Division of Air Pollution Control

Response to Comments
Draft Rule Language Comment Period

Rule: 3750-30-20

Agency Contact for this Package

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Ohio EPA provided a 30 day comment period which ended on February 17, 2014. This document summarizes the comments and questions received during the associated comment period.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General/Overall Concerns

Comment 1: **All commenters supported Ohio's adoption of the rule language that would make the Ohio emergency planning program equivalent in scope, content and coverage to the federal emergency planning program**

Response 1: Dated July 13th, 2012 USEPA issued a final rule that added some new data elements and revised some existing data elements on the Emergency and hazardous Chemical Inventory Forms under the federal EPCRA program. The intent was to make reporting easier for facilities and make the form more user friendly for state and local officials and responders.

The draft amended language to OAC 3750-30-20 captures all the new and revised data reporting elements as presented within the USEPA final rule as referenced.

Rule 3750-30-20(D)(4)

Comment 2: **Ohio Oil and Gas Association suggest deleting this entire section. Requiring a facility map that depicts the general location of the hazardous chemical at the facility is unnecessary in light of the proposed addition of OAC 3750-30-20(D)(s)(k), which requires a description of the precise location of the hazardous chemical or mixture at the facility. Furthermore, the map requirement exceeds federal requirements and is overly burdensome, particularly for a producer that may own hundreds of oil and gas well facilities.**

Response 2: The map requirement within SERC rule was a request from the emergency response community within Ohio. The map rule has been challenged and subsequently was upheld by the Ohio Supreme Court.

Rule 3750-30-20(H)

Comment 3: **Ohio Oil and Gas Association suggest for a facility where there are no changes to the reported information from one year to another, revise the rule such that: (a) only the basic information needed to identify the facility such as facility name and address, owner/operator name and address; (b) there is no need to reference to a facility map; and (c) there is no limitation on the number of "no change" reports that may be submitted.**

Response 3: The chemical inventory reports are required by both state and federal law. The federal regulations require that state reporting forms include at least the minimum data elements as outlined in the federal regulations. Failure to include these data elements could result in U.S. EPA finding that the Ohio facilities do not comply with the federal reporting requirements. These elements include a "no change" check box to simplify reporting for facilities with no changes in the reported information.

Rule 3750-30-20, "Facility Emergency and Hazardous Chemical Inventory Form."

Comment 4: **50-75 letters in a standard format and identical in language, tone, and intent were submitted to both State Emergency Response Commission (SERC) and Governor Kasich before, during and after the interested party (IP) review period. The letters contained general comments urging the SERC and the governor to repeal the oil and gas exemption on the Ohio's books and**

bring the program back into compliance with the federal emergency planning law

Response 4: Comments would suggest that there is an impression that oil and gas sector is exempt from filing hazardous chemical inventory reports under Ohio law. Since 2001, Ohio has operated under ORC 3750.081 as it related to the oil and gas sector. The intent was to make use of the Ohio Department of Natural Resources (ODNR) Oil & Gas database to house the EPCRA reporting information from the oil & gas production facilities. This information was to be made available to local officials and responders for pre-planning and emergency response type activities. April 2013, a petition was made to USEPA regarding ORC 3750.081 being in violation of federal EPCRA and seeking Ohio to change the way EPCRA is being handled for the Oil & Gas sector. USEPA responded by stating that Ohio law as written does not supersede federal law and changes needed to be made. Representatives from SERC, Ohio EPA and ODNR have had several meetings on the issue and worked in late 2013 to bring the oil & gas production facilities into compliance by December 2013 for the 2012 calendar year. SERC continues to work with ODNR for a long-term solution to ensure that oil & gas reporting is taking place in Ohio in accordance to both federal and state law.

Ohio is seeing an upswing in oil & gas drilling taking place mostly in the eastern part of the state. When oil & gas drilling is taking place, those drillers have reporting obligations under both federal and state EPCRA law. The new drilling facilities must report under both the initial notification under ORC 3750.07 and chemical inventory reporting under 3750.08 of the Revised Code. This information is being provided to SERC, county LEPC and jurisdictional fire department.

End of Response to Comments