RULE SYNOPSIS
FIVE YEARS REVIEW AND REVISIONS TO SECTIONS OF CHAPTER 3745-100
OF THE OHIO ADMINISTRATIVE CODE TOXIC CHEMICAL RELEASE REPORTING (TRI)

In accordance with Ohio Revised Code (ORC) 106.03 & 106.031 (5-year rule review), the Ohio Environmental Protection Agency, Division of Air Pollution Control (DAPC) has reviewed the following rules contained in Ohio Administrative Code (OAC) Chapter 3745-100. These rules are related to the Toxic Release Inventory reporting requirements. Our preliminary review indicates that these rules continue to be necessary.

The Ohio EPA Division of Air Pollution Control (DAPC) has prepared draft language for amendments to OAC rules 3745-100-01, 3745-100-02, 3745-100-03, 3745-100-04, 3745-100-05, 3745-100-06, 3745-100-07, 3745-100-08, 3745-100-09, 3745-100-10, 3745-100-11, 3745-100-13, 3745-100-14, 3745-100-15, 3745-100-16, and 3745-100-17 to make our rules consistent with the Federal rules as a result of rules updates by the USEPA. We also reviewed OAC rule 3745-100-12 and found it to be necessary without any change.

OAC Chapter 3745-100 is authorized by chapter 3751 of the Ohio Revised Code (ORC). This is the state equivalent of Code of Federal Regulations (CFR) 40 Chapter 1 subchapter J part 372 as authorized by Section 313 of the federal Superfund Amendments and Reauthorization Act, (SARA), also known as the Emergency Planning and Community Right to Know Act, (EPCRA).

Section 313 of EPCRA requires facilities which manufacture, process, or otherwise use listed toxic chemicals to annually summarize and report their toxic chemical usages and environmental releases and waste management activities. This is known as Toxic Release Inventory (TRI), Section 313 Reporting.

TRI reporting was first required for the 1987 reporting year. The Pollution Prevention Act of 1990 expanded and redefined the scope of TRI reporting. Beginning with the 1991 reporting year, reporting facilities also must report source reduction and recycling data for reportable toxic chemicals. Prior to recent revisions of federal rulemaking, this reporting requirement was limited to owners and operators of facilities that had 10 or more full time employees in a covered Standard Industrial Classification (SIC).

The Ohio legislature enacted chapter 3751 of the ORC shortly after Congress enacted federal TRI reporting. This reinforced the federal rule, directed the DAPC within the Ohio EPA to provide oversight of the reporting and provided a fee system to support the program.

Facilities which are subject to the reporting requirements must report toxic chemical releases, transfers, waste managements, and pollution prevention activities to both Ohio EPA and U.S. EPA on or before July 1 for the previous calendar year. A separate report is required for each reportable chemical.

The following outline summarizes the rules changes by section:

Rule 3745-100-01: amended to make minor changes to the language formatting and to update the information on the version and availability of referenced items in paragraph (FF).

Rule 3745-100-02: amended to make minor changes to the language formatting.

Rule 3745-100-03: amended to make minor changes to the language formatting.

Rule 3745-100-04: amended to make minor changes to the language formatting.

Rule 3745-100-05: amended to update the list of North American Industry Classification System (NAICS) codes subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (also known as the Toxics Release Inventory) to reflect the Office of Management and Budget (OMB) 2012 NAICS revision. OMB revises NAICS codes every five years. The list of NAICS codes covered by the TRI Program must also be updated.

Rule 3745-100-06: amended to make minor changes to the language formatting and to fix a typo in paragraph (G) referencing rule 3745-10-06 instead of the correct rule 3745-100-06.

Rule 3745-100-07: amended to add the EPA form number for “Form A”.

Rule 3745-100-08: amended to include reference to the NAICS codes in addition to the SIC codes covered by TRI reporting requirements.

Rule 3745-100-09: amended to make minor changes to the language formatting and to fix a typo in paragraph (D)(2).

Rule 3745-100-10: amended to correct typographical error and spaces in the chemical names to make it consistent with the names listed in the federal register, and move some chemicals to the correct alphabetical order. Some chemicals were removed from the alphabetical list to their perspective category as listed in the federal register. Finally, three chemicals were added to the list; Nonylphenol Category, 1-Bromopropane, and O-Nitrotoluene.

Rule 3745-100-11: amended to address the Electronic Reporting Rule that requires all forms to be submitted electronically. Reports that are not submitted electronically using TRI-MEweb will not be processed as acceptable submissions. However, facilities submitting TRI reports containing trade secrets will still submit their reports to EPA on paper, not via TRI-MEweb. This electronic reporting requirement includes late submissions for prior reporting years, revisions, and withdrawals.

Rule 3745-100-13: amended to make minor changes to the language formatting.

Rule 3745-100-14: amended to make minor changes to the language formatting.

Rule 3745-100-15: amended to make minor changes to the language formatting.

Rule 3745-100-16: amended to make minor changes to the language formatting.

Rule 3745-100-17: amended to update the list of North American Industry Classification System (NAICS) codes subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (also known as the Toxics Release Inventory) to reflect the OMB 2012 NAICS revision. OMB revises NAICS codes every five years. The list of NAICS codes covered by the TRI Program must also be updated.