 355 and 370 which are not explicitly defined herein are used within the meaning given in that statute and parts as used in the rules adopted by the state emergency response commission:

- (A) "Administrator" means the administrator of the United States environmental protection agency or the administrator's designee.
- (B) "Agriculture producer" means a facility engaged in the growing of crops or livestock production for retail consumption. The term "agriculture" is a broad term encompassing a wide range of growing operations, not just farms, and includes nurseries or other horticultural operations.
- (C) "Chemical" means any element, chemical compound or mixture of elements and/or compounds.
- (D) "Chemical name" means scientific designation of a chemical in accordance with the nomenclature system developed by the "International Union of Pure and Applied Chemistry (IUPAC)" or "Chemical Abstract Service (CAS)" rules of nomenclature, or a name which will clearly identify the chemical.
- (E) "Commission" means the Ohio state emergency response commission.
- (F) "Committee" means the local emergency planning committee for the emergency planning district in which the facility is located nominated by the county commissioners and adopted by the commission.
- (G) "Common name" means any designation or identification such as code names, code numbers, trade name, brand name, or generic name used to identify a chemical other than by its chemical name.
- (H) "Construction facility" means a facility which the equipment is owned and operated by a company involved in the process of building a permanent structure or roadway in which the equipment and company will be removed from the site upon completion of the building process.
- (I) "Contiguous" means the same or geographically adjacent property that may be divided by public or private right-of-way if the entrance and exit between the properties is at a crossroads intersection, and access is by crossings as opposed to going along the

right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access is considered contiguous property.

- (J) "Director" means the director of the Ohio EPA, or the director's designee.
- (K) "Emergency contact" means one person or office that can act as a referral if emergency responders need assistance in responding to a chemical release at the facility.
- (L) "Emergency Planning and Community Right-To-Know" (EPCRA) means Emergency Planning and Community Right-To-Know Act of 1986 contained in 42 USC 11001 to 11050 and regulations adopted thereunder.
- (M) "Emergency planning district" means an emergency planning district or joint emergency planning district designated under section 3750.03 of the Revised Code or a joint interstate emergency planning district established by agreement under that section.
- (N) "Environment" means navigable waters and any other surface water, ground water, drinking water supply, land surface or subsurface strata or ambient air.
- (O) "Establishment" means an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed.
- (P) "Extremely hazardous substance" means a substance listed by USEPA in paragraph (A) of rule 3750-20-30 of the Administrative Code and a substance listed by the commission in paragraph (B) of rule 3750-20-30 of the Administrative Code.
- (Q) "Facility" means all buildings, equipment, structures, and other stationary items which are located on a single site or contiguous or adjacent sites and which are owned or operated by the same person (or by person which controls, is controlled by, or under common control with). For purposes of chemical release notification under section 3750.06 of the Revised Code, the term does include motor vehicles, rolling stock, and aircraft. "Facility" includes man-made structures as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. A facility may contain more than one establishment.
- (R) "Facility emergency coordinator" means a designated facility representative who will participate in local emergency planning.
- (S) "Fire department" means a fire department of a municipal corporation or township, a township fire district, a joint township fire district, a private fire company or volunteer fire company that has entered into an agreement for the use and operation of

firefighting equipment with a municipal corporation, township, township fire district, or joint township fire district or, in a municipal corporation or township where no such fire department or district exists and no such agreement is in effect, the fire prevention officer of the municipal corporation or township having response jurisdiction for a regulated facility.

- (T) "First response equipment" means equipment, other than emergency response and firefighting vehicles, designed primarily for the purpose of facilitating the safe and efficient response to unanticipated and unauthorized releases of hazardous substances and extremely hazardous substances.
- (U) "Hazardous chemical" has the meanings given to that term in 29 CFR 1910.1200(c). The term also includes chemicals identified or listed pursuant to rule 3750-20-60 of the Administrative Code, but does not include any of the following:
- (1) Any food, food additive, color additive, drug, or cosmetic regulated by the food and drug administration of the United States department of health and human services;
 - (2) Any substance present as a solid in any manufactured item, to the extent that exposure to the substance does not occur under normal conditions of use;
 - (3) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public, including, without limitation, household and consumer products that are stored prior to or displayed for distribution to the consumer when in the same form and concentration and products that are not intended for distribution to the general public and are in the same form and concentration as products packaged for distribution to and use by the general public, unless the chemical is subject to a reporting requirement for which a variance has been issued under division (B) or (C) of section 3750.11 of the Revised Code;
 - (4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual;
 - (5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer; or
 - (6) Any substance that is subject to an exclusion under 29 CFR 1910.1200(b)(6).
- (V) "Hazard communication standard" means standards promulgated by the occupational safety and health administration, 29 CFR 1910.1200.

- (W) "Hazardous substances" means a substance listed by USEPA in paragraph (A) of rule 3750-20-50 of the Administrative Code and a substance listed by the commission in paragraph (B) of rule 3750-20-50 of the Administrative Code.
- (X) "Inventory form" means the "Emergency and Hazardous Chemical Inventory Form" containing Tier I and Tier II information as set forth in 42 USC 11022 or a form adopted by the commission as prescribed in rule 3750-30-20 of the Administrative Code.
- (Y) "Material safety data sheet (MSDS)" means the sheet required to be developed under 29 CFR 1910.1200(g).
- (Z) "Ohio EPA" means the Ohio environmental protection agency.
- (AA) "Oil" means oil of any kind or in any form including, without limitation, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.
- (BB) "Oil and gas extraction storage facility" means a facility that exclusively stores crude oil or liquid hydrocarbons or other fluids resulting, obtained, or produced in connection with the production of storage of crude oil or natural gas; receives the crude oil liquid hydrocarbon or other stored fluids by direct conveyance through piping or tubing; is located on the same site as, or on a site adjacent to, the well from which the crude oil, liquid hydrocarbons, or other fluids are produced or obtained; and is used for the storage of the crude oil, liquid hydrocarbons, or other fluids prior to their transportation off the premises of the facility for sale, use or disposal.
- (CC) "OSHA" means the occupational safety and health administration created by the Occupational Safety and Health Act of 1970.
- (DD) "Owner or operator" means the person who actually owns or operates any such facility and any other person who controls, is controlled by, or is under common control with the person who actually owns or operates the facility.
- (EE) "Person" means the state, any political subdivision, any other state or local body, the United States and any agency or instrumentality thereof, and any person as defined in section 1.59 of the Revised Code.
- (FF) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of into the environment including, without limitation: The abandonment or discarding of barrels, containers, and other closed receptacles that contained any oil, hazardous chemical, hazardous substance, or extremely hazardous substance. The term does not include any discharge, emission, injection, or disposal into the environment of any oil, hazardous chemical, hazardous substance, or extremely hazardous substance that is in

compliance with Chapter 1509., 3704., 3734., or 6111. of the Revised Code, or rules adopted thereunder, the terms or conditions of a current and valid permit or license, or order, issued thereunder, or a plan approval made thereunder.

(GG) "Reportable quantity (RQ)" means for any hazardous substance or extremely hazardous substance, the reportable quantity established in rule 3750-20-50 of the Administrative Code or rule 3750-20-30 of the Administrative Code.

(HH) "SARA" means the Superfund Amendments and Reauthorization Act of 1986.

(II) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction and ~~Indian country~~ tribal lands.

(JJ) "Threshold planning quantity (TPQ)" means, for an extremely hazardous substance listed in 40 CFR Part 355 Appendices A and B, the quantity listed in the columns (threshold planning quantity) for that substance.

(KK) "Threshold quantity (TQ)" means the minimum level for a hazardous chemical after which a facility becomes subject to rules 3750-30-15 and 3750-30-20 of the Administrative Code with respect to such chemical.

(LL) "USEPA" means the United States environmental protection agency.

(MM) "Vessel" means every watercraft or other artificial contrivance used or capable of being used as a means of transportation on water.

(NN) "Working days" include any day on which the state and federal government offices are open for normal business. Saturdays, Sundays, and official state and federal holidays are not working days; all other days are.

(OO) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, but ~~exclude~~ excludes the following:

(1) Discharges in compliance with a permit under Section 402 of the Clean Water Act;

(2) Discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit record with respect to a permit issued or modified under Section 402 of the Clean Water Act, and subject to a condition in such permit; ~~and~~.

- (3) Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under Section 402 of the Clean Water Act, that are caused by events occurring within the scope of relevant operating or treatment systems.

(PP) "Navigable waters" means the waters of the United States including the territorial seas as contained within the state of Ohio. The term includes the following:

- (1) All waters that are currently used, were used in the past, or may be susceptible to use in the interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- (2) Interstate waters, including interstate wetlands;
- (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any ~~such waters~~ of the following:
 - (a) That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (b) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;
 - (c) That are used or could be used for industrial purposes in interstate commerce;
- (4) All impoundments of waters otherwise defined as navigable waters under Section 402 of the Clean Water Act;
- (5) Tributaries of waters identified in paragraphs (PP)(1) to (PP)(4) of this rule: provided, that waste treatment systems (other than cooling ponds that meets the criteria contained in Section 402 of the Clean Water Act) are not waters of the United States.

(QQ) "Sheen" means an iridescent appearance on the surface of water.

(RR) "Sludge" means an aggregate of oil or oil and other matter of any kind in any form other than dredged soil having a combined specific gravity equivalent to or greater than water.

(SS) "Crude oil", "Crude", or "Petroleum" means liquid petroleum as it comes out of the ground, as distinguished from refined oils manufactured out of it. ~~Also called, simply "crude" or "petroleum."~~

(TT) "Complete file" means for the purposes of the first time filer credits under section 3750.14 of the Revised Code, the forms approved by the commission under rule 3750-30-20 and fee forms under rule 3750-50-01 of the Administrative Code for any facility that has met the requirements for a first time file in a previous year.

(UU) "First time file" means any file for a facility subject to the annual chemical inventory requirements of the section 3750.08 of the Revised Code, and the fee requirements of section 3750.13 of the Revised Code that has submitted an annual chemical inventory, as required, to the commission and to the responsible committee, and that has submitted an appropriate fee to the commission. Such a facility file shall become a first time file during the state fiscal year in which the requirements of sections 3750.08 and 3750.13 of the Revised Code have been met for the first time.

If a facility changes ownership and is subject to the requirements of section 3750.08 of the Revised Code the next annual submission of a complete file is considered to be a first time file. When such change results in the submission of a new report under sections 3750.07 and 3750.08 of the Revised Code.

(VV) "Inactive file" means a file for a facility for which the ~~owner/operator~~owner or operator has previously filed under rules 3750-30-20 and 3750-50-01 of the Administrative Code and that has subsequently changed ownership or status.

(WW) "Incomplete file" means, for the purposes of the first time filer credits under section 3750.14 of the Revised Code, any facility file not meeting the conditions required to be classified as a first time file or a complete file.

(XX) "Negative declaration" means any document which may be filed by a facility that it is not subject to either section 3750.07 or 3750.08 of the Revised Code and certifying that it has no hazardous chemicals at or above the threshold planning quantity.

(YY) Referenced materials. This chapter includes references to certain matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, ~~and/or~~ the particular edition or version of the material is included in this rule. For material subject to change, only the specific versions specified in this rule are referenced. Material is referenced as ~~it exists~~existed on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not applicable unless and until this rule has been amended to specify the new dates.

(1) Availability. The materials incorporated by reference are available as follows:

- (a) Annual Statement of Production (Form 10 Annual Statement of Production (DNR 5601)). Information and copies may be obtained by contacting: The Division of Mineral Resources Management, Ohio Department of Natural Resources, 1855 Fountain Square Court, Building H-2, H-3, Columbus, OH 43224; or by calling 614-265-6633; or by visiting the web site at ~~www.ohiodnr.com/portals/11/oil/forms/Production_forms/Annual_Statement_of_Production(form_10).xls~~<http://oilandgas.ohiodnr.gov/industry/electronic-forms>
- (b) Atomic Energy Act of 1954. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic form at ~~www.nrc.gov/who-we-are/governing-laws.html~~<http://www.nrc.gov/about-nrc/governing-laws.html>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (c) Chemical Abstract Service (CAS). Information can be obtained by writing to: "Chemical Abstract Service, 2540 Olentangy River Road, Columbus, OH 43202," or by visiting their web site at www.cas.org.
- (d) Clean Air Act. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act as amended in 1990 is also available in electronic format at www.epa.gov/oar/caa/. A copy of the Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (e) Clean Water Act. Information and copies may be obtained by writing to: "Superintendents of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic form at ~~http://www4.law.cornell.edu/uscode/33/ch26.html~~<https://www.gpo.gov/fdsys/pkg/USCODE-2015-title33/pdf/USCODE-2015-title33-chap26.pdf>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (f) Code of Federal Regulations. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at ~~http://ecfr.gpoaccess.gov/~~<http://ecfr.gpoaccess.gov/>

www.ecfr.gov/cgi-bin/ECFR?page=browse. The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."

- (g) Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic form at ~~<http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=BROWSE&TITLE=42USCC103>~~<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap103.pdf>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (h) Dunn & Bradstreet. Information may be obtained by contacting: The D&B Corporation, 103 JFK Parkway, Short Hills, NJ 07078; or by calling their customer service number at 1-800-234-3467 or by visiting the web site at <http://www.dnb.com/us/>.
- (i) Emergency Planning and Community Right-to-Know Act of 1986. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic format at ~~<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap116.pdf>~~<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap116.pdf>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (j) Hazardous Material Transportation Act. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic format at ~~<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title49/pdf/USCODE-2009-title49-subtitleIII-chap51.pdf>~~<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title49/pdf/USCODE-2009-title49-subtitleIII.pdf>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (k) International Union of Pure and Applied Chemistry (IUPAC). Information can be obtained by writing to: "IUPAC Secretariat, PO Box 13757,

Research Triangle Park, NC, 27709-3757," or by visiting their web site at http://www.iupac.org/dhtml_home.html <https://iupac.org/>.

- (l) National Response Center. Information may be obtained by contacting: National Response Center, c/o United States Coast Guard (G-OPF)-Room 2611, 2100 2nd Street, Southwest, Washington, DC 20593-8802; or by calling 1-800-424-8802 or 202-267-2675 or by visiting the web site at <http://www.nrc.uscg.mil/>.
- (m) North American Industry Classification System. Information may be obtained by contacting: The Census Bureau, Policy Office (Room 2430-FB-3), Washington, DC 20233-3700; or by calling their customer service at 301-763-4636 or by visiting the web site at www.census.gov/epcd/www/naics.html.
- (n) Occupational Safety and Health Act of 1970. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic format at <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title29/pdf/USCODE-2009-title29-chap15.pdf> <https://www.gpo.gov/fdsys/pkg/USCODE-2009-title29/pdf/USCODE-2009-title29-chap15.pdf>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (o) Resource Conservation and Recovery Act. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the act is also available in electronic format at <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap82.pdf> <https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap82.pdf>. A copy of the Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (p) SERC Facility Annual Chemical Inventory Filing Fee Worksheet, EPA Form 0320; revised September 2001.
- (q) Specifications of the "American Society for Testing and Materials." Information and copies may be obtained by writing to: "ASTM International, 100 Bar Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19426-2959." These documents are available for purchase at www.astm.org. ASTM documents are also

generally available at local public libraries and "The State Library of Ohio."

- (r) Specifications of the "National Fire Protection Association." Information and copies may be obtained by writing to: "NFPA (National Fire Protection Association), 1 Batterymarch Park, Quincy, MA 02169-7471." These documents are available for purchase at www.nfpa.org/. NFPA documents are also generally available at local public libraries and the "The State Library of Ohio."
- (s) Standard Industrial Classification. Information may be obtained by contacting: The Census Bureau, Policy Office (Room 2430-FB-3), Washington, DC 20233-3700; or by calling their customer service at 301-763-4636 or by visiting the web site at www.census.gov/epcd/www/naics.html.
- (t) Statement of Production of Oil, Gas, and Brine (Form 10 Annual Statement of Production (DNR5601); revised December 2001.
- (u) Superfund Amendments and Reauthorization Act of 1986. Information and copies may be obtained by writing to: "Superintendent of Documents, Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic format at ~~<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap103.pdf>~~<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap103.pdf>. The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (v) United States Code. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the United States Code is also available in electronic format at <http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE>. The USC compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (w) Uranium Mill Tailings Radiation Control Act of 1978. Information and copies may be obtained by writing to: "Superintendent of Documents", Attention: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act is also available in electronic form at ~~<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap88.pdf>~~<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42-chap88.pdf>

[title42/pdf/USCODE-2009-title42-chap88.pdf](#). The Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."

(2) Incorporated materials.

- (a) 29 USC 651 to 678; "Occupational Safety and Health"; published January 22, 2002 in Supplement I of the 2000 Edition of the United States Code; as amended June 12th, 2002, Pub. L. 107-188, sec. 153, 116 Stat. 631; February 20th, 2003, Pub. L. 108-7, 117 Stat. 303; and January 23rd, 2004, Pub. L. 108-199, 118 Stat. 232.
- (b) 29 CFR 1910.119; "Process Safety Management of Highly Hazardous Chemicals;" 57 FR 6403, Feb. 24, 1992; 57 FR 7847, Mar. 4, 1992, as amended at 61 FR 9238, Mar. 7, 1996; 67 FR 67964, Nov. 7, 2002.
- (c) 29 CFR 1910.120(q); " Hazardous Waste Operations and Emergency Response;" 54 FR 9317, Mar. 6, 1989, as amended at 55 FR 14073, Apr. 13, 1990; 56 FR 15832, Apr. 18, 1991; 59 FR 43270, Aug. 22, 1994; 61 FR 9238, Mar. 7, 1996; 67 FR 67964, Nov. 7, 2002.
- (d) 29 CFR 1910.1200; "Hazard Communication;" 59 FR 6170, Feb. 9, 1994, as amended at 59 FR 17479, Apr. 13, 1994; 59 FR 65948, Dec. 22, 1994; 61 FR 9245, Mar. 7, 1996.
- (e) 29 CFR 1910.1200(b); "Hazard Communication Standard;" 59 FR 6170, Feb. 9, 1994, as amended at 59 FR 17479, Apr. 13, 1994; 59 FR 65948, Dec. 22, 1994; 61 FR 9245, Mar. 7, 1996.
- (f) 29 CFR 1910.1200(c); "Hazard Communication Standard, Definitions;" 59 FR 6170, Feb. 9, 1994, as amended at 59 FR 17479, Apr. 13, 1994; 59 FR 65948, Dec. 22, 1994; 61 FR 9245, Mar. 7, 1996.
- (g) 29 CFR 1910.1200(g); "Hazard Communication Standard;" 59 FR 6170, Feb. 9, 1994, as amended at 59 FR 17479, Apr. 13, 1994; 59 FR 65948, Dec. 22, 1994; 61 FR 9245, Mar. 7, 1996.
- (h) 33 CFR Part 154, Subpart F; "Facilities Transferring Oil or Hazardous Materials in Bulk, Response Plans for Oil Facility;" as published in the July 1, 2010 Code of Federal Regulations.
- (i) 33 USC Section 1251 to 1387; " Water Pollution Prevention and Control;" published January 5, 2010 in Supplement III of the 2006 edition of the United States Code."

- (j) 40 CFR 110.5; "Discharges of oil not determined "as may be harmful" pursuant to Section 311(b)(3) of the Act;" 61 FR 7421, Feb. 28, 1996.
- (k) 40 CFR 112.7(d); "General Requirements for Spill Prevention, Control, and Counter Response Plans;" 67 FR 47146, July 17, 2002.
- (l) 40 CFR 112.20 to 112.21; "Facility Response Plans, Facility Response Training and Drills/Exercises;" 59 FR 34098-34101, July 1, 1994, as amended at 65 FR 40798, June 30, 2000; 66 FR 34560, June 29, 2001; 67 FR 47151, July 17, 2002.
- (m) 40 CFR 261.2; "Definition of Solid Waste;" 50 FR 664, Jan. 4, 1985, as amended at 50 FR 33542, Aug. 20, 1985; 56 FR 7206, Feb. 21, 1991; 56 FR 32688, July 17, 1991; 56 FR 42512, Aug. 27, 1991; 57 FR 38564, Aug. 25, 1992; 59 FR 48042, Sept. 19, 1994; 62 FR 6651, Feb. 12, 1997; 62 FR 26019, May 12, 1997; 63 FR 28636, May 26, 1998; 64 FR 24513, May 11, 1999; 67 FR 11253, Mar. 13, 2002.
- (n) 40 CFR 261.4(b); "Exclusions;" as published in the July 1, ~~2010~~2016 Code of Federal Regulations.
- (o) 40 CFR 261.20 to 261.24; "Subpart C- Characteristics of Hazardous Waste;" 45 FR 33119, May 19, 1980, as amended at 46 FR 35247, July 7, 1981; 51 FR 40636, Nov. 7, 1986; 55 FR 11862, Mar. 29, 1990; 55 FR 22684, June 1, 1990; 55 FR 26987, June 29, 1990; 56 FR 3876, Jan. 31, 1991; 58 FR 46049, Aug. 31, 1993; 67 FR 11254, Mar. 13, 2002.
- (p) 40 CFR 261.24; "Toxicity Characteristic;" 55 FR 11862, Mar. 29, 1990, as amended at 55 FR 22684, June 1, 1990; 55 FR 26987, June 29, 1990; 58 FR 46049, Aug. 31, 1993; 67 FR 11254, Mar. 13, 2002.
- (q) 40 CFR 279.53; "Standards for the Management of Used Oil;" 57 FR 41612, Sept. 10, 1992, as amended at 59 FR 10560, Mar. 4, 1994.
- (r) 40 CFR 350.25; "Disclosure in special circumstances;" 53 FR 28801, July 29, 1988.
- (s) 40 CFR Part 68; "Chemical Accident Prevention Provisions;" as published in the July 1, ~~2010~~2016 Code of Federal Regulations.
- (t) 40 CFR Part 122; "EPA Administered Permit Program: The National Pollutant Discharge Elimination System;" as published in the July 1, ~~2010~~2016 Code of Federal Regulations.

- (u) 40 CFR Part 264, Subpart D; "Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Contingency Plan and Emergency Procedures;" 45 FR 33221, May 19, 1980, as amended at 50 FR 4514, Jan. 31, 1985; 46 FR 27480, May 20, 1981; 48 FR 30115, June 30, 1983; 53 FR 37935, Sept. 28, 1988.
- (v) 40 CFR Part 265, Subpart D; "Interim Status Standards for Owners and operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Contingency Plan and Emergency Procedures;" 45 FR 33232, May 19, 1980, as amended at 50 FR 4514, Jan. 31, 1985; 46 FR 27480, May 20, 1981.
- (w) 40 CFR Part 302; "Designation, Reportable Quantities, and Notification;" 50 FR 13474, Apr. 4, 1985, as amended at 51 FR 34547, Sept. 29, 1987; 54 FR 22538, May 24, 1989; 54 FR 33481, Aug. 14, 1989; 54 FR 33449, Aug. 14, 1989; 55 FR 30185, July 24, 1990; 63 FR 13475, Mar. 19; 63 FR 42189, Aug. 6, 1998; 64 FR 13114, Mar. 17, 1999; 65 FR 87132, Nov. 8, 2001; 67 FR 45321, July 9, 2002; 67 FR 45356-57, July 9, 2002; 71 FR 58533, Oct. 4, 2006; 73 FR 76959, Dec. 18, 2008; 76 FR 9666, Feb. 22, 2011; 77 FR 10390, Feb. 22, 2012; 80 FR 37123, June 29, 2015.
- (x) 40 CFR Part 350; "Trade Secrecy Claims For Emergency Planning And Community Right-To-Know Information: And Trade Secret Disclosures To Health Professionals;" as published in the July 1, ~~2010~~2016 Code of Federal Regulations.
- (y) 40 CFR Part 355; "Emergency Planning and Notification;" 52 FR 13395, April 22, 1987; as amended at 54 FR 22543, May 24, 1989; 54 FR 38853, Sept. 21, 1989; 55 FR 30188, July 24, 1990; 55 FR 30645, July 26, 1990; 61 FR 20479-20484, May 7, 1996; 63 FR 13475, Mar. 19, 1998; 64 FR 13115, Mar. 17, 1999; 68 FR 52984, Sept. 8, 2003; 73 FR 65462 Nov. 3, 2008; 73 FR 76960, Dec. 18, 2008; 77 FR 16688, Mar. 22, 2012.
- (z) 40 CFR Part 355, Appendix A; "Emergency Planning and Notification, The List of Extremely Hazardous Substances and their Threshold Planning Quantities;" 61 FR 20479, May 7, 1996, as amended at 68 FR 52984, Sept. 8, 2003.
- (aa) 40 CFR, Part 355, Appendix B; "Emergency Planning and Notification, The List of Extremely Hazardous Substances and their Threshold Planning Quantities;" 61 FR 20484, May 7, 1996, as amended at 68 FR 52984, Sept. 8, 2003.

- (bb) 40 CFR Part 370; "Hazardous Chemical Reporting: Community Right-To-Know;" 52 FR 38364, Oct. 15, 1987, as amended at 55 FR 30645, July 26, 1990; 64 FR 7047, Feb. 11, 1990; 55 FR 30646-30650, July 26, 1990.
- (cc) 42 USC Section 6901 to 6992K; "Solid Waste Disposal;" as published January 5, 2010 in Supplement III of the 2006 edition of the United States Code.
- (dd) 42 USC 9601 to 9675; "Superfund Amendments and Authorization Act of 1986;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (ee) 42 USC 11001 to 11050; "Emergency Planning and Community Right-to-Know Act;" Pub.L. 99-499, Title III, Section 301-330, October 17, 1986, 100 Stat. 1729-1758.
- (ff) 42 USC 11022; "Emergency and Hazardous Chemical Inventory Forms;" Pub. L. 99-499, title III, sec. 312, Oct. 17, 1986, 100 Stat. 1738.
- (gg) 49 CFR Part 194; " Response Plans for Onshore Oil Pipelines;" 58 FR 253, Jan. 5, 1993, as amended at 62 FR 67293, Dec. 24, 1997; 63 FR 37505, July 13, 1998.
- (hh) 49 USC Section 5112; "Highway Routing of Hazardous Materials;" published January 5, 2010 in Supplement III of the 2006 edition of the United States Code."
- (ii) ASTM E136-11; "Standard Test, Method for Behavior of Materials in a Verticle Tube Furnace at 750*C;" approved January 15, 1993; reapproved 2000; amended January 15, 2011.
- (jj) NFPA 414, "Standard for Aircraft Rescue and Fire-Fighting Vehicles;" approved July 13, 2001; effective date August 2, 2001.
- (kk) Section 7 of NFPA 101, "The Life Safety Code;" approved January 17, 2003; effective date February 6, 2003.
- (ll) Section 101(10) of CERCLA; contained in 42 USC 9601; "Notification Requirements Respecting Released Substances;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (mm) Section 102(a)(1) of the Uranium Mill Tailings Radiation Control Act of 1978; contained in 42 USC 7912; "Processing Site Designations;" as

published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.

- (nn) Section 103(a) of CERCLA; contained in 42 USC 9603; "Notice to National Response Center Upon Release From Vessel or Offshore or Onshore Facility by Person in Charge; Conveyance of Notice by Center;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (oo) Section 103(e) of CERCLA; contained in 42 USC 9603; "Notification Requirements Respecting Released Substances, Applicability to Registered Pesticide Product;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (pp) Section 104 of CERCLA; contained in 42 USC 9604; "Response Authorities;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (qq) Section 170 of the Atomic Energy Act of 1954: as contained in 42 USC 2210, "Indemnification and Limitations of Liability;" published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code."
- (rr) Section 302 of the Emergency Planning and Community Right-to-Know Act of 1986; contained in 42 USC 11002; "Substance Facilities Covered and Notification;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (ss) Section 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978; contained in 42 USC 7942; "Designation by Secretary as Processing Sites for Subchapter I Purposes;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (tt) Section 312 of the Emergency Planning and Community Right-to-Know Act; contained in 42 USC 11022; "Emergency and Hazardous Chemical Inventory Forms;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (uu) Section 313 of the Emergency Planning and Community Right-to-Know Act; contained in 40 CFR Part 372; "Toxic Chemical Release Reporting: Community Right-to-Know;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.

- (vv) Section 322 of the Emergency Planning and Community Right-to-Know Act; contained in 42 USC 11042; "Trade Secrets;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (ww) Section 402 of the Clean Water Act; contained in 33 USC 1342; "National Pollutant Discharge Elimination System;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.
- (xx) Section 11049 of the Emergency Planning and Community Right-to-Know Act of 1986; "Definitions;" as published January 5, 2010 in "Supplement III" of the 2006 edition of the United States Code.

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3750-15-05

Public notice of proposed rules.

- (A) The commission shall follow the procedures specified in this rule and section 119.03 of the Revised Code in giving public notice as to the adoption, amendment, or rescission of rules.
- (B) As used in this chapter and as defined in division (C) of section 119.01 of the Revised Code, "rule" means any rule, regulation, or standard, having a general or uniform operation, adopted or promulgated, and enforced by the commission.
- (C) Public notice of the intention of the commission to consider adopting, amending or rescinding a rule shall be published in the register of Ohio in accordance with the requirements in section 119.03 of the Revised Code at least thirty days prior to the date set for a public hearing to consider adopting, amending, or rescinding said ~~rule(s)~~rule. The said notice shall include the following:
- (1) A general statement of the commission's intention to consider adopting, amending or rescinding the rule;
 - (2) A synopsis or general statement of the subject matter of the proposed rule; amendment, or rule to be rescinded by the commission;
 - (3) A statement of the reason or purpose for adopting, amending or rescinding the rule;
 - (4) The date, time, and place of the public hearing on the proposed rule.
- (D) Public notice of the adoption, amendment, or rescission by the commission of final rules shall be published in the register of Ohio in accordance with the requirements in section 119.03 of the Revised Code at least ten days prior to the effective date of the said rule, except when the governor, pursuant to division (F) of section 119.03 of the Revised Code, declares an emergency allowing for the immediate adoption, amendment, or rescission of a rule. In such a case, the commission shall, as expeditiously as is practical following the adoption, amendment, or rescission of an emergency rule, publish the public notice of such action in the register of Ohio.
- (E) The commission shall provide notice to each committee through ~~its~~the designated information coordinator. The commission shall take such additional steps as are reasonably determined to inform interested persons of the time, date, and place of the public hearing.
- (F) Copies of the full text of the proposed rule, amendment, or rule to be rescinded shall be available at least thirty days prior to the date set for a public hearing by the commission for any person who wishes to obtain such copies.

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3750-25-01 **Facilities subject to emergency release notification requirements.**

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials."]

(A) A facility as defined in paragraph (Q) of rule 3750-1-01 of the Administrative Code that meets both of the following criteria is subject to the release notification reporting requirements of section 3750.06 of the Revised Code:

- (1) Where a hazardous chemical is produced, used or stored; ~~and,~~
- (2) From which there is a release of an extremely hazardous substance or hazardous substance or oil in a quantity equal to or exceeding the applicable reportable quantity established under rules 3750-20-30, 3750-20-50, and 3750-25-20 of the Administrative Code.

(B) Release notification reporting requirements of 3750.06 of the Revised Code are not required for any of the following:

- (1) Any release of an extremely hazardous substance, hazardous substance, or oil from a facility that results in exposure to persons solely within the site or sites on which the facility is located.

"Site" for purposes of this section includes facility as defined in paragraph (Q) of rule 3750-1-01 of the Administrative Code, in addition to the surrounding property within the boundaries of the facility.

- (2) Any release which is a "federally permitted release" as defined in section 101(10) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

(3) Any release that is:

(a) Continuous and stable in quantity and rate under definitions in paragraph (B) of rule 3750-25-15 of the Administrative Code. Exemptions from notification under this paragraph does not include exemption from:

(i) Initial notification as defined under paragraphs (D)(1) and (D)(2) of rule 3750-25-15 of the Administrative Code.

(ii) Notification of statistically significant increase, as defined in paragraph (B) of rule 3750-25-15 of the Administrative Code as any

increase above the upper bound of the reported normal range which is to be submitted to the emergency coordinator for the committee for any area likely to be affected by the release and to the state emergency response commission of any state like to be affected by the release;.

- (iii) Notification of a "new release" as defined in paragraph (D)(4)(a) of the 3750-25-15 of the Administrative Code; ~~or.~~
 - (iv) Notification of change in the normal range of release as required under paragraph (D)(5) of rule 3750-25-15 of the Administrative Code.
- (4) Any release of a pesticide product exempt from reporting under Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA);.
- (5) Any release not meeting the definition of release as defined in paragraph (FF) of the rule 3750-1-01 of the Administrative Code and therefore exempt from reporting under section 3750.06 of the Revised Code.
- (6) Any radionuclide release which occurs any of the following:
- (a) Naturally occurring in soil from land holdings such as parks, golf courses, or other large tracks of land;.
 - (b) Naturally from the disturbance of land for purposes of mining such as for agricultural or construction activities;.
 - (c) From dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; ~~and.~~
 - (d) From coal and coal ash piles at utility and industry facility with coal-fired boilers.
- (7) Any release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in Atomic Energy Act of 1954, if the release is subject to the requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of The Atomic Energy Act of 1954.
- (8) For purposes of section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) or any other response action, any release of source, byproduct, or special nuclear material from any

processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978.

- (9) Any discharges of oil from a properly functioning vessel engine as set forth under 40 CFR Part 110.5. However, discharges of such oil accumulated in a vessel's bilges shall not be so exempt from reporting under section 3750.06 of the Revised Code.
 - (10) Any emissions from engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipeline pumping station engine.
 - (11) Any controlled application of oil for the purpose of constructing, repairing or maintaining a roadway, public path, or parking lot. This exemption does not apply to any oil which leaves the roadway, public path, or parking lot in a reportable quantity established in rule 3750-25-20 of the Administrative Code.
 - (12) Any emergency release of aviation fuel from an aircraft that is in compliance with current applicable federal aviation administration guidelines for such releases.
 - (13) Any release in amounts less than one thousand pounds per twenty four hours of:
 - (a) Nitrogen oxide to the air that is the result of combustion and combustion-related activities.
 - (b) Nitrogen dioxide to the air that is the result of combustion and combustion-related activities.
- (C) Release notification reporting requirements of section 3750.06 of the Revised Code are required for oil as defined in paragraph (AA) of rule 3750-1-01 of the Administrative Code and set forth under rule 3750-25-25 of the Administrative Code.

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3750-25-05

Designation of hazardous substances.

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials".]

(A) Listed hazardous substances.

The elements and compounds and hazardous waste identified under rule 3750-20-50 of the Administrative Code are designated as hazardous substances for purposes of agency 3750 of the Administrative Code.

(B) Unlisted hazardous substances.

A solid waste, as defined in 40 CFR Part 261.2, which is not excluded from regulation as a hazardous waste under 40 CFR Part 261.4(b), is a hazardous substance for purposes of agency 3750 of the Administrative Code if ~~it~~the solid waste exhibits any of the characteristics identified in 40 CFR Part 261.20 to Part 261.24.

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3750-25-10

Determination of reportable quantities for hazardous substances.

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials."]

(A) Listed hazardous substances.

The quantity listed in the column entitled "Final RQ" for each substance in 40 CFR Part 302 Table 302.4, or in Appendix B to Table 302.4 is the reportable quantity (RQ) for that substance. The table and appendix has been incorporated by reference under paragraph (A) of rule 3750-20-50 of the Administrative Code. The RQs in 40 CFR Part 302 Table 302.4 are in units of pounds based on chemical toxicity, while the RQs in 40 CFR Part 302 Appendix B to Table 302.4 are in units of curies based on radiation hazard. Whenever the RQs in 40 CFR Part 302 Table 302.4 and Appendix B to the table are in conflict, the lowest RQ shall apply.

(B) Unlisted hazardous substances.

Unlisted hazardous substances designated by 40 CFR Part 302 Table 302.4 have the reportable quantity of one hundred pounds, except for those unlisted hazardous wastes which exhibit extraction procedure "Toxic Characteristic Leaching Procedure" (TCLP) toxicity identified in 40 CFR Part 261.24. Unlisted hazardous wastes which exhibit TCLP toxicity have the reportable quantities listed in 40 CFR Part 302 Table 302.4 for the contaminant on which the characteristic of TCLP toxicity is based. The reportable quantity applies to the waste itself, not merely to the toxic contaminant. If an unlisted hazardous waste exhibits TCLP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed in 40 CFR Part 302 Table 302.4 for those contaminants. If an unlisted hazardous waste exhibits the characteristic of TCLP toxicity and one or more of the other characteristics referenced in 40 CFR Part 302 Table 302.4, the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

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3750-25-15

Calculations for reportable quantities of continuous releases.

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials."]

- (A) Except as provided in paragraph (C) of this rule, ~~no~~ release notification shall not be required under rule 3750-25-25 of the Administrative Code for any release of a hazardous substance that is pursuant to the definitions in paragraph (B) of this section continuous and stable in quantity and rate.
- (B) The following terms are defined terms which apply this section of release notification of continuous releases:
- (1) "Continuous" or "continuous release" means a release that occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes.
 - (2) "Normal range" means all releases (in pounds or kilograms) of a hazardous substance reported or occurring over any twenty-four hour period under normal operating conditions during the preceding year. Only releases that are both continuous and stable in quantity and rate may be included in the normal range.
 - (3) "Routine" means a release that occurs during normal operating procedures or processes.
 - (4) "Stable in quantity and rate" means a release that is predictable and regular in amount and rate of emission.
 - (5) "Statistically significant increase" means a release is an in the quantity of the hazardous substances released above the upper bound of the reported normal range of the release.
- (C) The owner or operator of the facility or vessel shall establish a sound basis for qualifying the release as a continuous release by one of the following methods:
- (1) Using release data, engineering estimates, knowledge of operating procedures, or best professional judgement to establish the continuity and stability of the release; ~~or,~~
 - (2) Reporting the release to the Ohio EPA for a period sufficient to establish the continuity and stability of the release.

When an owner or operator in charge of the facility or vessel believes that a basis has been established to qualify the release for reduced reporting under this section, initial reporting shall be made consistent with paragraph (D) of this rule.

(D) The owner or operator of a facility or vessel shall provide the following notifications for any release qualifying for the reduced reporting under this rule:

(1) Initial telephone notification. Initial notification shall be made by telephone to the Ohio EPA. The person in charge ~~must~~shall identify the notification as an initial continuous release notification report and provide the following information:

(a) The name and location of the facility or vessel;~~and,~~

(b) The ~~name(s)~~name and ~~identity(ies)~~identity of the hazardous ~~substance(s)~~substance being released.

(2) Initial written notification. Initial written notification of a continuous release shall be made to the Ohio EPA and appropriate committee for the geographic area where the releasing facility or vessel is located.

(a) Initial written notification to the Ohio EPA and appropriate committee shall occur within thirty days of the initial telephone notification, and shall include, for each release for which reduce reporting as a continuous release is claimed, the following information:

(i) The name of the facility or vessel~~;~~

(ii) The location of the facility or vessel, including the latitude and longitude~~;~~

(iii) The spill number assigned by the Ohio EPA and the national response center case number~~;~~

(iv) The dunn and bradstreet number of the facility, if available~~;~~

(v) The port of registration of the vessel~~;~~

(vi) The name and telephone number of the person in charge of the facility~~;~~

(vii) The population density within a one-mile radius of the facility or vessel, described in terms of the following:

0 - 50 persons

51 - 100 persons

101 - 500 persons

501 - 1,000 persons

More than 1,000 persons

- (viii) The identity and location of sensitive populations and ecosystems within a one-mile radius of the facility or vessel (e.g., elementary schools, hospitals, retirement communities, or wetlands); ~~and,~~
- (ix) For each hazardous substance release claimed to qualify for continuous release, the following information ~~must~~shall be supplied:
- (a) The name and identity of the hazardous substance, the chemical abstracts service registry number for the substance (if available); and if the substance being released is a mixture, the components of the mixture and their approximate concentrations and quantities, by weight;~~;~~
- (b) The upper and lower bounds of the normal range of the release (in pounds or kilograms) over the previous year;~~;~~
- (c) The ~~source(s)~~source of the release (e.g., valves, pump seals, storage tank vents, stacks). If the release is from a stack, the stack height (in feet or meters);~~;~~
- (d) The frequency of the release and the fraction of the release from each release source and the specific periods over which it occurs;~~;~~
- (e) A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate;~~;~~
- (f) An estimate of the total annual amount that was released in the previous year (in pounds or kilograms);~~;~~
- (g) The following environmental ~~medium(a)~~medium affected by the release:

- (i) If surface water, the names of the surface water body;
 - (ii) If a stream, the stream order or average flowrate (in cubic feet/second) and designated use;
 - (iii) If a lake, the surface area (in acres) and average depth (in feet or meters);
 - (iv) If on or under ground, the location of public water supply wells with-in two miles.
- (h) A signed statement that the hazardous substance ~~release(s)~~release described is ~~(are)~~ continuous and stable in quantity and rate under the definitions in paragraph (B) of this rule and that all reported information is accurate and current to the best knowledge of the owner or operator.
- (3) Follow-up notification. Within thirty days of the first anniversary date of the initial written notification, the owner or operator of the facility or vessel shall evaluate each hazardous substance release reported to verify and update the information submitted in the initial written notification. The follow-up notification shall include the following information:
- (a) The name of the facility or vessel;
 - (b) The location of the facility or vessel including the latitude and longitude;
 - (c) The spill number assigned by Ohio EPA and the national response center case number.
 - (d) The dunn and bradstreet number of the facility, if available;
 - (e) The port of registration of the vessel;
 - (f) The name and telephone number of the person in charge of the facility or vessel;
 - (g) The population density within a one-mile radius of the facility or vessel, described in terms of the following:
 - 0 - 50 persons
 - 51 - 100 persons
 - 101 - 500 persons

501 - 1,000 persons

More than 1,000 persons

- (h) The identity and location of sensitive populations and ecosystems within a one-mile radius of the facility or vessel (e.g., elementary schools, hospitals, retirement communities, or wetlands); ~~and,~~
- (i) For each hazardous substance release claimed to qualify for reporting as a continuous release as defined under paragraph (B) of this rule, the following information shall be supplied:
- (i) The name and identity of the hazardous substance; the chemical abstracts service registry number for the substance (if available); and if the substance being released is a mixture, the components of the mixture and their approximate concentrations and quantities, by weight;
 - (ii) The upper and lower bounds of the normal range of the release (in pounds or kilograms) over the previous year;
 - (iii) The ~~source(s)~~ source of the release (e.g., valves, pump seals, storage tank vents, stacks). If the release is from a stack, the stack height (in feet or meters);
 - (iv) The frequency of the release and the fraction of the release from each release source and the specific periods over which it occurs;
 - (v) A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate;
 - (vi) An estimate of the total annual amount that was released in the previous year (in pounds or kilograms);
 - (vii) The environmental ~~medium(a)~~ medium affected by the release:
 - (a) If surface water, the names of the surface water body;
 - (b) If a stream, the stream order or average flowrate (in cubic feet/second) and designated use;
 - (c) If a lake, the surface area (in acres) and average depth (in feet or meters);

(d) If on or under ground, the location of public water supply wells within two miles.

(viii) A signed statement that the hazardous substance ~~release(s)~~release described is ~~(are)~~ continuous and stable in quantity and rate under the definitions in paragraph (B) of this rule and that all reported information is accurate and current to the best knowledge of the owner or operator.

(4) Notification of changes in release. If there is a change in the release, notification of the change, not otherwise reported, shall be provided in the following manner:

Notification of changes required under this rule shall include the spill number assigned by the Ohio EPA and the national response center case number and also the signed certification statement required under paragraphs (D)(2)(a)(ix) (h) and (D)(3)(i)(viii) of this rule.

(a) If there is any change in the composition or ~~source(s)~~source of the release, the release is a new release and ~~must~~shall be qualified for reporting under this rule by the submission of the initial verbal telephone notification and the initial written notification in accordance with paragraphs (D)(1) and (D)(2) of this rule as soon as there is a sufficient basis for asserting that the release is continuous and stable in quantity and rate.

(b) If there is a change in the release such that the quantity of the release exceeds the upper bound of the reported normal range, the release ~~must~~shall be reported as a statistically significant increase in the release. If a change will result in a number of releases that exceed the upper bound of the normal range, the owner or operator of a facility or vessel may modify the normal range by the following:

(i) Reporting at least one statistically significant increase report as required under paragraph (D)(5) of this rule and, at the same time, informing the Ohio EPA of the change in the normal range; ~~and,~~

(ii) Submitting, within thirty days of the initial telephone notification, written notification to the Ohio EPA and appropriate committee describing the normal range, the reason for the change, and the basis for stating that the release in the increased amount is continuous and stable in quantity and rate under the definitions in paragraph (B) of this rule.

- (c) If there is a change in any information submitted in the initial written notification or the follow-up notification other than the change in the source, composition, or quantity of the release, the owner or operator of the facility or vessel shall provide written notification of the change to Ohio EPA and the appropriate committee for the geographic area where the facility or vessel is located, within thirty days of determining that the information submitted previously is no longer valid. Notification shall include the reason for the change, and the basis for stating that the release is continuous and stable under the changed conditions.
- (5) Notification of statistically significant increase in the release. Notification of statistically significant increase in release shall be made to the Ohio EPA as soon as the owner or operator of the facility or vessel has knowledge of the increase. The release ~~must~~shall be identified as a statistically significant increase in the continuous release. A determination of whether the increase is a "statistically significant increase" shall be made based upon calculations or estimation procedures that will identify releases that exceed the upper bound of the normal range.
- (E) Each hazardous substance release shall be evaluated annually to determine if changes have occurred in the information submitted in the initial written notification, the follow-up notification, ~~and/or~~ in a previous change notification.
- (F) In lieu of an initial written report or follow-up report, owners or operators of subject facilities subject to the requirements of Section 313 of the SARA Title III, Emergency Planning and Community Right to Know Act (EPCRA) 1986, and Chapter 3751. of the Revised Code may submit to the Ohio EPA and the appropriate committee for the geographic area where the facility is located, a copy of the Toxic Release Inventory Form submitted under Section 313 of SARA Title III, Emergency Planning and Community Right to Know Act (EPCRA), and Chapter 3751. of the Revised Code the previous July first, provided that the following information is added:
- (1) The population density within a one-mile radius of the facility or vessel, described in terms of the following:
- 0 - 50 persons
 - 51 - 100 persons
 - 101 - 500 persons
 - 501 - 1,000 persons
 - More than 1,000 persons

- (2) The identity and location of sensitive populations and ecosystems within a one-mile radius of the facility or vessel (e.g., elementary schools, hospitals, retirement communities, or wetlands); ~~and,~~
 - (3) For each hazardous substance release claimed to qualify for continuous release, the following information ~~must~~shall be supplied:
 - (a) The upper and lower bounds of the normal range of the release (in pounds or kilograms) over the previous year.
 - (b) The frequency of the release and the fraction of the release from each release source and the specific periods over which it occurs.
 - (c) A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate; ~~,~~
 - (d) A signed statement that the hazardous substance ~~release(s)~~release is ~~(are)~~ continuous and stable in quantity and rate under the definitions in paragraph (B) of this rule and that all reported information is accurate and current to the best knowledge of the owner or operator.
- (G) Where necessary to satisfy the requirements of this rule, the owner or operator of the facility or vessel may rely on recent release data, engineering estimates, the operating history of the facility or vessel, or other relevant information to support notification.
- (1) All supporting documents, materials, and other information shall be kept on file at the facility, or in the case of a vessel, at an office within the state of Ohio in either the port of call, a place of regular berthing, or the headquarters of the business operating the vessel.
 - (2) Supporting materials shall be kept on file for a period of one year and shall substantiate the reported normal range of releases, the basis for stating that the release is continuous and stable in quantity and rate, and the other information in the initial written report, the follow-up report, and the annual evaluations required under paragraphs (D)(2), (D)(3), and (E) of this rule.
 - (3) Supporting information shall be made available to Ohio EPA upon request as necessary to enforce the requirements of this rule.
- (H) Multiple current release of the same substance occurring at various locations with respect to contiguous plants or installations upon contiguous grounds that are under common ownership or control may be considered separately or added together in determining whether such releases constitute a continuous release or statistically significant increase under the definitions in paragraph (B) of this rule; whichever

approach is elected for purposes of determining whether a release is continuous also ~~must~~shall be used to determine a statistically significant increase in the release.

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3750-30-01

Facilities subject to hazardous chemical reporting requirements.

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials."]

(A) A facility that meets both of the following criteria is subject to hazardous chemical reporting under rules 3750-30-15 and 3750-30-20 of the Administrative Code:

- (1) Any facility whose owner or operator is required to prepare or have available a "Material Safety Data Sheet (MSDS)" for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 USC 651 to 678, as amended, and regulations adopted thereunder; ~~and,~~
- (2) The facility has present an amount of any one or more hazardous ~~chemical(s)~~ chemical equal to or exceeding the threshold quantity established under rule 3750-30-27 of the Administrative Code.

(B) An agricultural producer, as defined in paragraph (B) of rule 3750-1-01 of the Administrative Code, who has complied with section 302 of the Emergency Planning and Community Right-To-Know Act of 1986, and divisions (B) and (C) of section 3750.05 of the Revised Code, is not a facility subject to this rule with respect to the producer's agricultural activities.

(C) This chapter does not apply to the transportation, including the storage incident to such transportation, of any substance or chemical subject to the requirements of this chapter, including transportation and distribution of natural gas.

(D) A retail gas station, which is engaged in selling gasoline ~~and/or~~ diesel fuel principally to the general public for motor vehicle use on land, with gasoline ~~and/or~~ diesel fuel stored entirely underground, in compliance with all applicable underground storage (UST) requirements and with quantities of gasoline and/or diesel fuel that do not exceed the quantities specified in rule 3750-30-27 of the Administrative Code is not a facility subject to the reporting requirements under rules 3750-30-15 and 3750-30-20 of the Administrative Code.

~~(E) An owner or operator of a facility that is an oil and gas extraction storage facility as defined in paragraph (BB) of rule 3750-1-01 of the Administrative Code shall prepare and submit to the chief of the division of mineral resources management, Ohio department of natural resources, on or before the first day of March of each year, a "Statement of Production of Oil, Gas, and Brine (Form 10 Annual Statement of Production (DNR5601))", for the last preceding calendar year as required under Chapter 1509. of the Revised Code. An owner or operator of such a facility who~~

~~has filed such a report shall be deemed to have satisfied the reporting requirements under section 3750.07 and 3750.08 of the Revised Code, but is still subject to the reporting requirements under sections 3750.06 and 3750.13 of the Revised Code.~~ An owner or operator of a facility regulated under 1509, of the Revised Code and that is an oil and gas extraction storage facility as defined in paragraph (BB) of rule 3750-1-01 of the Administrative Code shall prepare and submit to the chief of the division of oil and gas resources management, Ohio department of natural resources, on or before the first day of March of each year, information that shall contain the information consistent with the information that is required to be submitted under the “Emergency Planning and Community Right-to-Know Act of 1986 and regulations adopted thereunder it, for the last preceding calendar year. An owner or operator of such a facility who has reported the information to the chief of the division of oil and gas resources management as directed under 1509.231 of the Revised Code shall be deemed to have satisfied the reporting requirements under section 3750.07 and 3750.08 of the Revised Code, but is still subject to the reporting requirements under sections 3750.06 and 3750.13 of the Revised Code.

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3750-30-20

Facility emergency and hazardous chemical inventory form.

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials."]

(A) Each owner or operator of a facility that is subject to rule 3750-30-01 of the Administrative Code shall annually prepare a facility emergency and hazardous chemical inventory report containing the information as defined in paragraphs (B) to (D) of this rule using either forms prescribed by the commission or via electronic submission as prescribed by the commission. The owner or operator of a facility subject to this rule shall annually submit this report on or before of March first of each year to each of the following:

- (1) The local emergency planning committee of the emergency planning district in which the facility is located.
- (2) The commission.
- (3) The fire department having jurisdiction over the facility.

[Comment: Ohio's commission has adopted a resolution requesting the submission of tier II information on Ohio's approved forms. In addition to the requirements in paragraph (A) of this rule, each owner or operator must submit an annual inventory filing fee and facility annual chemical inventory fee worksheet (EPA 0320) as prescribed in rule 3750-50-01 of the Administrative Code to the commission.]

(B) An owner or operator of a facility that is subject to rule 3750-30-01 of the Administrative Code shall submit facility identification information that includes, but is not limited to, the following:

- (1) The calendar year of the reporting period.
- (2) An indication whether the information being reported on page one of the form is identical to that submitted last year.
- (3) The complete name and address of the location of the facility (include the full street address or state road, city, county, state and zip code), latitude and longitude.
- (4) An indication if the location of the facility is manned or unmanned.

- (5) An estimate of the maximum number of occupants present at any one time. If the location of the facility is unmanned, check the box marked N/A, not applicable.
- (6) The phone number of your facility (optional).
- (7) The "North American Industry Classification System (NAICS)" code for your facility.
- (8) The "Dun & Bradstreet" number of your facility.
- (9) Facility identification numbers assigned under the "Toxic Release Inventory (TRI)" and risk management program. If the facility has not been assigned an identification number under these programs or if the facility is not subject to reporting under these programs, check the box marked N/A, not applicable.
- (10) An indication if the facility is subject to the emergency planning notification requirement under section 3750.05 of the Revised Code.
- (11) An indication whether the facility is subject to the chemical accident prevention requirements under section 112(r) of the Clean Air Act (CAA), codified in 40 CFR part 68, chemical accident prevention provisions, also known as the risk management program.
- (12) The name, mailing address, phone number and email address of the owner or operator of the facility.
- (13) The name, title, phone number, twenty four-hour phone number and email address of the facility emergency coordinator, if applicable.
- (14) The name, title, phone number and email address of the person to contact regarding information contained in the tier II form.
- (15) The name, title, phone number and email address of at least one local individual that can act as a referral if emergency responders need assistance in responding to a chemical accident at the facility. An emergency phone number which will be available twenty four hours a day, every day shall also be provided.
- (16) A certification signed by owner or operator or an officially designated representative who certifies that the information submitted on this document has been personally examined and that the representative is familiar with the information submitted on this document and based upon inquiry of those individuals responsible for obtaining the information, it is believed that the submitted information is true, accurate and complete as follows: "I certify under penalty of law that I have personally examined and am familiar with

the information and based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete." This certification shall be accompanied by the full name, official title, signature, date signed, and total number of pages in the submission. All other pages shall also contain the signature or signature stamp, the date the certification was signed, and the total number of pages in the submission.

(C) In addition to the above listed information in paragraph (B) of this rule, an owner or operator is requested to submit the following additional information applicable to the facility:

- (1) The name, mailing address, phone number, "Dun & Bradstreet" number and e-mail of the facility's parent company.
- (2) Any Ohio EPA identification number assigned to a facility, as may be required pursuant to the "Resource Conservation and Recovery Act" (RCRA), contained in 42 USC Section 6901 to 6992K.
- (3) Any permit held by a facility under the "National Pollution Discharge Elimination System" (NPDES) issued pursuant to state or federal authority under the "Clean Water Act" contained in 33 USC Section 1251 to 1387 and Chapter 6111. of the Revised Code.
- (4) Any state wastewater facility permit number designated to the facility pursuant to Chapter 6111. of the Revised Code.
- (5) Any pretreatment identification number designated to the facility pursuant to Chapter 6111. of the Revised Code.
- (6) Any air permit facility number designated to the facility pursuant to Chapter 3704. of the Revised Code.

(D) In addition to the above information in paragraphs (B) and (C) of this rule, an owner or operator shall submit the following information as applicable to the facility:

- (1) An indication whether the information being reported is identical to that submitted last year.
- (2) For each hazardous chemical required to be reported, the following:
 - (a) Pure chemical: Provide the chemical name (or the common name of the chemical) as provided on the "Material Safety Data Sheet (MSDS)" and

provide the "Chemical Abstract Service (CAS)" registry number of the chemical provided on the MSDS.

- (b) Indicate whether the chemical is a solid, liquid, or gas; and whether the chemical is an "Extremely Hazardous Substance (EHS)."
- (c) Mixture: If reporting a mixture, enter the mixture name, product name or trade name as provided on the MSDS and provide the CAS registry number of the mixture provided on the MSDS. If there is no CAS number provided or it is not known, check the box "Not Available."
- (d) If the mixture being reported contains EHS; provide the name of each EHS in the mixture. The owner or operator also has an option to report the non-EHS hazardous components in the mixture.
- (e) Pure chemical or mixture: Indicate which hazard categories apply to the chemical or the mixture. The ~~five~~two hazard categories are established in rule 3750-30-25 of the Administrative Code.
- (f) Provide an estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility on any single day during the preceding calendar year. If you are reporting a mixture, provide an estimate of the total amount of the mixture present at the facility on any single day during the preceding calendar year. If the mixture contains any EHS, provide the total amount of each EHS in that mixture. The range value codes as listed in the rule or in actual pounds rounded up to two significant figures shall be used.
- (g) Provide an estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year. If reporting a mixture, provide an estimate of the average daily amount of the mixture. The range value codes as listed in this rule or in actual pounds rounded up to two significant figures shall be used.
- (h) Provide the maximum number of days that the hazardous chemical or mixture was present at the facility during the preceding calendar year.
- (i) Provide the type of storage for the hazardous chemical or the mixture containing the hazardous chemical at the facility. Examples for types of storage: above-ground tank, plastic or non-metallic drum, steel drum, cylinder, or rail car.
- (j) Provide the storage conditions for the hazardous chemical or the mixture containing the hazardous chemical at the facility. Examples for types

of storage conditions: ambient pressure, ambient temperature, less than ambient temperature/pressure, or cryogenic conditions.

(k) Provide a brief description of the precise location of the hazardous chemical or the mixture at your facility.

(3) The estimated amount shall be reported either in actual pounds rounded up to two significant figures or in appropriate reporting ranges as follows :

Reporting ranges:

Range Value	Weight Range in Pounds From	Weight Range in Pounds To
01	0	99
02	100	499
03	500	999
04	1,000	4,999
05	5,000	9,999
06	10,000	24,999
07	25,000	49,999
08	50,000	74,999
09	75,000	99,999
10	100,000	499,999
11	500,000	999,999
12	1,000,000	9,999,999
13	10,000,000	Greater than 10 million

(4) The general location of each hazardous chemical present at the facility.

(a) An owner or operator shall submit a map indicating the following:

(i) Fixed and stationary items.

- (ii) The storage locations of those hazardous chemicals present at the facility in quantities equal to or greater than the threshold quantity established under rule 3750-30-27 of the Administrative Code or those extremely hazardous substances present at the facility equal to or exceeding the threshold planning quantities established under rules 3750-30-27 and 3750-20-30 of the Administrative Code or five hundred pounds as reported on the annual inventory form.
- (b) A map shall identify the facility buildings located at the site or on contiguous property including the following:
- (i) Buildings.
 - (ii) Building openings.
 - (iii) Building or rooms including location.
 - (iv) Building floors.
- ~~Only those buildings or rooms used for chemical storage shall be identified.~~
- ~~If a room or building is used as a warehouse, the map shall identify such area by labeling the room as a "warehouse."~~
- ~~For purposes of this rule "warehouse" means any area where chemicals are moved frequently to accommodate storage incidental to shipping.~~
- (v) Only those buildings or rooms used for chemical storage shall be identified.
 - (vi) If a room or building is used as a warehouse, the map shall identify such area by labeling the room as a "warehouse."
 - (vii) For purposes of this rule "warehouse" means any area where chemicals are moved frequently to accommodate storage incidental to shipping.
- (c) A map shall identify the facility's surrounding areas including the following:
- (i) Drive though gates.
 - (ii) Bordering streets.

- (iii) Access roads.
- (iv) Surrounding land uses.
- (v) Waterways.

(d) A map shall identify any storage structures or areas including the following:

- (i) Inside storage tanks.
- (ii) Outside storage tanks.
- (iii) Inside storage areas.
- (iv) Outside storage areas.

For purposes of this rule, "tank" means a totally enclosed container.

(e) A map shall identify portable containers stored in a single large areas as other storage.

For purposes of this rule, "portable containers" means any container which is not stored in a permanent place.

(f) A map shall indicate compass direction and scale representations.

(g) A map shall include the facility's name and address.

(h) The information required in paragraphs (B) to (D) of this rule shall be submitted to the commission, committee and fire department having jurisdiction over the facility unless otherwise negotiated and agreed to by the committee or the fire department. The negotiated information shall be approved by the committee or fire department and provided in a letter indicating approval to the commission, attached to the map.

(5) An owner or operator of a facility may indicate that the storage location of any hazardous chemical present at a facility as reported on a Tier II inventory form or electronic submission and a map shall not be disclosed to any person who is not an officer or employee of the state or political subdivision acting in an official capacity.

(6) An owner or operator may choose to withhold information about any hazardous chemical present at the facility from disclosure as a trade secret, if so, the owner or operator shall indicate whether a claim has been filed with the administrator of the United States environmental protection agency for protection of that

information as a trade secret pursuant to the rules adopted under division (B) (2)(d) of section 3750.02 of the Revised Code or has filed a claim with the commission pursuant to rules adopted under section 3750.09 of the Revised Code.

- (7) A certification signed by the owner or operator or an officially designated representative which certifies that the information has been personally examined and that such owner, operator, or representative is familiar with this document and attached map, and that based on an inquiry of those individuals responsible for obtaining the information, it is believed that the submitted information is true, accurate, and complete.
- (E) The committee and fire department having jurisdiction over a facility may, after assessing the information obtained from an owner or operator's previous Tier II inventory form or on a state Tier II inventory form or electronic submission as adopted by the commission, may request any other information otherwise agreeable to the committee and fire department and the owner or operator of the facility. The confidential business information and trade secret provisions under Chapter 3750. of the Revised Code are applicable to the information submitted pursuant to this paragraph.
- (1) The committee and fire department having jurisdiction over a facility shall determine the scope of information to be submitted pursuant to this paragraph by evaluating the information on the basis of the following factors:
 - (a) The information reported shall aid to reduce the extraordinary risk injury to public health and safety or to the environment.
 - (b) The information reported shall aid to reduce the extraordinary risk to injury to responding emergency management personnel in the event of a release of hazardous substances from the facility considering the following:
 - (i) The specific characteristics and degree and nature of the hazards posed by the release of the hazardous substances.
 - (ii) The proximity of the facility to a residential area, or area with significantly large numbers of people are employed or otherwise congregate; and to environmental resources that are subject to injury.
 - (iii) The quantities of extremely hazardous substances and hazardous chemicals that are routinely present at the facility.

- (iv) The frequency in which the extremely hazardous substances and hazardous chemicals are present at the facility.
 - (2) An owner or operator subject to this rule shall continue to annually prepare and submit an inventory form or electronic submission as required under paragraphs (B) to (D) of this rule in addition to the information as agreed upon under paragraph (E) of this rule.
 - (3) A committee and fire department acquiring additional information pursuant to paragraph (E) of this rule shall notify the commission of such an agreement.
- (F) An owner or operator of a facility subject to rule 3750-30-01 of the Administrative Code may submit chemical inventory information on forms prescribed by the administrator of the USEPA under section 312 of the Emergency Planning and Community Right-To-Know Act of 1986 (federal form) or on a state form adopted by the commission or on commission approved software to collect information required by paragraphs (B) to (D) of this rule.
- (G) No owners or operators of a facility where any hazardous chemical is stored in an amount that exceeds the threshold quantity established in rule 3750-30-27 of the Administrative Code shall fail to submit one of the following:
- (1) A state inventory form containing tier II information as prescribed in paragraphs (B) to (D) of this rule.
 - (2) A federal inventory form containing tier II information.
 - (3) Commission approved electronic software.
- (H) An owner or operator of a facility who has previously submitted an inventory form pursuant to this rule, in the event there are no changes to the reported information including any facility map submitted, may send, in lieu of the reports otherwise required under this rule only the facility information prescribed in paragraphs (B) and (C) of this rule with a marked "no change (from last year's)" to the commission, committee and fire department having jurisdiction over the facility. An owner or operator shall submit a new inventory form and facility map every three years even if no changes have occurred at the facility.
- (I) The owner or operator of the facility under paragraph (H) of this rule shall submit an annual inventory filing fee and worksheet form prescribed in rule 3750-50-01 of the Administrative Code to the commission.

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3750-50-03

Emergency planning and community right-to-know fund.

- (A) Moneys received by the commission for filing fees based upon an owner or operator's annual chemical inventory filing fee under rule 3750-50-01 of the Administrative Code, fees collected for actual costs in accessing files and records submitted to the commission pursuant to division (B)(2)(c)(x) of section 3750.02 of the Revised Code, and civil penalties imposed under division (B) of section 3750.20 of the Revised Code, shall be credited to the "Emergency Planning and Community Right-To-Know Fund" (hereinafter referred to as "fund") created in section 3750.14 of the Revised Code for the implementation and administration of Chapter 3750. of the Revised Code.
- (B) Moneys collected by the commission pursuant to paragraph (A) of this rule shall be credited to the fund until an aggregate amount of five million dollars has been accumulated during a state fiscal year. All moneys in excess of five million dollars received during a state fiscal year shall be credited to the "Emergency planning and Community Right-To-Know Reserve Fund" (hereinafter referred to as "Reserve Fund") created in section 3750.14 of the Revised Code and established in rule 3750-50-20 of the Administrative Code.
- (C) The commission shall administer both the fund and reserve fund.
- (D) The commission shall annually determine allocation of the fund on or before May first of each year. The commission shall allocate moneys in the fund through a grant program adopted by the commission to each of the following entities or classes of entities in the percentages stated:
- (1) To the commission, not less than fifteen nor more than twenty-five per cent of the moneys in the fund;
 - (2) To the committees, not less than sixty-five nor more than seventy-five per cent of the moneys in the fund;
 - (3) To fire departments, not less than five nor more than fifteen per cent of the moneys in the fund.
- (E) The allocated moneys shall be distributed annually at the start of each state fiscal year to the commission, state agencies represented on the commission, committees and fire departments. The commission's decisions on the distribution of moneys from the fund are not appealable.
- (F) Moneys received by the commission, state agencies represented on the commission, committees and fire departments under this rule shall not be used to do any of the following:

- (1) Acquire first response equipment as defined under paragraph (T) of rule 3750-1-01 of the Administrative Code, except as otherwise provided in paragraph (E)(2) of rule 3750-50-10 of the Administrative Code.
 - (2) Defray costs for copying and mailing hazardous chemical lists, material safety data sheets, or emergency and hazardous chemical inventory forms submitted under Chapter 3750. of the Revised Code for distribution to the public.
 - (3) Reimburse any person for expenditures accrued or associated with an emergency response and cleanup of a release of oil, a hazardous substance or an extremely hazardous substance.
 - (4) Perform any assessment of damages to natural resources resulting from a release of oil, a hazardous substance, or an extremely hazardous substance.
- (G) Monies received by the commission, state agencies represented on the commission, committees and fire departments under this rule may only be used to do those things necessary, incidental, or appropriate to implement, administer and enforce Chapter 3750. of the Revised Code and rules adopted thereunder.

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3750-50-10

Grant application for emergency planning and community right-to-know funds.

[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 paragraph (YY) of rule 3750-1-01 of the Administrative Code titled "Referenced materials."]

- (A) From the moneys collected under paragraph (A) rule 3750-50-03 of the Administrative Code, the commission, shall make annual grants from the fund to the commission, state agencies represented on the commission, committees and fire departments within the percentage ranges specified in paragraph (D) of rule 3750-50-03 of the Administrative Code for the implementation, administration and enforcement of Chapter 3750. of the Revised Code.
- (B) Each application for a grant shall be submitted on forms adopted by the commission as prescribed in this rule. Each application for a grant shall be completed and submitted in triplicate to the commission in compliance with the following schedule:
- (1) Committee grant applications shall be postmarked no later than ~~that~~than the first day of February.
 - (2) Fire department grant applications shall be submitted with the committee's grant application within whose ~~jurisdiction(s)~~jurisdiction they lie on the same dates as listed in paragraph (B)(1) of this rule. Fire department applications shall be submitted in compliance with paragraph (F) of this rule.
 - (3) Applications for each state agency represented on the commission, the commission and the environmental review appeals commission shall be prepared and submitted to the commission, date stamped no later than April first for the upcoming fiscal year.
- (C) In making grants to the committees and fire departments under this rule, the commission shall consider the timeliness of the application and the needs of the emergency planning district or fire departments in determining the minimum amount of money necessary for a committee to implement, administer, and enforce Chapter 3750. of the Revised Code including expenses of the committees to prepare or revise, exercise, and review the chemical emergency response and preparedness plan in terms of the following:
- (1) Minimum requirements for personnel;
 - (2) Essential office equipment;

- (3) The number of facilities in the district or under jurisdiction of the fire department that are subject to section 3750.05 of the Revised Code.
 - (4) The amounts of extremely hazardous substances produced, used, or stored in the district or territory under the jurisdiction of the fire department~~;~~.
 - (5) The population within the district or under jurisdiction of the fire department that resides in close proximity to the facilities that are subject to that section~~;~~ ~~and~~.
 - (6) Principal routes for the transportation of hazardous materials identified or listed by regulations adopted under the Hazardous Materials Transportation Act contained in 49 USC 5112, as amended and the amounts of those materials.
- (D) Each application for a grant under this rule shall demonstrate that the grant will enhance the ability of the recipient or, in case of the state agency represented on the commission or the commission's application, the state as a whole, to prepare for and respond to releases of hazardous substances and extremely hazardous substances.
- (E) Grant applications received postmarked later than February first, shall be reduced by one per cent per day of the calculated award. Applications postmarked more than thirty calendar days after February first will not be considered for funding for the upcoming state fiscal year.
- (F) A fire department which is wholly within one emergency planning district shall apply for and receive a grant under this rule only through that committee of that emergency planning district. A fire department which is within more than one emergency planning district, shall apply for and receive a grant under this rule only through one committee of an emergency planning district for any state fiscal year.
- (1) In making a grant under this rule to the fire department of a municipal corporation that is collecting a fee pursuant to an ordinance, rule, or requirement for reporting or providing the names and amounts of extremely hazardous substances or hazardous chemicals stored at the facilities in the municipal corporation that was in effect on or before December 14, 1988, the commission shall do the following:
 - (a) Determine the amount of the grant for which the fire department would otherwise be eligible under paragraph (D)(3) of rule 3750-50-03 of the Administrative Code.
 - (b) Subtract from that amount the total amount of moneys collected by the municipal corporation during the preceding year pursuant to reporting requirements, as certified to the commission in the grant application~~;~~.

- (c) If the calculation as set forth in paragraphs (F)(1)(a) and (F)(1)(b) of this rule yields a positive remainder, the commission may make a grant to the fire department in that amount, otherwise the fire department is not eligible for a grant under this rule for that state fiscal year.
- (2) After a committee determines that the initial training needs for emergency response personnel within the emergency planning district set forth in the committee's plan or most recent review of the plan under section 3750.04 of the Revised Code have been met, a committee may make grants from the moneys received in the special fund to the fire departments located within the district for the purchase of first response equipment in accordance with procedures approved by the commission.

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10/29/11

3750-50-20 **Emergency planning and community right-to-know reserve fund.**

- (A) Moneys collected and accumulated by the commission under rule 3750-50-03 of the Administrative Code in excess of five million dollars during a state fiscal year shall be credited to the "Emergency Planning and Community Right-To-Know Reserve Fund" (hereinafter referred to as "Reserve Fund") created in section 3750.14 of the Revised Code. The commission shall administer the reserve fund.
- (B) If moneys accumulate in the reserve fund is in excess of three million dollars during any state fiscal year, the treasurer of the state of Ohio shall refund those excess moneys at the end of the state fiscal year on a pro rata basis to the owners or operators of facilities who paid filing fees under rule 3750-50-01 of the Administrative Code.
- (C) If, in any state fiscal year, less than five million dollars is credited to the fund under rule 3750-50-03 of the Administrative Code, the director of budget and management, upon the certification of the commission, may transfer up to fifty per cent of the moneys in the reserve fund to the fund.

The director of budget and management shall transfer only such amounts as are necessary to ensure all budgetary requirements of the fund are met, provided that expenditures from the fund shall not exceed five million dollars during any state fiscal year.

- (D) Fifty per cent of the moneys in the reserve fund shall be used for the grant program provided under paragraph (E) of rule 3750-50-10 of the Administrative Code and fifty per cent of the moneys shall remain in reserve for purposes of paragraph (F) of this rule.
- (E) The commission may make grants from the reserve fund to the commission, state agencies represented on the commission, committees and the fire departments. No more than twenty-five per cent of the moneys available for grants during any state fiscal year shall be available to the commission.
- (F) The commission may make grants to the commission, state agencies represented on the commission, committees, and the fire departments for the following:
- (1) The development and implementation of chemical emergency response and preparedness plans;
 - (2) Advance training;
 - (3) Data management;

- (4) Performance of hazard analysis and vulnerability studies for purposes of developing or revising their plans;
 - (5) The acquisition of first response equipment.
- (G) Moneys shall be awarded to the committees and fire departments for advanced training, data management, performing of hazard analysis and vulnerability studies, or the acquisition of first response equipment only when expenditures for those purposes are identified as being needed in the chemical emergency response and preparedness plan of the emergency planning district prepared pursuant to section 3750.04 of the Revised Code or in the most recent review of the plan conducted under division (C) of that section.
- (H) Moneys awarded under this rule shall not be used to do either of the following:
- (1) Reimburse any person for expenditures incurred for emergency response and cleanup of a release of oil, a hazardous substance, or an extremely hazardous substance;
 - (2) To perform any assessment of damages to natural resources resulting from release of oil, hazardous substance, or an extremely hazardous substance.
- (I) Grant moneys awarded to the commission under this rule may be expended, by contract, to support the participation of any state agency in chemical emergency response planning and training or to acquire first response equipment for any state agency whose needs have been identified in the state emergency response plan prepared under division (B)(13) of section 3750.02 of the Revised Code.

The state agency receiving moneys under this rule shall provide the required matching funds as established in rule 3750-50-25 of the Administrative Code from moneys available to the agency other than those received under rule 3750-50-10 of the Administrative Code.

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CERTIFIED ELECTRONICALLY

Certification

11/08/2017

Date

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