

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Emergency Response Commission (SERC)

Regulation/Package Title: SERC/EMA Administrative rules – 5-year Review

Rule Number(s): OAC Rules 3750-10-01, 3750-10-03, 3750-10-05, 3750-10-07, 3750-10-09, 3750-20-60, 3750-20-70, 3750-20-72, 3750-20-74, 3750-20-76, 3750-20-78, 3750-20-80, 3750-20-82, 3750-20-84, 3750-75-02 to 3750-75-05, and 3750-75-07 to 3750-75-10

Date: May 9, 2014

Rule Type:

- | | |
|----------------------------------|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The rules in OAC chapters 3750-10, 3750-20, and 3750-75 establish the administrative requirements for the State Emergency Response Commission (SERC), and the Local Emergency Planning Committees (LEPCs). These rules implement the requirements established by the Ohio legislature in ORC 3705.02 and fulfill the requirements of the federal Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA).

The SERC has reviewed these rules and determined that they remain necessary and are without need of amendment.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Rule Number	Authorizing Statute	Proposed Action
3750-10-01	3750.02	No-Change
3750-10-03	3750.02	No-Change
3750-10-05	3750.02	No-Change
3750-10-07	3750.02	No-Change
3750-10-09	3750.02	No-Change
3750-20-60	3750.02	No-Change
3750-20-70	3750.02	No-Change
3750-20-72	3750.02	No-Change
3750-20-74	3750.02	No-Change
3750-20-76	3750.02	No-Change
3750-20-78	3750.02	No-Change
3750-20-80	3750.02	No-Change
3750-20-82	3750.02	No-Change
3750-20-84	3750.02	No-Change
3750-75-02	3750.02	No-Change
3750-75-03	3750.02	No-Change
3750-75-04	3750.02	No-Change
3750-75-05	3750.02	No-Change
3750-75-07	3750.02	No-Change
3750-75-08	3750.02	No-Change
3750-75-09	3750.02	No-Change
3750-75-10	3750.02	No-Change

- 3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

These rules establish Ohio's SERC as required by the federal Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA).

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The rules in these chapters implement the federal EPCRA requirements, but do not exceed the federal requirements..

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose of these rules is to implement the federal EPCRA rules, to establish both the SERC and the local emergency planning committees according to the federal rules, and to provide for the safety and success of emergency responders in the state of Ohio.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The success of these regulations is determined through the continued operations of the SERC and the local emergency planning committees. Operating within the boundaries of these rules, these agencies continue their missions of emergency planning and preparedness, public awareness, public training/education, and support of local emergency responders.

Development of the Regulation

- 7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Ohio EPA established a 30-day early stakeholder comment period and requested comments from potentially affected parties. The comment period ended as of October 18, 2013. Ohio EPA Division of Air Pollution Control (DAPC) sent notice of our request for comments electronically to the 1,263 members of Ohio EPA's electronic Interested Parties list for DAPC rulemaking. DAPC also posted the notice on our website and the SERC website, and placed the notice in the Director's Weekly Review publication.

Ohio EPA did not receive any comments or suggestions on these rules during the ESO period.

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8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Ohio EPA did not receive any comments or suggestions on these rules during the ESO period.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was utilized in the development of these rules. These rules are purely administrative and deal with interaction among the SERC, the local emergency planning committees and local emergency responders.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

These rules fulfill the federal EPCRA requirements and neither exceed, nor fall short of the requirements. As such, there were no alternate regulations available.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

These rules are purely internal rules addressing interactions among the SERC, local emergency planning committees and local emergency responders. Other than stating that certain interactions or reports are required, the rules do not dictate how the interactions must take place.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

SERC reviewed our own regulations and performed a search of regulation from other agencies to determine if duplication was being made. SERC determined that these rules do not duplicate any other regulations.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

These rules are strictly internal and address interactions among the SERC, the local emergency planning committees and local emergency responders. The rules are implemented through interactions among the various agencies and councils. For example, one of the tasks delegated to the SERC is to pass grant money along to the local committees. The committees

are required to make a report on how the money is used including for such purposes as trainings, exercises, hazmat plan development, and community outreach.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

Because these rules are strictly internal, administrative rules, there is quite literally no cost of compliance to the regulated community with the rules in this chapter. Monies passed on to the local committees by the SERC are collected via annual filing fees collected from industry outside the requirements of these rules.

Regulatory Flexibility

15. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

These rules are internal, administrative rules describing the interactions among the SERC, the local emergency planning committees and the local emergency responders. These rules do not apply to businesses or the general public. The rules do not provide any exemptions to the agencies regarding the requirements of the rules.

16. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Ohio SERC uses enforcement discretion regarding fines and penalties for facilities committing a first-time violation are typically waived. The procedures specified in the agency’s “Compliance Assurance through Enforcement” program are used to ensure implementation of the regulations.

17. What resources are available to assist small businesses with compliance of the regulation?

The following resources are available for small businesses, although they would not be required for the agencies to which these rules are applicable:

- Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) is a non-regulatory program that provides information and resources to help small businesses comply with environmental regulations. OCAPP also helps customers identify and implement pollution prevention measures that can save money, increase business performance and benefit the environment. Services of the office include a toll-free hotline, on-site compliance and pollution prevention assessments, workshops/training, plain-English publications library and assistance in completing permit application forms. Additional information is available at <http://www.epa.ohio.gov/ocapp>.
- Ohio EPA also has a permit assistance web page (http://www.epa.ohio.gov/dir/permit_assistance.aspx) that contains links to several items to help businesses navigate the permit process, including the Permit Wizard, Answer Place, Ohio EPA's Guide to Environmental Permitting and eBusiness Center.
- Ohio EPA maintains the Compliance Assistance Hotline 800-329-7518, weekdays from 8:00 a.m. to 5:00 p.m.
- US. EPA Small Business Gateway also has information on environmental regulations for small businesses available at <http://www.epa.gov/smallbusiness/> and a Small Business Ombudsman Hotline 800-368-5883.
- Ohio EPA's Division of Air Pollution Control (DAPC) maintains a State Implementation Plan (SIP) Development section through which SIP related rulemaking is performed. DAPC rule writer Paul Braun, is available to answer questions. He can be reached by calling 614-644-3734 or by e-mail at paul.braun@epa.state.oh.us.