

Run-on Document of All SERC Regulations Current as of June 18, 2007

The State Emergency Response Commission's (SERC) regulations are located in the Ohio Administrative Code (OAC) in chapters 3750-1, 3750-10, 3750-15, 3750-20, 3750-25, 3750-30, 3750-50, 3750-60, 3750-75, 3750-80, and 3750-85. This document contains a copy of all the SERC's rules in a single electronic file to facilitate universal language searches among rules. Additional chapters are added as needed to address new laws and requirements. This document contains the most recent copy of each rule as of the date listed above.

On the date a rule is filed in final form with the legislative services commission, the redline-strikeout version of the rule is added to this file to replace the existing text. The new, clean text of the rule with the administrative information section is added approximately 30 to 40 days later, replacing the redline-strikeout versions, after it is received from the legislative services commission (LSC) to replace the redline-strikeout language.

To search for a specific rule, use the search tool and enter the rule number as follows (no quotes): "3750-xx-yy", where "xx" is the chapter number and "yy" is the rule number.

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Chapter 3750-1: Emergency Response Commission

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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 the "Incorporation by Reference" section at the end of this rule.]

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 his 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 he controls and to which the public does not have access is considered contiguous property.

- (J) "Director" means the director of the Ohio EPA, or his 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.
 - (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" includes 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, contained in 29 USC 651 to 678.
- (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, contained in 42 USC 9601 to 9675 and regulations adopted thereunder.
- (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.
- (JJ) "Threshold planning quantity (TPQ)" means for an-extremely hazardous substance listed in 40 CFR Part 355 Appendices A and B in rule 3750-20-30 of the Administrative Code, 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;
- (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:

- (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:
 - (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" 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.

(1) 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 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) Incorporation by Reference. This chapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists 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 incorporated 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.dnr.state.oh.us/mineral/oil/index.html

- (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. 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>. 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 www.access.gpo.gov/nara/cfr/. 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 .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://www4.law.cornell.edu/uscode/42/ch116.html>. 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 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.
- (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://www4.law.cornell.edu/uscode/29/ch15.html>. 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://www4.law.cornell.edu/uscode/42/ch82.html>. 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) Substitute Senate Bill 367 of the 117th General Assembly. Information and copies may be obtained by contacting: The Supreme Court Library, Reference Line, 65 South Front Street, 11th Floor, Columbus, OH 43215-3431; or by calling (614) 387-9682. The Bill can also be found at most public libraries and “The State Library of Ohio.”
- (v) 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://www4.law.cornell.edu/uscode/42/ch103.html>. The Act is also available for inspection and copying at most public libraries and “The State Library of Ohio.”
- (w) 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://www4.law.cornell.edu/uscode/>. The U.S.C. compilations are also available for inspection and copying at most public libraries and “The State Library of Ohio.”

- (x) 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 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 through 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, 2003 Code of Federal Regulations.
- (i) 33 USC Section 1251 to 1387; “Water Pollution Prevention and Control;” published January 19, 2004 in Supplement III of the 2000 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, 2003 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, 2006 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, 2006 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.
- (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, 2003 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.
- (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 19, 2004 in Supplement III of the 2000 Edition of the United States Code.
- (dd) 42 USC 9601 to 9675; “Superfund Amendments and Authorization Act of 1986;” Pub. L. 96-510, title I, Sec. 116-126; as added Pub. L. 99-499, title I, Sec. 116-126, Oct. 17, 1986, 113 Stat. 1536, 1501A-599; amended Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-499, title I, Sec. 101-106, Sec. 107(a)-(d)(2)(3), (e), (f), 108, 109(a)(1)(2)(3), 109(b), (c), 110-113, 114(a)(b), 122(b), 127(a),(b), (c), (e), title II, Sec. 201, 202, Sec. 207(b),(c),(d), Sec. 208, 212, title V, Sec. 514(b), Sec. 517(c)(1)(2), Oct. 17, 1986, 100 Stat. 1615, 1617, 1625, 1628-1633, 1636, 1642, 1646, 1647, 1652, 1688, 1692-93, 1695, 1705-1707, 1726, 1767, 1774; Pub. L. 96-510, title III, Sec. 309-312, title IV, Sec. 401-405, as added Pub. L. 99-499, title II, Sec. 203(a), 206, 209(b), 210(a), 213(b), Oct. 17, 1986, 100 Stat. 1695, 1703, 1708, 1716-1719, 1723. Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-202, Sec. 101(f) (title II, Sec. 201), Dec. 22, 1987, 101 Stat. 1329-187, 1329-198; Pub. L. 100-707, title I, Sec. 109(v), Nov. 23, 1988, 102 Stat. 4710; Pub. L. 101-144, title III, Nov. 9, 1989, 103 Stat. 857; Pub. L. 101-508, title VI, Sec. 6301, Nov. 5, 1990, 104 Stat. 1388-319; Pub. L. 101-584, Sec. 1, Nov. 15, 1990, 104 Stat. 2872; amended Pub. L. 102-426, Sec. 3-5, Oct. 19, 1992, 106 Stat. 2175-2177; Pub. L. 102-484, div. A, title III, Sec. 331(a), Oct. 23, 1992, 106 Stat. 2373; Pub. L. 102-531, title III, Sec. 312(h), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 103-429, Sec. 7(e)(1)(2), Oct. 31, 1994, 108 Stat. 4390; Pub. L. 104-106, div. B, title XXVIII, Sec. 2834, Feb. 10, 1996, 110 Stat. 559; Pub. L. 104-201, div. A, title III, Sec. 330, 331, 334, Sept. 23, 1996, 110 Stat. 2484, 2486; Pub. L. 104-208, div. A, title I, Sec. 101(a), title II, Sec. 211(b)), title II, Sec. 2502(a), title II, Sec. 2502(b), Sept. 30, 1996, 110 Stat. 3009, 3009-41, 3009-464; Pub. L. 104-287, Sec. 6(j)(1)(2), Oct. 11, 1996, 110 Stat. 3399, 3400; Pub. L. 105-276, title III, Oct. 21, 1998, 112 Stat. 2497; Pub. L. 106-74, title IV, Sec. 427, Oct. 20, 1999, 113 Stat. 1095, 100 Stat. 1653-1655, 1662, 1666, 1672, 1678, 1688-9, 1706, Sec. 127; as added Pub. L. 106-113, div. B, Sec. 1000(a)(9) (title VI, Sec. 6001(b)(1)), Nov. 29, 1999.
- (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 19, 2004 in Supplement III of the 2000 Edition of the United States Code."
- (ii) ASTM E136 Standard Test, "Method for Behavior of Materials in a Verticle Tube Furnace at 750*C;" approved January 15, 1993; reapproved 2000.
- (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;" Pub. L. 96-510, title I, Sec. 101, Dec. 11, 1980, 94 Stat. 2767; Pub. L. 96-561, title II, Sec. 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 99-499, title I, Sec. 101, 114(b), 127(a), title V, Sec. 517(c)(2), Oct. 17, 1986, 100 Stat. 1615, 1692, 1774; Pub. L. 100-707, title I, Sec. 109(v), Nov. 23, 1988, 102 Stat. 4710; Pub. L. 103-429, Sec. 7(e)(1), Oct. 31, 1994, 108 Stat. 4390; Pub. L. 104-208, div. A, title I, Sec. 101(a) (title II, Sec. 211(b)), title II, Sec. 2502(b), Sept. 30, 1996, 110 Stat. 3009, 3009-41, 3009-464; Pub. L. 104-287, Sec. 6(j)(1), Oct. 11, 1996, 110 Stat. 3399; Pub. L. 106-74, title IV, Sec. 427, Oct. 20, 1999, 113 Stat. 1095; Pub. L. 107-118, title II, Sec. 211(a), 222(a), 223, 231(a), Jan. 11, 2002, 115 Stat. 2360, 2370, 2372, 2375.
- (mm) Section 102(a)(1) of the Uranium Mill Tailings Radiation Control Act of 1978; contained in 42 USC 7912; "Processing Site Designations;" Pub. L. 95-604, title I, Sec. 102, Nov. 8, 1978, 92 Stat. 3023; Pub. L. 97-415, Sec. 21, Jan. 4, 1983, 93 Stat. 2079; Pub. L. 106-398, Sec. 1 (div. C, title XXXIV, Sec. 4303(b)), Oct. 30, 2000, 114 Stat. 1654, 1654A-489.
- (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;" Pub. L. 96-510, title I, Sec. 103, Dec. 11, 1980, 94 Stat. 2772; Pub. L. 96-561, title II, Sec. 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 99-499, title I, Sec. 103, 109(a)(1), (2), Oct. 17, 1986, 100 Stat. 1617, 1632, 1633; Pub. L. 104-208, div. A, title I, Sec. 101(a) (title II, Sec. 211(b)), Sept. 30, 1996, 110 Stat. 3009, 3009-41.

- (oo) Section 103(e) of CERCLA; contained in 42 USC 9603; “Notification Requirements Respecting Released Substances, Applicability to Registered Pesticide Product;” Pub. L. 96-510, title I, Sec. 103, Dec. 11, 1980, 94 Stat. 2772; Pub. L. 96-561, title II, Sec. 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 99-499, title I, Sec. 103, 109(a)(1), (2), Oct. 17, 1986, 100 Stat. 1617, 1632, 1633; Pub. L. 104-208, div. A, title I, Sec. 101(a) (title II, Sec. 211(b)), Sept. 30, 1996, 110 Stat. 3009, 3009-41.
- (pp) Section 104 of CERCLA; contained in 42 USC 9604; “Response Authorities;” Pub. L. 96-510, title I, Sec. 104, Dec. 11, 1980, 94 Stat. 2774; Pub. L. 99-499, title I, Sec. 104, 110, title II, Sec. 207(b), Oct. 17, 1986, 100 Stat. 1617, 1636, 1705; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102-531, title III, Sec. 312(h), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 107-118, title II, Sec. 211(b), Jan. 11, 2002, 115 Stat. 2362.
- (qq) Section 170 of the Atomic Energy Act of 1954: as contained in 42 USC 2210, "Indemnification and Limitations of Liability;" published January 19, 2004 in Supplement III of the 2000 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;” Pub. L. 99-499, title III, Sec. 302, Oct. 17, 1986, 100 Stat. 1730.
- (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;” Pub. L. 95-604, title III, Sec. 302, Nov. *, 1978, 92 Stat. 3042; H. Res. 549, Mar. 25, 1980.
- (tt) Section 312 of the Emergency Planning and Community Right-to-Know Act; contained in 42 USC 11022; “Emergency and Hazardous Chemical Inventory Forms;” 52 FR 38364, Oct. 15, 1987, as amended at 55 FR 30645; 55 FR 30646; 55 FR 30650 , July 26, 1990; 64 FR 7047, Feb. 11, 1999.
- (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;” 53 FR 4525, Feb. 16, 1988, as amended at 53 FR 12748, Apr. 18, 1988; 55 FR 30656, July 26, 1990; 53 FR 12748, Apr. 18, 1988; 56 FR 29185, June 26, 1991; 59 FR 61501, Nov. 30, 1994; 59 FR 61502, Nov. 30, 1994; 62 FR 23891, May 1, 1997; 62 FR 23892, May 1, 1997; 64 FR 58750, Oct. 29, 1999; 64 FR 58751, Oct. 29, 1999; 64 FR 58753, Oct. 29, 1999; 66 FR 4527, Jan. 17, 2001.

- (vv) Section 322 of the Emergency Planning and Community Right-to-Know Act; contained in 42 USC 11042; "Trade Secrets;" Pub. L. 99-499, title III, Sec. 322, Oct. 17, 1986, 100 Stat. 1747.
- (ww) Section 402 of the Clean Water Act; contained in 33 USC 1342; "National Pollutant Discharge Elimination System;" June 30, 1948, ch. 758, title IV, Sec. 402, as added Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 880; amended Pub.L. 95-217, Sec. 33(c), 50, 54(c)(1), 65, 66, Dec. 27, 1977, 91 Stat. 1577, 1588,1591, 1599, 1600 Pub. L. 100-4, title IV, Sec. 401-404(a), 404(c), formerly 404(d), 405, Feb. 4, 1987, 101 Stat. 65-67, 69, renumbered Sec. 404(c), Pub. L.104-66, title II, Sec 2021(e)(2), Dec. 21, 1995, 109 Stat. 727; Pub. L.102-580, title III, Sec. 364, Oct. 31, 1992, 106 Stat. 4862; Pub. L. 106-554, Sec.1(a)(4) (div. B, title I, Sec. 112(a)), Dec. 21, 2000, 114 Stat. 2763, 2763A-224.
- (xx) Section 11049 of the Emergency Planning and Community Right-to-Know Act of 1986; "Definitions;" Pub. L. 99-499, title III, Sec. 329, Oct. 17, 1986, 100 Stat. 1757.

Effective: 01/02/2007

R.C. 119.032 review dates: 06/05/2011

CERTIFIED ELECTRONICALLY
Certification

12/19/2006
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1)(j)
Rule Amplifies: 3750.01
Prior Effective Dates: 7/30/90, 6/30/93, 12/31/94, 9/1/98, 6/5/06

3750-1-02 **Purpose.**

[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 the "Incorporation by Reference" paragraph at the end of rule 3750-1-01.]

The purpose of these rules is to establish the commission and the committees and emergency districts to implement, administer and enforce, in conjunction with the USEPA, Ohio EPA and local fire departments the federal "Emergency Planning and Community Right-To-Know Act of 1986" in this state.

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Chapter 3750-10: Commission Management Rules

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3750-10-01 **Establishment of state emergency response commission, executive committee and committees.**

- (A) The commission will be created pursuant to section 3750.02 of the Revised Code. The commission shall consist of members as required pursuant to division (A) of section 3750.02 of the Revised Code. The director of the environmental protection agency and the director of public safety or their designees shall serve as co-chairpersons of the commission.
- (1) The initial appointments made by the governor to the commission shall provide five members with a term of two years and five members with a term of one year; thereafter terms of office of the appointed members of the commission shall each be for two years with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of their appointment until the end of the term for which they were appointed. A member shall continue in office subsequent to the expiration date of their term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members of the commission may be reappointed.
 - (2) Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall hold office for the remainder of that term.
 - (3) The commission may at any time by a vote of two-thirds of all the members remove any appointed member of the commission for misfeasance, nonfeasance or malfeasance.
 - (4) Except for purposes of Chapters 102. and 2291. and sections 109.26 to 109.366 of the Revised Code, serving as appointed members of the commission does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.
- (B) The commission shall establish an executive committee consisting of members as required in division (B)(9) of section 3750.02 of the Revised Code. The commission shall delegate to the executive committee the performance of such of the commission's duties and powers under Chapter 3750. of the Revised Code as are required or authorized to be so delegated under division (B)(9) of section 3750.02 of the Revised Code. The directors of the environmental protection agency and public safety or their designees shall serve as the co-chairs of the executive committee.
- (C) The commission shall establish, through resolution, such committees as it determines necessary or convenient from time to time to implement and administer Chapter

3750. of the Revised Code. The committees may include such standing and temporary committees as necessary. Any committee may be dissolved through the adoption of a resolution by the commission.

- (1) The commission shall designate two co-chairpersons for each committee, one from a state agency, and one from the committee's membership who is also an appointee of the governor.
- (2) Each committee may obtain input from noncommission personnel.
- (3) The committees shall meet as necessary;
- (4) A committee that has met since the last regular commission meeting shall report in writing to the commission during the next regular commission meeting. The written reports of each committee shall contain a summary of the committee's activities, rather than verbatim statements or transcript.
- (5) A committee may propose resolutions for the entire commission to consider.

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Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: Chapter 3750
Rule Amplifies: 3750.02, 3750.02(B)(9)
Prior Effective Dates: 7-30-90, 9-1-98

General management rules.

- (A) The commission shall meet at least annually. Except as provided in section 121.22 of the Revised Code, or otherwise in the Revised Code, all meetings of the commission or any of its committees shall be open to the public. Meetings of the executive committee, when determining whether to issue an enforcement order or to request a civil action, civil penalty action or criminal action to enforce Chapter 3750. of the Revised Code or an issue that meets a condition of paragraph (B) of this rule shall ordinarily be held in private unless there is a majority vote of the full membership of the commission or a majority vote of the executive committee in favor of a public meeting.
- (B) The membership of the commission may hold an executive session only at a regular or special meeting of the commission for the sole purpose of considering matters enumerated in division (G) of section 121.22 of the Revised Code. If the executive committee is to determine matters enumerated under division (G) of section 121.22 of the Revised Code, the motion and vote to hold the session shall set forth which one or more of the approved matters listed in that division which are to be considered. Prior to holding an executive session at a regular or special meeting, the presiding co-chairperson of the commission shall state the commission is going to meet in executive session and state generally the purpose of the meeting and the purpose for holding an executive session as delineated in division (G) of section 121.22 of the Revised Code. The commission may hear the following matters in executive session:
- (1) The appointment, employment, dismissal, discipline, promotion, demotion, or compensation of public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual pursuant to division (G)(1) of section 121.22 of the Revised Code, unless the public employee, official licensee, or regulated individual requests a public hearing;
 - (2) To consider the purchase or sale of property as set forth in division (G)(2) of section 121.22 of the Revised Code;
 - (3) Conferences with an attorney for the commission concerning disputes involving the commission that are the subject of pending or imminent court action;
 - (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
 - (5) Matters required to be kept confidential by federal law or rules or state statutes.

- (C) The director of the Ohio EPA, and the director of public safety or their authorized designees, shall be known as the co-chairpersons of the commission. The co-chairpersons shall be the chief executive officers of the commission and shall perform all duties commonly incidental to such position. One of the co-chairpersons shall preside at all meetings. The presiding chairperson of each regularly scheduled meeting of the commission will alternate. If the co-chairperson who is scheduled to preside at a regularly scheduled meeting of the commission will be unavailable to serve as the chairperson of the meeting, the scheduled presiding chairperson will notify the other co-chairperson to preside, as soon as possible but no later than twenty four hours in advance. If neither chairperson is available, then the designee of the agency scheduled to preside shall act as the presiding chairperson. The secretary of the commission will attempt to notify the commission members as to which co-chairperson will be presiding.
- (D) An executive committee shall be formed consisting of the members provided for in division (B)(9) of section 3750.02 of the Revised Code. If a quorum of the executive committee conducts a meeting, it shall thereafter advise the commission as a whole at any regular commission meeting, and propose resolutions for adoption to the commission as a whole, as necessary. The executive committee shall have any other powers as identified in paragraph (B) of rule 3750-10-01 of the Administrative Code.
- (E) The commission through the Ohio EPA shall be responsible for recording the proceedings of the commission. The minutes of a regular or special meeting of the commission shall be promptly recorded and open to public inspection. The minutes of an executive session meeting need only include the general subject matter of the discussion at the executive session meeting. The minutes of all the meetings shall include the date, place and time of the meeting. Minutes of regular and special meetings shall include a record of motions made at the meeting, a vote count on all motions raised at the meeting and a summary of all business conducted at the meeting. Until such time as the commission has its own staff and office, the minutes shall be stored at the office of the Ohio EPA in Columbus in the custody of the Ohio EPA, "Community Right-to-Know" program and will be available for inspection.
- (F) The commission shall use the Ohio EPA public interest center to disseminate public information regarding commission meetings. The Ohio EPA public interest center shall maintain a listing of meetings scheduled to be held by the commission and its committees including the date, time, and place of all regular and special meetings. A member of the public may obtain advance notification of regular and special meetings of the commission beginning thirty days after submitting a written request to receive such notification to the Ohio EPA public interest center. The advance notification may include, but is not necessarily limited to, mailing the agenda of meetings.
- (G) The commission, through the Ohio EPA public interest center shall give at least seventy-two hours advance notice to the news media of all regularly scheduled meetings. This notice will be accomplished by the Ohio EPA public interest center

issuing a press release to its general list of newspapers and wire services including the date, time, place and agenda for the meeting and the name of a commission contact person who has knowledge of the scheduled meeting.

- (H) The commission, through the Ohio EPA public interest center shall give at least twenty-four hours advance notice of all special meetings to any member of the news media that has requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the commission, through the Ohio EPA public interest center shall immediately notify the news media that have requested notification upon the scheduling of the meeting. This notice shall include the date, time, place and purpose of the meetings.
- (I) At the beginning of each meeting of the commission membership, a recitation of the public notice given of that meeting shall be made. and the presiding co-chairperson or designee shall state that the meeting is open to the public.
- (J) These internal rules may be supplemented by the commission through resolution adopted according to normal voting procedures.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

CERTIFIED ELECTRONICALLY

Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(9)
Rule Amplifies: 3750.02(A)
Prior Effective Dates: 6/30/90, 9/1/98

Internal operating rules.

- (A) In order for the commission membership to meet as a whole, a quorum of members must be present at the meeting. The commission shall conduct a roll call of its membership to determine if a quorum is present prior to conducting any business at a meeting. A quorum consists of one-half of all presently appointed members plus one member. A statutorily authorized member of the commission or their designee must be present in person at a meeting open to the public to be considered present and vote at the meeting for purposes of determining whether a quorum exists. A quorum of the executive committee consists of one-half of the members plus one member.
- (B) Any matters of business to be voted upon by the commission shall be in the form of a resolution or motion. Each resolution shall be submitted in writing to each member of the commission at least twenty-four hours prior to the meeting upon which said resolution is voted upon, unless a majority of the commission members present vote, in the form of an oral or written resolution, to waive the requirement of twenty-four hours prior written notice. A simple majority of the membership in attendance at any meeting must vote affirmatively for any resolution for it to be adopted by the commission. Except for the chairmen of the respective house and senate standing committees which shall be non voting members, and except when the member falls under paragraph (D) of this rule, each commission member, including the presiding chairperson, shall have one vote. Either the primary designee, or in the primary designee's absence, the alternate designee from a state member agency may vote. A commission member may vote for or against a resolution or may abstain.

Each resolution shall be adopted on a vote of the commission in public unless the commission is meeting in executive session in accordance with section 121.22 of the Revised Code. Resolutions shall be numbered consecutively and if a particular resolution is rejected, that resolution number shall not be assigned to another resolution. Each resolution must state that it was passed or rejected by a majority of the members and it must be signed by the co-chairpersons of the commission or their designees. A resolution may be modified by oral motion approved by a majority of the members at a meeting of the commission.

Each statutory head of each agency appointed as a member of the commission may designate a representative and an alternate representative(s) if desired. A statutory head of an agency may designate additional or substitute representatives in the form of a letter addressed to the co-chairpersons of the commission and signed by the statutory head of the agency.

- (C) Minutes of each meeting and a record of all resolutions adopted or rejected by the commission shall be recorded in the commission's journal which, until such time as the commission has its own office, shall be stored in accordance with paragraph (E) of rule 3750-10-03 of the Administrative Code.

- (D) An appointed member of the commission may also serve as a member of a local emergency planning committee of an emergency planning district, except that they shall not participate as a member of the commission in the appointment of members of the committee of which they are a member, in the review of the chemical emergency response and preparedness plan submitted by the committee of which they are a member, in any vote to approve a grant to their district, or in any vote of the commission on any motion or resolution pertaining specifically to their district or the committee on which they serve. A member of the commission who is also a member of a committee may vote on resolutions of the commission that apply uniformly to all committees and districts in the state and do not provide a grant or other pecuniary benefit to their district or the committee of which they are a member.
- (E) A state agency member of the commission may serve on a committee in the district in which the member resides or works. A state agency member of the commission serving on a local emergency planning committee shall not be compensated by the local emergency planning committee.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

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Statutory Authority: 3750.02(B)(9)
Rule Amplifies: 3750.02(A)
Prior Effective Dates: 6/30/90, 9/1/98.

3750-10-07

Executive committee: issuance of orders: persons who may request enforcement order procedure.

- (A) The executive committee of the commission, by majority vote of a quorum of at least four members, may issue an order to any person who has violated or is violating any provision of Chapter 3750. of the Revised Code or the rules adopted hereunder.
- (B) The order shall be in writing and shall set forth the section or rule violated and a description of the violation, and shall specify what action is required in order to abate the violation. An order issued under this rule shall be sent by certified mail, return receipt requested. Notice of the order shall be deemed effective when delivery is tendered at the last known address or the address currently on file with the commission, committee, or fire department for any facility owner or operator subject of the order.
- (C) Any state agency represented on the commission, committee, fire department or any other person who believes that any person has violated or is violating a provision of Chapter 3750. of the Revised Code or a rule adopted hereunder may request the executive committee to issue an order to such person under this rule.
 - (1) The request shall be in writing and shall be on a form prescribed by the executive committee. A person submitting a request under this rule, other than the state agencies represented on the commission shall have the form notarized.
 - (2) Upon receipt of a request for enforcement action under this rule from the state agencies represented on the commission, committee, fire department or other person, the executive committee may request the commission or the director of environmental protection to investigate the alleged violation, and the executive committee may thereafter issue an order under this rule.
- (D) A decision of the executive committee to request an investigation by the commission or director to issue an order under this rule is not an act or action appealable to the environmental board of review under section 3750.19 of the Revised Code.

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Statutory Authority: 3750.02(B)(9)
Rule Amplifies: 3750.02(A)
Prior Effective Dates: 2/22/90, 6/30/90, 9/1/98.

3750-10-09 **Public testimony.**

Any person who is not a member of the commission and wishes to appear before the commission at a regular or special meeting shall advise the presiding co-chairperson or designee before the meeting convenes, using a witness slip provided for that purpose. The witness slip shall indicate the person's name and address, group represented and the subject upon which the person desires to speak. The request may be granted, refused or otherwise acted upon at the discretion of the presiding co-chairperson or designee. No person shall speak more than once on the same subject, unless granted permission by the presiding co-chairperson or designee. No presentation under this rule shall be more than ten minutes unless permission is granted by the presiding co-chairperson or designee.

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Statutory Authority: 3750.02(B)(9)
Rule Amplifies: 3750.02(A)
Prior Effective Dates: 6/30/90, 9/1/98.

Chapter 3750-15: Procedural Rules

Contact: Jeff Beattie 614-644-2269
Jeff.Beattie@EPA.State.Oh.US

3750-15-01 **Applicability.**

Rules 3750-15-01 to 3750-15-10 of the Administrative Code shall govern procedures conducted by the commission.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

CERTIFIED ELECTRONICALLY

Certification

01/13/2006

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1)(j)
Rule Amplifies: 3750.02
Prior Effective Dates: 6/30/90

3750-15-02 **Construction of rules.**

Rules adopted by the commission shall be construed liberally to accomplish the purpose of Chapter 3750. of the Revised Code and rules adopted thereunder.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

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01/13/2006

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1)(j)
Rule Amplifies: 3750.02
Prior Effective Dates: 6/30/90, 9/1/98

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). The said notice shall include:
 - (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 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 and pay a reasonable fee not to exceed the costs of copying and mailing.

Effective: 02/10/2005

R.C. 119.032 review dates: 08/20/2004 and 02/10/2010

CERTIFIED ELECTRONICALLY

Certification

01/31/2005

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)
Rule Amplifies: 3750.02, 119.03(A)
Prior Effective Dates: 10/24/89(Emer.), 3/30/90.

3750-15-10 **Severability.**

Each paragraph and each part of each paragraph of these rules is hereby declared to be an independent paragraph or part of a paragraph and notwithstanding any other evidence of intent, it is hereby declared to be the controlling intent that if any paragraph, or any provision thereof or the application thereof to any person or circumstances, is held to be invalid, the remaining paragraphs or parts of paragraphs and the application of such provisions to any other persons or circumstances, other than those as to which it is held invalid, shall not be effective thereby and it is hereby declared to be the intent that the other provisions of these rules would have been adopted independently of such paragraph, paragraphs, or parts of a paragraph so held to be invalid.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

CERTIFIED ELECTRONICALLY

Certification

01/13/2006

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1)(j)
Rule Amplifies: 3750.02
Prior Effective Dates: 6/30/90

Chapter 3750-20: Emergency Planning

Contact: Jeff Beattie 614-644-2269
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3750-20-01 **Facilities subject to emergency planning requirements.**

(A) A facility that meets either of the following criteria is subject to emergency planning requirements of section 3750.05 of the Revised Code:

- (1) Which has an extremely hazardous substance present in an amount equal to or exceeding the threshold planning quantity as established under rule 3750-20-10 of the Administrative Code.

For purpose of this rule, an amount of any extremely hazardous substance means the total amount of an extremely hazardous substance present at the facility at any one time in concentrations greater than one per cent by weight, regardless of location, number of containers, or method of storage.

- (2) Which has been designated as an additional facility pursuant to section 3750.05 of the Revised Code.

(B) For purposes of this rule nothing herein shall exclude or excludes an agricultural producer otherwise subject to the requirements of paragraph (A)(1) or (A)(2) of this rule.

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

CERTIFIED ELECTRONICALLY
Certification

12/19/2006
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1), 3750.02(B)(2)
Rule Amplifies: 3750.05
Prior Effective Dates: 6/30/90

3750-20-05 **Emergency planning requirements of subject facilities.**

- (A) The owner or operator of a facility subject to rule 3750-20-01 of the Administrative Code shall designate a facility representative who will participate in the local emergency planning process as a facility emergency coordinator. The owner or operator shall notify the committee of the facility representative within thirty days after establishment of the committee or within sixty days of the facility first being subject to regulation under rule 3750-20-01 of the Administrative Code, whichever is later.
- (B) The owner or operator of a facility subject to this rule shall inform the committee of any changes occurring at the facility which may be relevant to emergency planning.
- (C) Upon request of the committee having jurisdiction over the facility, the owner or operator of a facility subject to this rule shall promptly provide to the committee any information necessary for development or implementation of the chemical emergency response and preparedness plan for the district.

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

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Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1), 3750.02(B)(2)
Rule Amplifies: 3750.05
Prior Effective Dates: 6/30/90

3750-20-10 **Calculation of quantities for comparison with threshold planning quantities for solids and mixtures.**

- (A) If a container or storage vessel holds a mixture or solution of an extremely hazardous substance, then the concentration of extremely hazardous substance, in weight per cent (greater than one per cent), shall be multiplied by the mass (in pounds) in the vessel to determine the actual quantity of extremely hazardous substance therein.
- (B) Extremely hazardous substances that are solids are subject to either of two threshold planning quantities as shown in or referenced by rule 3750-20-30 of the Administrative Code (e.g., five hundred/ten thousand pounds). The lower (five hundred) threshold planning quantity applies only if the solid exists in powdered form and has a particles size less than one hundred microns; or is handled in solution or in molten form; or meets the criteria for a National Fire Protection Association (NFPA) rating of two, three or four for reactivity. If the solid does not meet any of these criteria, it is subject to the upper (ten thousand pound) threshold planning quantity as shown in or referenced by rule 3750-20-30 of the Administrative Code.
- (C) The one hundred micron level may be determined by multiplying the weight per cent of solid with a particle size less than one hundred microns in a particular container by the quantity of solid in the container.
- (D) The amount of solid in solution may be determined by multiplying the weight per cent of solid in the solution in a particular container by the quantity of solution in the container.
- (E) The amount of solid in molten form must be multiplied by 0.3 to determine whether the lower threshold planning quantity is met.
- (F) For purposes of this rule "mixture" means a heterogeneous association of substances where the various individual substances retain their identities and can usually be separated by mechanical means. Includes solutions or compounds but does not include alloys or amalgams.

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

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Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1), 3750.02(B)(2)
Rule Amplifies: 3750.07
Prior Effective Dates: 6/30/90

3750-20-30 **List of extremely hazardous substances and their threshold planning quantities.**

[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 the last paragraph of rule 3750-1-01 of the Administrative Code titled "Incorporation by reference."]

- (A) Extremely hazardous substances and their applicable threshold planning quantities and reportable quantities are those substances and quantities listed by the administrator of USEPA under 40 CFR Part 355, Appendices A and B.

- (B) Extremely hazardous substances and their applicable threshold planning quantities and reportable quantities are those substances and quantities listed below by the commission pursuant to divisions (B)(4) and (C)(5) of section 3750.02 of the Revised Code.

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

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12/19/2006
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Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1), 3750.02(B)(2)
Rule Amplifies: 3750.07
Prior Effective Dates: 6/30/90, 9/20/91

3750-20-50 **List of hazardous substances and their applicable reportable quantities.**

[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 the last paragraph of rule 3750-1-01 of the Administrative Code titled "Incorporation by reference."]

- (A) Hazardous substances and their applicable reportable quantities are those substances and quantities listed by the administrator of USEPA under 40 CFR Part 302, Table 302.4

- (B) Hazardous substances and their applicable reportable quantities and those substances and quantities listed below by the commission pursuant to divisions (B)(4) and (C)(5) of section 3750.02 of the Revised Code.

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

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Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1), 3750.02(B)(2)
Rule Amplifies: 3750.07
Prior Effective Dates: 6/30/90

3750-20-60 **Addition of hazardous chemicals, extremely hazardous substances and hazardous substances.**

- (A) The commission, pursuant to divisions (B)(4) and (C)(5) of section 3750.02 of the Revised Code, may identify extremely hazardous substances in addition to those listed in paragraph (A) of rule 3750-20-30 of the Administrative Code, establish the threshold planning quantities and reportable quantities for the additional extremely hazardous substance, and list such substances in paragraph (B) of rule 3750-20-30 of the Administrative Code.
- (B) The commission, pursuant to divisions (B)(4) and (C)(5) of section 3750.02 of the Revised Code, may identify hazardous chemicals in addition to those meeting the criteria of rule 3750-30-25 of the Administrative Code, establish threshold quantities and categories of health or physical hazards for the additional hazardous chemicals and shall list such chemicals in paragraph (B) of rule 3750-30-25 of the Administrative Code.
- (C) The commission, pursuant to divisions (B)(4) and (C)(5) of section 3750.02 of the Revised Code, may identify hazardous substances in addition to those listed in rule 3750-20-50 of the Administrative Code, establish reportable quantities for the additional hazardous substances and shall list such substances in paragraph (B) of rule 3750-20-50 of the Administrative Code.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

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Statutory Authority: 3750.02(C)(5)
Rule Amplifies: 3750.02(B)(4), 3750.02(C)(5)
Prior Effective Dates: 6/30/90

3750-20-70 **Exercise definitions.**

As used in the exercise rules:

- (A) "Actual event" means a reportable release as defined by section 3750.06 of the Revised Code and rules adopted thereunder, for which exercise credit is being requested.
- (B) "Primary emergency operations center" (EOC) means a fixed facility that is identified in the state's or the district's "chemical emergency response and preparedness plan" and that must be the same primary EOC identified in the state or local emergency operations plan. The facility must be capable of accommodating essential municipal, county, state, federal, and private representatives who are identified in the state's or the district's "chemical emergency response and preparedness plan." The facility must also be physically equipped to accommodate all participants' needs, as identified in the EOC requirements list found in the "Ohio Hazardous Materials Exercise Evaluation Manual" (OHM-EEM). An EOC's essential functions are:
- (1) Gathering and displaying information;
 - (2) Coordination and decision-making;
 - (3) Establishment of response and recovery priorities;
 - (4) Identification and coordination of resources;
 - (5) Providing centralized direction, control, and warning for response and recovery actions;
 - (6) Supporting field operations; and
 - (7) Establishing and maintaining communications with field and support agencies.
- (C) "Alternate emergency operations center" (EOC) means a fixed facility which meets all of the criteria in paragraph (B) of this rule and which can be used when the primary EOC is not available or geographic considerations make the alternate EOC more capable of accomplishing the essential functions of the primary EOC.
- (D) "Exercise objective" means the list of criteria used to evaluate a specific operations function. Exercise objectives are identified by the commission in the OHM-EEM.
- (E) "Operational capability" means the ability of emergency personnel to respond to individual chemical hazards in a manner which minimizes adverse effects upon the public, property, and the environment in compliance with applicable federal, state, and local statutes and regulations.

(F) "Points of review" means those individual points identified in each exercise objective which are collectively used to evaluate the demonstration of a specific objective during an exercise, as established by the commission in the OHM-EEM.

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Statutory Authority: 3750.02(B)(2)(a), 3750.02(B)(2)(b)

Rule Amplifies: 3750.04

Prior Effective Dates: 1/16/91, 11/1/93, 10/1/98

3750-20-72 **Chemical emergency response plans.**

For guidance in preparation of chemical emergency response and preparedness plans, the commission and each committee shall use, at a minimum, the "Ohio Hazardous Materials Plan Development and Evaluation Document," adopted, updated, and supplemented by the commission, as authorized by Chapter 3750. of the Revised Code.

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Statutory Authority: 3750.02(B)(2)(a), 3750.02(B)(2)(b)

Rule Amplifies: 3750.04

Prior Effective Dates: 1/16/91, 10/1/98

3750-20-74 **Review of plans.**

- (A) The commission has designated the Ohio emergency management agency to conduct initial and annual plan reviews required by division (B) of section 3750.04 of the Revised Code. The Ohio emergency management agency will utilize the commission approved "Ohio Hazardous Materials Plan Development and Evaluation Document" in plan evaluation.
- (1) Each chemical emergency response and preparedness plan submitted to the commission shall have a table of contents describing the location of the minimum plan requirements as identified in division (A) of section 3750.04 of the Revised Code.
 - (2) The commission shall provide to the committees the commission approved document as guidance in the development of the committee's chemical emergency response and preparedness plan.
 - (3) Following the committee's review of its plan, the committee will submit the plan to the Ohio emergency management agency.
 - (4) The Ohio emergency management agency will review the committee's plan against the thirteen plan requirements listed in division (A) of section 3750.04 of the Revised Code and the commission-approved "Ohio Hazardous Materials Plan Development and Evaluation Document."
 - (5) The Ohio emergency management agency will prepare a report listing plan review findings and submit the report to the commission, recommending concurrence or refusal to concur with the plan.
- (B) The commission shall require that each plan contain all of the minimum plan requirements identified in section 3750.04 of the Revised Code and the rules adopted thereunder for a determination and issuance of an order of concurrence, pursuant to section 3750.18 of the Revised Code.
- (C) The commission shall refuse to concur with a plan that does not contain all of the minimum plan requirements identified in section 3750.04 of the Revised Code and issue the appropriate order pursuant to section 3750.18 of the Revised Code.
- (D) Upon receipt of an order refusing to concur with a plan, the committee shall have sixty days to submit a modified plan that complies with the requirements set forth in section 3750.04 of the Revised Code.

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Rule Amplifies: 3750.04, 3750.18
Prior Effective Dates: 1/16/91, 11/1/93, 10/1/98

3750-20-76 **Types of exercises.**

- (A) The following types of exercises shall be employed by each committee and the commission subject to the annual exercise requirement of their chemical emergency response and preparedness plans under divisions (A)(12) and (C) of section 3750.04 of the Revised Code and division (B)(13) of section 3750.02 of the Revised Code for the commission.
- (1) A "tabletop exercise" is an activity in which commission, committee, planning district, local emergency management personnel, elected or appointed officials, and other individuals with emergency responsibilities are gathered together to discuss planned response to various simulated emergency situations. Using existing plans, the exercise is designed to elicit constructive discussion by the participants as they examine and attempt to resolve response problems. The purpose is for participants to evaluate plans and to resolve questions of coordination and assignment of responsibilities throughout the exercise. Each tabletop exercise shall demonstrate at least three but no more than five of the objectives defined in paragraph (D) of rule 3750-20-70 of the Administrative Code.
 - (2) A "functional exercise" is an activity designed to test or evaluate the operational capability of an individual function, or complex activities within a function of emergency response. This type of exercise is applicable where the response activity is capable of being evaluated in isolation from other emergency management activities. A functional exercise fully tests specific functions of the committee's chemical emergency response and preparedness plan. An EOC or command post is activated and used to demonstrate the use of command structure. Each functional exercise shall physically demonstrate at least four but no more than seven of the objectives defined in paragraph (D) of rule 3750-20-70 of the Administrative Code.
 - (3) A "full-scale exercise" is an activity intended to evaluate the operational capability of the overall emergency management systems in an interactive manner. A full-scale exercise involves the testing of a majority of the functions of the committee's chemical emergency response and preparedness plan. A full-scale exercise requires actual field play that includes mobilization and actual deployment of emergency personnel and resources required to demonstrate coordination and response capabilities. An EOC or command post shall be activated to coordinate operational field capabilities. Each full-scale exercise shall physically demonstrate eight or more of the objectives as defined in paragraph (D) of rule 3750-20-70 of the Administrative Code.
- (B) The response to an actual hazardous materials incident may qualify as an exercise. In order to qualify, the committee must submit, within thirty days of the completion of the response to the incident, a completed "LEPC Exercise Notice Form" identifying

the exercise objectives which were demonstrated by the actual response. Upon receipt of the "LEPC Exercise Notice Form," the Ohio emergency management agency will contact the committee to schedule a meeting to conduct an interview of all principal participants to determine whether or not the identified exercise objectives were successfully tested.

Effective: 05/15/2004

R.C. 119.032 review dates: 02/25/2004 and 05/15/2009

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Statutory Authority: 3750.02(B)(2)(A), 3750.02(B)(2)(b)

Rule Amplifies: 3750.02, 3750.04

Prior Effective Dates: 1/16/91, 11/1/93, 10/1/98

3750-20-78 **Execution of exercises.**

- (A) The commission shall use a recurring four-year exercise cycle which began on July 1, 1993. For purposes of this rule, "year" means the state fiscal year.
- (B) The commission, under division (B)(13) of section 3750.02 of the Revised Code, and each committee subject to the annual exercise of their chemical emergency response and preparedness plan under divisions (A)(12) and (C) of section 3750.04 of the Revised Code shall conduct a minimum of one full-scale exercise within each four-year exercise cycle.
- (C) An EOC, as identified in the committee's chemical emergency response and preparedness plan must be fully activated and evaluated a minimum of once within each four-year exercise cycle.
- (D) The commission and each committee shall have the option of conducting a tabletop exercise, functional exercise, or full-scale exercise, as defined in paragraphs (A)(1) to (A)(3) of rule 3750-20-76 of the Administrative Code to fulfill the requirement of an annual exercise the remaining three years of each four-year exercise cycle.
- (E) During each four-year exercise cycle, the commission and each committee shall demonstrate at a minimum, all exercise objectives identified in the OHM-EEM.
- (F) During each four-year exercise cycle, the commission and each committee shall follow all written procedures identified in the OHM-EEM.
- (G) No more than two actual incidents may be used as an exercise during each four-year exercise cycle.
- (H) Each exercise of a committee's plan according to division (B)(2)(b) of section 3750.02 of the Revised Code, shall involve, in addition to local emergency response and medical personnel, either a facility that is subject to the plan or a transporter of hazardous materials as defined by regulations adopted under the "Hazardous Materials Transportation Act" 88 Stat. 2156, 49 U.S.C.A. 1801 (1976), as amended. For facility incidents, chemicals used in exercises can be any hazardous chemical on site as defined under the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651 as amended and the regulations adopted under it. For transportation incidents, chemicals used in exercises must be a regulated chemical cargo load governed by the "Hazardous Materials Transportation Act."

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Rule Amplifies: 3750.04
Prior Effective Dates: 1/16/91, 11/1/93, 10/1/98

3750-20-80 **Review of exercises.**

- (A) The commission has designated the Ohio emergency management agency to observe and conduct reviews of the annual exercise of each committee's chemical emergency response and preparedness plan required by division (C) of section 3750.04 of the Revised Code.
- (B) An annual exercise review by the commission shall be limited to those committees that have submitted a chemical emergency response and preparedness plan which has been reviewed by the commission.
- (C) The Ohio emergency management agency will produce a report on each exercise observed and submit the report to the commission. Each report shall be based on the direct observation of the exercise and the evaluator's findings. Each report shall include, but is not limited to the following:
 - (1) A synopsis or general statement on the results of the exercise; and,
 - (2) Specific comments on any point of review within each selected exercise objective which was not adequately demonstrated; and,
 - (3) Recommendations for plan improvements and corrective actions for those points of review within each selected exercise objective not adequately demonstrated; and,
 - (4) A recommendation to either concur with the exercise or require a corrective action plan.
- (D) If an evaluator determines that an exercise has not adequately demonstrated a majority of the points of review within any of the selected exercise objectives, the Ohio emergency management agency shall provide the committee with a copy of its report and shall notify the committee by letter that it is required to develop a corrective action plan.
- (E) The committee shall have sixty days from the date of the notification letter to develop and submit a corrective action plan to the Ohio emergency management agency. The corrective action plan shall address actions taken or to be taken to correct unmet points of review within those exercise objectives identified in the exercise report as not adequately demonstrated. The corrective action plan will be reviewed by the Ohio emergency management agency and upon completion of this review, the corrective action plan, along with an executive summary, and the exercise report will be submitted to the commission for consideration.
- (F) To qualify the response to an actual event as an annual exercise under divisions (A)(12) and (C) of section 3750.04 of the Revised Code, the committee shall notify

the Ohio emergency management agency, within thirty days of the response to the actual event, of the committee's intent to use the actual event in lieu of conducting an annual exercise. The Ohio emergency management agency will schedule a meeting with the committee for the purpose of interviewing response participants, document the interview findings, and develop an exercise report as described in paragraph (C) of this rule.

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02/25/2004

Date

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Rule Amplifies: 3750.04, 3750.18
Prior Effective Dates: 1/16/91, 11/1/93, 10/1/98

3750-20-82 **Issuance of exercise order by commission.**

- (A) When the commission receives a report prepared in accordance with paragraph (C) of rule 3750-20-80 of the Administrative Code that an exercise demonstrated a majority of the points of review within each selected exercise objective, the commission shall issue an order of concurrence.

- (B) When a committee is required to submit a corrective action plan in accordance with paragraphs (D) and (E) of rule 3750-20-80 of the Administrative Code, the commission shall issue one of the following orders:
 - (1) An order of concurrence with the exercise if the corrective action plan was submitted within sixty days and sets forth actions taken or to be taken to correct unmet points of review within those exercise objectives identified in the exercise report as not adequately demonstrated.

 - (2) An order refusing to concur with the exercise if the corrective action plan is not submitted within sixty days or does not set forth actions taken or to be taken to correct unmet points of review within those exercise objectives identified in the exercise report as not adequately demonstrated.

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Rule Amplifies: 3750.04, 3750.18
Prior Effective Dates: 1/16/91, 11/1/93, 10/1/98

3750-20-84 **Public review of plan exercises.**

- (A) The exercise review report from each full-scale exercise shall be made available to the public of the respective planning district in the form of a public critique.

- (B) Each committee shall discuss the conduct and review of each full-scale exercise at a meeting open to the public in accordance with section 121.22 of the Revised Code. Discussions may be held at a regularly scheduled committee meeting or at a separately advertised special meeting. The meeting will include discussion of issues concerning the exercise and public commentary.

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Rule Amplifies: 3750.04

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Chapter 3750-25: Emergency Release Notification

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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 the "Incorporation by Reference" paragraph at the end of rule 3750-1-01.]

(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:

- (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 section 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:
- (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 the “Incorporation by Reference” section at the end of rule 3750-1-01.]

(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 this section.

(B) Unlisted hazardous substances.

A solid waste, as defined in 40 C.F.R. Part 261.2, which is not excluded from regulation as a hazardous waste under 40 C.F.R. Part 261.4(b), is a hazardous substance for purposes of this section if it exhibits any of the characteristics identified in 40 C.F.R. Part 261.20 through Part 261.24.

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Prior Effective Dates: 6/30/93

[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 the “Incorporation by Reference” section at the end of rule 3750-1-01.]

(A) Listed hazardous substances.

The quantity listed in the column entitled "Final RQ" for each substance in 40 C.F.R. 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 C.F.R. Part 302 Table 302.4 are in units of pounds based on chemical toxicity, while the RQs in 40 C.F.R. Part 302 Appendix B to Table 302.4 are in units of curies based on radiation hazard. Whenever the RQs in 40 C.F.R. 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 C.F.R. Part 302 Table 302.4 have the reportable quantity of one hundred pounds, except for those unlisted hazardous wastes which exhibit extraction procedure (TCLP) toxicity identified in 40 C.F.R. Part 261.24. Unlisted hazardous wastes which exhibit TCLP toxicity have the reportable quantities listed in 40 C.F.R. 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 C.F.R. 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 C.F.R. Part 302 Table 302.4, the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

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3750-25-12 **Determining notification requirements of mixtures or solutions.**

- (A) An owner or operator of a facility or vessel from which a release of mixtures or solutions (including hazardous waste streams) of hazardous substances, except for radionuclides, is subject to the release notification requirements as set forth under rule 3750-25-25 of the Administrative Code if:
- (1) The quantity of all of the hazardous waste constituent(s) of the mixture or solution is known, notification is required where a reportable quantity or more of any hazardous constituents is released; or
 - (2) The quantity of one or more of the hazardous constituent(s) of the mixture or solution is unknown, notification is required where the total amount of the mixture or solution released equals or exceeds the reportable quantity for the hazardous constituent with the lowest reportable quantity.

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Rule Amplifies: 3750.06
Prior Effective Dates: 6/30/93

Release notification requirements for radionuclides and solid particles.

- (A) An owner or operator of a facility or vessel from which a release of radionuclides occurred is subject to the release notification requirements as set forth under rule 3750-25-25 of the Administrative Code only in the following circumstances:
- (1) If the identity and quantity (in curies) of each radionuclide in a released mixture or solution is known, the ratio between the quantity released (in curies) and the reportable quantity for the radionuclide must be determined for each radionuclide. The only such releases subject to the release notification requirements as set forth under rule 3750-25-25 of the Administrative Code are those in which the sum of the ratios for the radionuclides in the mixture or solution released is equal or greater than one.
 - (2) If the identity of each radionuclide in a released mixture or solution is known but the quantity released (in curies) of one or more of the radionuclides is unknown, the only such release subject to the release notification requirements as set forth under rule 3750-25-25 of the Administrative Code are those in which the total quantity (in curies) of the mixture or solution released is equal to or greater than the lowest reportable quantity of any individual radionuclide in the mixture or solution.
 - (3) If the identity of one or more radionuclides in a released mixture or solution is unknown (or if the identity of a radionuclide released by itself is unknown), the only such releases subject to the release notification requirements as set forth under rule 3750-25-25 of the Administrative Code, are those in which the total quantity (in curies) released is equal to or greater than either one curie or the lowest reportable quantity of any known individual radionuclide in the mixture or solution, whichever is lower.
- (B) The following categories of releases are exempt from the release notification requirements set forth under rule 3750-25-25 of the Administrative Code:
- (1) Releases of those radionuclides that occur naturally in the soil from land holdings such as parks, golf courses, or other large tracts of land;
 - (2) Release of radionuclides occurring naturally from the disturbance of land for purposes other than mining, such as for agricultural or construction activities;
 - (3) Releases of radionuclides from the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and,
 - (4) Releases of radionuclides from coal and coal ash piles at utility and industrial facilities with coal-fired boilers.

- (C) Except for the releases of radionuclides, notification of release of a reportable quantity of solid particles of antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc is not required if the mean diameter of the particles released is larger than 100 micrometers (0.004 inches).

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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 the “Incorporation by Reference” section at the end of rule 3750-1-01.]

- (A) Except as provided in paragraph (C) of this rule, no release notification shall 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. A continuous release is 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. The normal range of a release is 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. A routine release is a release that occurs during normal operating procedures or processes.
 - (4) Stable in quantity and rate. A release that is stable in quantity and rate is a release that is predictable and regular in amount and rate of emission.
 - (5) Statistically significant increase. A statistically significant increase in 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:
- (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 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) and identity(ies) of the hazardous substance(s) 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 reduced 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 Nation 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 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 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) 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 environmental medium(a) 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) 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 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) 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) 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) 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) of the release, the release is a new release and must 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 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:
 - (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 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 1, provided that the following information is added:
- (1) The population density within 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 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) 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) respectively 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 be used to determine a statistically significant increase in the release.

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Prior Effective Dates: 6/30/93

Reportable quantities for oil including crude oil.

- (A) This rule shall set forth the reportable quantities for the discharge and release of oil and crude oil as defined in paragraphs (AA) and (SS) of rule 3750-1-01 of the Administrative Code from a facility as follows:
- (1) The reportable quantity for the discharge of oil including crude oil into or upon navigable waters is any amount which causes a film or sheen upon or discoloration of the surface of the waters or cause a sludge or emulsion to be deposited beneath the surface of the waters.
 - (2) Except as provided in paragraph (A)(3) of this rule, the reportable quantity for the release of oil into the environment, excluding navigable waters, is an amount of twenty-five gallons or more.
 - (3) The reportable quantity for the release of crude oil from an oil and gas extraction storage facility as defined in paragraph (BB) of rule 3750-1-01 of the Administrative Code into the environment, excluding navigable waters, is an amount of two hundred ten gallons (five barrels) or more. As used in this paragraph, a barrel is equal to forty-two United States gallons.

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Rule Amplifies: 3750.06
Prior Effective Dates: 6/30/93

3750-25-25 **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 the “Incorporation by Reference” section at the end of rule 3750-1-01.]

(A) An owner or operator of a facility or vessel where a hazardous chemical is stored and from which a release of a hazardous substance, extremely hazardous substance, or discharge of oil into the environment has occurred in an amount equal to or exceeding the reportable quantity as set forth under rules 3750-20-50, 3750-20-30, and 3750-25-20 respectfully of the Administrative Code in any twenty-four hour period has occurred, shall provide both verbal and written notices in accordance with paragraphs (A)(1) and (A)(2) of this rule.

(1) Verbal release notification requirements:

- (a) Except as provided in paragraph (B) of rule 3750-25-01 of the Administrative Code, if a release or discharge as described in paragraph (A) of this section occurs, the owner or operator of the facility from which the release or discharge has occurred shall immediately notify verbally, by telephone, radio, or in person, the community emergency coordinator of each local emergency planning district that contains an area likely to be affected by the release or discharge, the fire department having jurisdiction where the release occurred, and the Ohio EPA emergency response unit at 800-282-9378 or 614-224-0946. The verbal notification shall be given within thirty minutes after a person at the facility has knowledge of the release or discharge, unless notification within that time is impracticable under the circumstances. In the event a committee does not exist for that emergency planning district in which the release or discharge occurred, notification shall be provided under this section to the Ohio EPA emergency response unit at 800-282-9378 or 614-224-0946 and the fire department having jurisdiction over the facility. Ohio EPA may provide notification to the appropriate local emergency response personnel.
- (b) An owner or operator of a vessel from which a release of hazardous substance extremely hazardous substance, or discharge of oil has occurred in an amount equal to or exceeding the reportable quantity as set forth under rules 3750-20-50, 3750-20-30 and 3750-25-20 respectfully, of the Administrative Code shall provide verbal notice within thirty minutes after a person aboard the vessel has knowledge of the release or discharge to the Ohio EPA emergency response unit at 800-282-9378 or 614-224-0946. Upon receiving verbal notification, the Ohio EPA emergency response unit shall immediately notify the community emergency coordinator of the emergency planning district in which the release or discharge occurred. In

the event a committee does not exist for the emergency planning district in which the release or discharge occurred, the Ohio EPA emergency response unit may provide notification to the appropriate local emergency response personnel.

- (c) An owner or operator of a facility from which there is a transportation-related release of hazardous substance, extremely hazardous substance or discharge of oil in an amount equal to or exceeding the reportable quantity as set forth under rules 3750-20-50, 3750-20-30, and 3750-25-20 respectfully, of the Administrative Code shall provide verbal notice within thirty minutes after a person at the facility has knowledge of the release or discharge to the Ohio EPA, emergency response unit at 800-282-9378 or 614-224-0946 and to the 911 operator, or in the absence of a 911 emergency telephone number, to the operator. The Ohio EPA emergency response unit may immediately notify the community emergency coordinator of the emergency planning district in which the release or discharge occurred. In the event a committee does not exist for the emergency planning district in which the release or discharge occurred, the Ohio EPA emergency response unit may provide notification to the appropriate local emergency response personnel.

For purposes of this section, "transportation related releases" means a release or discharge during transportation, or storage, incidental to transportation if the stored substance is moving under active shipping papers and has not reached the ultimate consignee.

- (d) The verbal notification required under this section shall be given within thirty minutes after a person at the facility or aboard a vessel has knowledge of the release or discharge, unless notification is impracticable under the circumstances. To the extent known at the time notice is given and that response to the release or discharge will not be delayed, the verbal notice shall include all the following information:
- (i) The location and source(s) of the release or discharge;
 - (ii) The chemical name or identity of any substance involved in the release or discharge and whether the substance is an extremely hazardous substance;
 - (iii) An estimate of the quantity (in gallons or pounds) of any substance released or discharged into the environment;
 - (iv) The time and duration of the release or discharge;
 - (v) The environmental medium or media into which the substance was released or discharged and the extent of the release or discharge;

- (vi) Any known or anticipated acute or chronic health risks associated with the release or discharge and, if known to the informant, advice regarding medical attention necessary for individuals exposed to the substance released or discharge;
- (vii) Proper precautions to take as a result of the release or discharge, including evacuation and other proposed response actions, unless that information is readily available to the community emergency coordinator pursuant to the plan of the district prepared under section 3750.04 of the Revised Code; and
- (viii) The name and telephone number of the person or persons to be contacted for further information.

(2) Written release notification requirements:

- (a) As soon as practicable but no later than thirty days after the release, the owner or operator of a facility from which a release or discharge occurred who was required to provide verbal notice under paragraph (A)(1) of this rule, shall submit to the Ohio EPA and the committee of the planning district in which the release or discharge occurred, a written follow-up emergency notice for the release or discharge.

An owner or operator of a vessel from which a release or discharge occurred who was required to provide verbal notice under paragraph (A)(1)(b) of this rule shall submit a written follow-up emergency notice to the Ohio EPA pursuant to this rule. After the receipt of written follow-up emergency notice or revised written follow-up emergency notice, the Ohio EPA shall immediately send a copy of it to that community emergency coordinator for that emergency planning district in which the release or discharge occurred.

- (b) The written follow-up emergency notice shall set forth and update the verbal notice given under paragraph (A)(1)(d) of this rule and shall include all of the following additional information (mandatory information):
 - (i) Complete name, mailing address, and telephone number of the owner or operator of the facility from which the release occurred.
 - (ii) Actual time, date and duration of the release or discharge;
 - (iii) Actual time and date of discovery of the release or discharge;
 - (iv) Actions taken to respond to and contain the release or discharge;

- (v) Indicate the Ohio EPA spill number and the National response center case number on submitted information;
- (vi) Location of the facility from which the release or discharge occurred (street or mailing address);
- (vii) Location of the release or discharge (street(s) county, township, city);
 - (a) Longitude and latitude, if known, or distance and direction from the nearest intersection or milepost if transportation related release or discharge.
- (viii) Chemical name (common name or technical name) and Chemical abstracts service (CAS) registry number of the substance involved in the release or discharge;
- (ix) Specifically identify the environmental medium or media impacted and the extent of impact;
 - (a) Name of waterway and length of area affected.
 - (b) If no water was affected then indicate surface area in square feet or yards.
 - (c) If the release or discharge was monitored, indicate the method of detection, concentrations, and wind direction and speed if the release was airborne.
 - (d) Amount recovered or neutralized. If neutralized, describe the method of neutralization.
 - (e) Describe any actions taken to reduce the impact of the release or discharge.
- (x) Provide a chronological summary of the incident. Include a chronology of communications with state and local government agencies.
- (xi) Provide manifest, bills of lading, laboratory analyses which were generated by the owner and operator of the facility and are germane to the incident.
- (xii) Describe any extenuating circumstances which caused the release or discharge.
- (xiii) Describe any known or anticipated acute or chronic health risks associated with the release or discharge.

- (xiv) Where appropriate, advice regarding medical attention necessary for individuals exposed to the substance released or discharged.
 - (xv) A summary of all actions taken by the owner or operator to prevent a recurrence of the release or discharge.
 - (xvi) An owner or operator of a facility or vessel from which a release or discharge occurred may submit the following additional information (voluntary information) in the written follow up emergency notice as provided pursuant to paragraph (A)(2) of this section.
 - (a) Indicate any air, water or other permit numbers which may be pertinent to this incident and to the efficient/emission limitations which may apply.
 - (b) To the extent information is available, identify damage to wildlife and/or vegetation.
 - (c) To the extent information is available, identify impact to human health and safety (evacuations, human exposure, death, or seen as injuries).
 - (d) Economic impact.
 - (i) Estimate the dollar value, if any, of the released or discharged product.
 - (ii) Estimate the replacement or repair cost of the of equipment replacement or repair.
 - (iii) Estimate the costs of cleanup.
 - (c) If significant additional information regarding the mandatory or voluntary information submitted about a release or discharge becomes known during the period between submission of the written report required by this section and one year after the release or discharge, the owner or operator shall submit to the committee and the Ohio EPA an updated written notice within three days after learning of the additional information.
- (B) No person shall fail to provide verbal or written release notification or to update a written release notification as required by this rule. Failure to report under this rule may subject any person to civil and/or criminal penalties as provided under sections 3750.20 and 3750.99 of the Revised Code.

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Chapter 3750-30: Hazardous Chemical Reporting

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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 the "Incorporation by Reference" section at the end of rule 3750-1-01.]

- (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 U.S.C. 651 to 678, as amended, and regulations adopted under it; and
 - (2) The facility has present an amount of any one or more hazardous chemical(s) 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 his 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.

Replaces: 3750-30-10.1

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Rule Amplifies: 3750.07, 3750.08

Prior Effective Dates: 7/30/90, 6/30/93, 4/6/99.

3750-30-15 **List of material safety data sheets (MSDS) reporting requirements for subject facilities.**

- (A) Except as provided in paragraph (C) of this rule, an owner or operator of a facility subject to rule 3750-30-01 of the Administrative Code shall submit a list of any hazardous chemical present at the facility according to the minimum threshold quantity schedule established in paragraph (A) of rule 3750-30-27 of the Administrative Code within three months of first acquiring the regulated quantity of any hazardous chemical to the commission, the committee and the fire department having jurisdiction over the facility.
- (B) The list shall contain the following:
- (1) A listing of the hazardous chemicals for which a material safety data sheet (hereinafter "MSDS") is required, grouped by hazard categories as defined in rule 3750-30-25 of the Administrative Code;
 - (2) The chemical name or common name of each hazardous chemical as provided on the MSDS;
 - (3) Except for reporting of mixtures under paragraph (D) of rule 3750-30-27 of the Administrative Code, any hazardous component of each hazardous chemical as provided on the MSDS;
 - (4) An indication as to whether the owner or operator has chosen to withhold the chemical identification from disclosure as trade secret pursuant to section 3750.09 of the Revised Code.
- (C) The requirement for filing a list under this rule may be met by completing a facility identification form and the chemical identification and hazard category sections of the annual inventory report form.
- (D) While Ohio's commission and committees prefer the submission of a list as outlined in paragraphs (B) and (C) of this rule, a facility at which no more than ten hazardous chemicals are stored in an amount that exceeds the minimum threshold quantity schedule established in paragraph (A) of rule 3750-30-27 of the Administrative Code, may submit copies of MSDS's.
- (E) Supplemental reporting by an owner or operator is required as follows:
- (1) An owner or operator of a facility that has submitted an MSDS under this rule shall provide a revised MSDS to the commission, committee and the fire department having jurisdiction over the facility within three months after discovery of significant new information concerning the hazardous chemical for which the MSDS was submitted.

- (2) After October 17, 1987, the owner or operator of a facility subject to this rule shall submit an MSDS for a hazardous chemical pursuant to paragraph (C) of this rule or a list pursuant to paragraph (A) of this rule within three months after the owner or operator is first required to prepare or have available the MSDS or after a hazardous chemical requiring an MSDS becomes present in an amount exceeding the threshold quantity established in paragraph (A) of rule 3750-30-27 of the Administrative Code.

- (F) The owner or operator of a facility that has not submitted the MSDS for a hazardous chemical present at the facility shall submit the MSDS for any such hazardous chemical to the commission or the committee of such request. The MSDS shall be submitted within thirty days of the receipt of such request.

- (G) The commission shall protect from disclosure trade secret information that is subject to protection under division (B)(2)(d) of section 3750.02 of the Revised Code and rules adopted by the commission under Chapter 3750-60 of the Administrative 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 the "Incorporation by Reference" section at the end of rule 3750-1-01.]

(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) through (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 the first day of March 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), each owner or operator must submit an Annual Inventory filing fee and Facility Annual Chemical Inventory Fee Worksheet (EPA 0320) as prescribed in 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 inventory calendar date and year for which the forms are being prepared;
- (2) Parent company information that includes: corporate name of the owner or operator preparing the form, address, "Dunn & Bradstreet" number, and the division or subsidiary name of the facility for which the forms are being prepared;
- (3) Facility name, address, and "Dunn & Bradstreet" number. If street address is not available, enter other appropriate identification that describes the physical location of the facility, such as the longitude and latitude coordinates or the (x,y) coordinates;

- (4) Emergency contact's name, title, work telephone number, and emergency telephone number at which the emergency contact may be reached twenty-four (24) hours per day;
 - (5) Alternate emergency contact's name, title, work telephone number and emergency telephone number at which the alternate emergency contact may be reached;
 - (6) An emergency telephone number for the facility where emergency information will be available twenty-four (24) hours a day;
 - (7) The "Standard Industrial Classification" (SIC) or the "North American Industrial Classification System" (NAICS) code of the facility;
 - (8) The approximate maximum number of people present at the facility during a regular working period;
 - (9) The name and emergency telephone number of the Fire Department having jurisdiction over the facility (a non-9-1-1 number);
 - (10) 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.
- (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 as it may apply to the facility;
- (1) A designated emergency fax number and e-mail address for the facility where emergency information will be received;
 - (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 U.S.C. Section 6901 through 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 U.S.C. Section 1251 through 1387 and Chapter 6111 of the Ohio 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;
 - (7) Longitude and latitude coordinates or (X)(Y) coordinates;
 - (8) The Division of Oil and Gas permit number for the tank battery pursuant to Chapter 1509 of the Revised Code;
 - (9) The Bureau of Underground Storage Tank Regulation and Petroleum Underground Storage Tank and Release Compensation Board registration number pursuant to Chapter 3737 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 it applies to the facility:
- (1) The chemical name, or common name of the hazardous chemical(s) as provided on the MSDS and the chemical abstract service number.
 - (a) For mixtures containing extremely hazardous substance(s), the name of the extremely hazardous substances and the Chemical Abstract Service (CAS) number is to be reported on the line below the mixture name reported on the emergency and hazardous chemical inventory form; and
 - (b) Inventory reports listing extremely hazardous substances shall list extremely hazardous substances before other hazardous chemicals;
 - (2) The physical description of the chemical including categories of pure, mixture, components, extremely hazardous substances, solid, liquid, or gas;
 - (3) The hazard and physical category as established in rule 3750-30-25 of the Administrative Code that applies to each hazardous chemical reported;
 - (4) A brief description of the manner and method of storage of fixed storage for hazardous chemical(s) as set forth below to include, but not limited to, each of the following type(s):
 - (a) Type of storage used for each reported chemical (storage does not include flow through process);
 - (b) Pressure and temperature conditions under which each reported chemical is subject to during storage;
 - (c) The number of day(s) for which the reported chemical(s) was located on-site;

- (5) An estimate of the maximum amount of each hazardous chemical(s) that was present at the facility at any time during the preceding calendar year;
- (6) An estimate of the average daily amount of each hazardous chemical(s) that was present at the facility during the preceding calendar year;
- (a) For the purpose of this rule, the average daily amount shall be determined by totaling all the daily weights of each hazardous chemical and dividing that total by the number of days the chemical was present at the facility. An owner or operator of a facility shall report the number of days used in the calculation;
- (7) The estimated amount shall be reported either in appropriate reporting ranges as listed in this paragraph or in actual pounds rounded up to two (2) significant figures;

-Reporting ranges:-

Range Value	Weight Range in Pounds From	Weight Range in Pounds To
01	0	99
02	100	999
03	1,000	9,999
04	10,000	99,999
05	100,000	999,999
06	1,000,000	9,999,999
07	10,000,000	49,999,999
08	50,000,000	99,999,999
09	100,000,000	499,999,999
10	500,000,000	999,999,999
11	1 billion	higher than 1 billion

- (8) 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:

- (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.

(c) A map shall identify the facility's surrounding are including:

- (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:

- (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) through (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.
- (9) An owner or operator of a facility may indicate that the storage location of a hazardous chemical(s) 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 his official capacity.
- (10) An owner or operator may choose to withhold information about the hazardous chemical(s) 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.
- (11) 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 his 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 paragraph (B) through (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 paragraph (B) through (D) of this rule.
- (G) No owners or operators of a facility where hazardous chemical(s) are stored in an amount that exceeds the threshold quantity established in rule 3750-30-27 of the Administrative Code shall fail to submit:
- (1) A state inventory form containing Tier II information as prescribed in paragraph (B) through (D) of this rule; or

- (2) A federal inventory form containing Tier II information; or
 - (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.

Replaces: 3750-30-20

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Prior Effective Dates: 6/3/1990, 3/20/1991 (Emer.), 9/20/1991, 4/6/1999

Identification of hazardous chemicals.

- (A) A chemical is a hazardous chemical if such chemical meets the definition under paragraph (U) of rule 3750-1-01 of the Administrative Code and falls into one of the five health categories listed below:
- (1) "Immediate (acute) health hazard" including highly toxic, toxic, irritant, sensitizer, corrosive, as defined under Title 29 C.F.R. 1910.1200 and other hazardous chemicals that cause an adverse effect to target organ and which effect usually occurs rapidly as a result of short term exposure and is of short duration;
 - (2) "Delayed (chronic) health hazard" including carcinogens, as defined under Title 29 C.F.R. 1910.1200 and other hazardous chemicals that cause an adverse effect to a target organ and which effect generally occurs as a result of long term exposure and is of long duration;
 - (3) "Fire hazard" including flammable, combustible liquid, pyrophoric and oxidizer, as defined under Title 29 C.F.R. 1910.1200;
 - (4) "Sudden release of pressure" including explosive and compressed gas, as defined under Title 29 C.F.R. 1910.1200;
 - (5) "Reactive" including unstable reactive, organic peroxide, and water reactive, as defined under Title 29 C.F.R. 1910.1200.
- (B) A chemical is a hazardous chemical if such chemical is identified below and adopted by the commission pursuant to divisions (B)(4) and (C)(5) of section 3750.02 of the Revised Code.

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Rule Amplifies: 3750.01(G)
Prior Effective Dates: 6/30/90

Threshold quantities for hazardous chemical reporting.

- (A) Except as provided in paragraph (C) of this rule the minimum threshold quantity for reporting under rules 3750-30-15 and 3750-30-20 of the Administrative Code shall be according to the following schedule:

The owner or operator of a facility subject to rule 3750-30-01 of the Administrative Code shall submit a list as defined in paragraph (B) of rule 3750-30-15 of the Administrative Code or MSDS pursuant to paragraph (C) of rule 3750-30-15 of the Administrative Code:

- (1) On or before October 17, 1989, (or three months after the facility first becomes subject to this rule), for all hazardous chemicals present at the facility in amounts equal to or exceeding ten thousand pounds, or that are extremely hazardous substances present at the facility in an amount equal to or exceeding five hundred pounds (or fifty-five gallons) or the threshold planning quantity, whichever is less.
- (2) .On or after January 1, 2001 for gasoline and/or diesel fuel located at a retail gas station when one or more of the following conditions are met: Amounts of gasoline equal to or exceeding seventy-five thousand gallons (all grades combined); Amounts of diesel fuel equal to or exceeding one hundred thousand gallons (all combined grades); In tank(s) that were not entirely underground; Or located at a retail gas station that was not in compliance at all times during the preceding calendar year with all applicable underground storage tank (UST) requirements (OAC 1301:7-9) State UST program approved by U.S. EPA. For the purposes of this rule, retail gas station means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public, for motor vehicle use on land.

- (B) The owner or operator of a facility subject to paragraph (A) of this rule shall submit an inventory form:

- (1) On or before March 1, 1988, (or March first of the first year after the facility first becomes subject to this rule covering all hazardous chemicals present at the facility during the preceding calendar year in amounts equal to or greater than ten thousand pounds, or that are extremely hazardous substances present at the facility in an amount greater than or equal to five hundred pounds (or fifty-five gallons) or the threshold planning quantity, whichever is less.
- (2) On or before March 1, 1989, (or March first of the second year after the facility first becomes subject to this rule), covering all hazardous chemicals present at the facility during the preceding calendar year in amounts equal to or greater than ten thousand pounds, or that are extremely hazardous substance present at

the facility in an amount greater than or equal to five hundred pounds (or fifty-five gallons) or the threshold planning quantity, whichever is less.

- (3) . On or after January 1, 2001, covering gasoline and/or diesel fuel located at a retail gas station when one or more of the following conditions are met: Amounts of gasoline equal to or exceeding seventy-five thousand gallons (all combined grades); Amounts of diesel fuel equal to or exceeding one hundred thousand gallons (all grades combined); In tank(s) that were not entirely underground; Or located at a retail gas station that was not in compliance at all times during the preceding calendar year with all applicable underground storage tank (UST requirements (OAC 1301:7-9/State UST program approved by U.S. EPA. For purposes of this rule, retail gas station means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public, for motor vehicle use on land.
- (C) The minimum threshold for reporting in response to a facility specific, chemical specific request for the submission of an MSDS as prescribed in paragraph (E) of rule 3750-30-15 of the Administrative Code or an inventory form containing Tier II information as prescribed in paragraph (H) of rule 3750-30-20 of the Administrative Code shall be zero. Where the commission or committee is responding to a request subject to section 3750.10 of the Revised Code, all requirements of that section shall be met. No such facility specific, chemical specific request under this section shall be used to calculate fees assessable under rule 3750-50-01 of the Administrative Code or to expand the content or scope of the map described in paragraphs (F)(4) and (H)(7) of rule 3750-30-20 of the Administrative Code.
- (D) The owner or operator of a facility may calculate the amount of a hazardous chemical present at a facility and meet the hazardous chemical reporting requirements of rule 3750-30-20 (inventory reporting) of the Administrative Code and rule 3750-30-15 (list or MSDS reporting) of the Administrative Code for a hazardous chemical that is a mixture by:
- (1) Determining the quantities and providing the required information on each component in the mixture which is a hazardous chemical, or
 - (2) Determining the quantities and providing the required information on the mixture itself, so long as the reporting of mixtures by a facility under rule 3750-30-15 of the Administrative Code is in the same manner as under rule 3750-30-20 of the Administrative Code where practicable.
- (E) The calculation of the threshold quantities present in a mixture shall be performed as follows:
- (1) If the reporting is on each component of the mixture which is a hazardous chemical, then the concentration of the hazardous chemical, in weight per cent (greater than one per cent or .1 per cent if carcinogenic) shall be multiplied by

the mass (in pounds) of the mixture to determine the quantity of the hazardous chemical in the mixture.

- (2) If the reporting is on the mixture itself, the total quantity of the mixture shall be reported.

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Chapter 3750-50: Fees, Funding and Grants

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3750-50-01 **Annual inventory filing fees and form.**

(A) Except as provided in paragraph (C), (D), or (E) of this rule, an owner or operator of a facility subject to rule 3750-30-01 of the Administrative Code shall pay to the Commission an annual inventory filing base fee for the preceding calendar year of one hundred fifty dollars to be submitted on or before the first day of March of each year with the inventory form(s) prescribed in rule 3750-30-20 of the Administrative Code and facility identification form prescribed in rule 3750-30-10 of the Administrative Code unless they meet the requirements of paragraph (D) or (E) of this rule.

Note: The commission provides instructions for fee submission in its Emergency Planning and Community Right to Know Act (EPCRA) facility compliance manual

(1) An owner or operator of a facility subject to inventory reporting which has present hazardous chemicals in an amount equal to or above the threshold quantity, shall pay an additional annual inventory filing fee of twenty dollars per hazardous chemical for each hazardous chemical.

(2) An owner or operator of a facility subject to inventory reporting shall pay an additional annual inventory filing fee of one hundred fifty dollars for each extremely hazardous substance reported on the inventory form.

The fee established in paragraph (A)(1) of this rule does not apply if the hazardous chemical reported on the inventory form is also an extremely hazardous substance to which only the additional inventory filing fee of one hundred fifty dollars as set forth in this paragraph applies.

(3) The annual inventory filing fee submitted for a single reporting facility shall not exceed twenty-five hundred dollars except as noted for oil and gas extraction facilities under paragraphs (D) and (E) of this rule.

(B) An owner or operator of a facility, who is subject to this rule and who fails to submit the annual inventory filing fee by March thirty-first of each year shall pay to the commission a late fee of ten per cent per annum of the total fees in addition to those fees payable under paragraph (A)(1), (A)(2), (D), or (E) of this rule. .

(C) An owner or operator of a facility, who, during the preceding year, was required to pay a fee to a municipal corporation pursuant to an ordinance, rule, or requirement that was in effect on or before December 14, 1988 for reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals stored at the facility, may claim a credit against the fees due under paragraph (A)(1), (A)(2), (D), or (E) of this rule for fees paid to the municipal corporation pursuant to the reporting requirements. The amount of credit claimed in any reporting year shall not exceed the amounts due under paragraph (A)(1), (A)(2), (B), or (E) of this rule

during that reporting year. No unused portion of the credit shall be carried over to subsequent reporting years. In order to claim a credit under this paragraph, the owner or operator shall submit with the inventory form such information as required by the commission such as a copy of the receipt issued by the municipal corporation or other documentation acceptable to the commission which indicates the amount of fee paid, the date on which the fee was paid, and that the purpose was to fulfill a hazardous chemical inventory filing requirement.

- (D) An owner or operator who is required to submit an inventory form for not more than twenty-five oil and gas extraction storage facilities as defined in paragraph (BB) of rule 3750-1-01 of the Administrative Code shall submit a flat filing fee of fifty dollars in lieu of any fee required in paragraphs (A)(1) and (A)(2) of this rule.
- (E) An owner or operator who is required to submit an inventory form for more than twenty-five oil and gas extraction storage facilities shall pay to the Commission a base filing fee of fifty dollars and an additional fee of ten dollars for each oil and gas extraction storage facility in excess of twenty-five reported on the inventory form up to a total fee of nine hundred dollars in lieu of the fees required in paragraphs (A)(1) and (A)(2) of this rule.
- (F) An agricultural producer who is not required to submit hazardous chemical information under rule 3750-30-01 of the Administrative Code with respect to his agricultural activities is exempt from any filing fee imposed by this rule.
- (G) A transportation related facility not required to submit hazardous chemical information under rule 3750-30-01 of the Administrative Code is exempt from any filing fees imposed by this rule.
- (H) Reserved.
- (I) An owner or operator required to pay the commission an annual chemical inventory filing fee pursuant to this rule shall calculate and determine the annual chemical inventory filing fee due for that reporting year on the "facility Annual chemical Inventory Filing Fee worksheet" adopted by the commission. The owner or operator is required to submit the annual chemical inventory fees to the commission in a check or money order made payable to the "Emergency Planning And Community Right-To-Know Fund" as established in rule 3750-50-03 of the Administrative Code, attached to the filing fee worksheet.
- (J) An owner or operator of more than one facility required to pay the commission an annual chemical inventory filing fee may do so by submitting a single check or money order to the commission along with a "Facility Summary List" containing such information as may be required by the commission. This form may require the name of each facility, street address or x, y coordinates, city or township, county, number of chemicals subject to reporting, base fee, additional fee, late filing fee,

local credit and total annual chemical inventory fee as to be applied to each facility for which the payment is to apply.

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[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 the "Incorporation by Reference" section at the end of rule 3750-1-01.]

- (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 the state treasury by Substitute Senate Bill 367 of the 117th General Assembly 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 the state treasury by Substitute Senate Bill 367 of the 117th General Assembly 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 the first day of May 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 under it.

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3750-50-05 **Special emergency planning fund.**

[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 the "Incorporation by Reference" section at the end of rule 3750-1-01.]

- (A) Moneys received by the committee of the district lying wholly within the boundaries of a county shall be credited to the "Special Emergency Planning Fund" (hereinafter referred to as "special fund") created in the county treasury by Substitute Senate Bill 367 of the 117th General Assembly. If a district or joint district contains territory within two or more counties, moneys received by the committee shall be credited to the special fund created by Substitute Senate Bill 367 of the 117th General Assembly in the treasury of the county whose county auditor has been designated by the committee as the fiscal officer of the district.
- (B) All moneys received as civil penalties under divisions (B)(1) to (B)(4) of section 3750.20 of the Revised Code pursuant to actions brought by the committee or local fire department shall be credited to the special fund of the district in which the violation occurred.
- (C) The special fund shall be administered by the committee of the emergency planning district and moneys credited to the special fund shall be expended only for the purpose of carrying out the powers and duties of the committee under Chapter 3750. of the Revised Code, rules adopted and orders issued under it.
- (D) Moneys received by the committee of a joint interstate district shall be credited, administered, and expended in the same manner as an emergency planning district as established in paragraph (C) of this rule, unless an agreement establishing the joint interstate district provides otherwise.

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Rule Amplifies: 3750.03(F)
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3750-50-07 **First-time filer grant awards.**

- (A) Division (E) of section 3750.14 of the Revised Code provides that in the year in which the owner or operator of a facility who is required to file an emergency and hazardous chemical inventory form(s) for the facility, first; files a form in compliance with section 3750.08 of the Revised Code and the accompanying fee as required by section 3750.13 of the Revised Code for the facility, the commission shall make a grant to the committee of the emergency planning district in which the facility is located for the total amount of fees and late fees collected in that year in connection with the filing of the form(s) for said facility. When an incomplete file which is also a first time file becomes complete, the credit shall be given to the committee in the fiscal year that the file is determined to be complete.
- (B) The amount of the grant provided shall be in addition to any grant provided to the committee under division (C) of section 3750.14 of the Revised Code and shall accompany the grant.
- (C) The total first time filer fee credits provided to the local committees who have made applications for first time filer grants to the commission shall be subtracted from the emergency planning fund balance on the date of record before any other allocations are calculated, pursuant to section 3750.14 (E) of the Revised Code.
- (D) Each committee that has filed a first time filer application pursuant to rule 3750-50-08 of the Administrative Code is entitled to receive a first time filer fee credit for a facility listed in the application when a complete first time file as defined by paragraph (UU) of rule 3750-1-01 of the Administrative Code is received by the commission.
- (E) The annual reporting cycle for consideration by the commission for approval or disapproval of a file as a first time file shall commence on July first of each year and shall terminate on June thirtieth of the following year.
- (F) Moneys received by a committee shall be used for the same purposes and shall be subject to the same provision as the grants received under division (C) of section 3750.14 of the Revised Code and rule 3750-50-03 of the Administrative Code.

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Rule Amplifies: 3750.14(E)
Prior Effective Dates: 13/31/94, 4/6/99

Committee responsibilities for first time filer grant application.

- (A) On or before May thirtieth of each year, each committee who wishes to submit an application for a first time filer grant shall submit in a manner acceptable to the commission, a list of first time filers.
- (B) The application for a first time filer grant shall contain at a minimum the following information:
 - (1) The parent company name and address;
 - (2) The facility name and address;
 - (3) Additional information which would assist the commission in determining that this facility is a first time filer.
- (C) Each committee who submitted an application for a first time filer grant on or before May thirtieth, may submit an updated list of first time files by June thirtieth of the current state fiscal year.

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Prior Effective Dates: 12/31/94, 4/6/ 99

Commission responsibilities for first time filer grant awards.

- (A) The commission shall provide to the committees by May fifteenth of each year an updated list of first time filers entered into the inventory tracking system used by the commission.
- (B) First time filers listed by committees in their first time filer grant applications submitted to the commission as prescribed in rule 3750-50-08 of the Administrative Code shall be reviewed and cross checked by the Ohio EPA staff designated to support the commission to determine if a facility file submitted to the commission is a first time file.
 - (1) The commission's cross check shall consist of review of:
 - (a) Annual chemical inventory forms for the current inventory year and/or years commencing with 1987; and
 - (b) Cash accounting reports commencing with inventory reporting year 1988; and
 - (c) Data entered into the chemical inventory tracking system; and;
 - (d) Documents verifying committee efforts to gain facility compliance.
 - (2) The first time filer fee plus any late fee payments shall be credited to the appropriate committee and be added to their annual grant award once the first time file is determined to be complete.
 - (3) First time filer credit will not be granted for filers of a negative declaration or fee exempt reports under sections 3750.08 and 3750.13 of the Revised Code.
- (C) The cross checks as outlined under paragraph (B) of this rule shall be completed by June thirtieth of the current state fiscal year and a summary report shall be made to the commission.
- (D) The commission shall provide a listing of those facilities determined to be first time filers to each committee who has submitted an application for a first time filer grant. This list will accompany the first time filer award which will be added to the committee's grant awarded under section 3750.14 of the Revised Code.

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Prior Effective Dates: 12/31/94, 4/6/99

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 the “Incorporation by Reference” section at the end of rule 3750-1-01.]

- (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 the first day of February.
 - (2) Fire department grant applications shall be submitted with the committee's grant application within whose jurisdiction(s) 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 the first day of April 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:
 - (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 U.S.C. 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 their 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:
 - (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 its emergency planning district set forth in the committee's plan or most recent review of its plan under section 3750.04 of the Revised Code have been met, a committee may make grants from the moneys it 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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3750-50-15 **Reimbursement for costs incurred under Chapter 3750. of the Revised Code.**

(A) A committee may, for the implementation, administration and enforcement of Chapter 3750. of the Revised Code:

- (1) Make grants from the moneys it receives under rule 3750-50-10 of the Administrative Code to reimburse any portion of the contributions made by a political subdivision to the committee to the extent that the committee considers that the moneys are available for that purpose.
- (2) Receive and accept from any public or private source, gifts, grants, or contributions of money, services of personnel and real or personal property or their use.
- (3) Accept contributions from a municipal corporation, county, or township may, for purposes of this rule, of money, services of personnel, and real or personal property or their use on behalf of the district in which it is located.
- (4) The committee shall appoint and fix the compensation of employees or enter into contracts necessary or appropriate to perform the functions of a committee under Chapter 3750. of the Revised Code.

(B) The commission may for implementing and administering the requirements of Chapter 3750. of the Revised Code:

- (1) Make grants from the fund to state agencies on the commission to reimburse any portion of the services provided to the commission to the extent that moneys are available for that purpose.
- (2) Receive and accept from any public or private source, for the purposes of Chapter 3750. of the Revised Code, gifts, grants, or contributions of money, services of personnel and real or personal property or their use.
- (3) The commission may appoint and fix the compensation of employees or enter into contracts necessary or appropriate to perform the functions under Chapter 3750. of the Revised Code.
- (4) Enter into contracts, agreements, or memoranda of understanding with any state department, agency, board, commission, or institution to obtain the services of personnel thereof or utilize resources thereof for the purposes of this chapter. Employees of a state department, agency, board, commission, or institution providing services to the commission under any such contract, agreement, or memorandum shall perform only those functions and provide only the services provided for in the contract, agreement, or memorandum.

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[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 the "Incorporation by Reference" section at the end of rule 3750-1-01.]

- (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 the state treasury by Substitute Senate Bill 367 of the 117th General Assembly. 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 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:
 - (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.

Effective: 06/05/2006

R.C. 119.032 review dates: 01/13/2006 and 06/05/2011

CERTIFIED ELECTRONICALLY
Certification

05/23/2006
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(7)
Rule Amplifies: 3750.15
Prior Effective Dates: 2/22/90 (Emer.), 6/30/90.

Grant application for funds in the emergency planning and community right-to-know reserve fund.

(A) Each application for a grant shall be submitted on forms adopted by the commission. Such grant applications shall be completed and submitted to the commission in triplicate.

(B) All applications for grants submitted by the committees and fire departments within the jurisdiction of a committee shall be submitted jointly by the committee to the commission.

A fire department which is wholly within one emergency planning district shall apply for and receive a grant under this rule only through the 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 the emergency planning district for any state fiscal year.

(C) Each application for a grant submitted to the commission pursuant to this rule shall demonstrate that the grant will enhance the ability of the recipient or, in case of the state agencies represented on the commission or commission, the state as a whole, to prepare for and respond to releases of hazardous substances and extremely hazardous substances.

(D) Each application from a committee shall demonstrate that expenditures from applicable local revenues for the purpose of preparedness for emergency response to those releases and for administration of the district's emergency response program did not decline during the immediately preceding three years.

(E) No grant shall be awarded from the reserve fund unless the grantee provides matching funds equal to twenty-five per cent of the amount requested.

If two or more committees submit a joint application for a grant to promote cooperative emergency planning and training or to share first response equipment, the matching fund requirement shall be reduced to ten per cent of the amount requested.

The matching funds required by this rule may consist of contributions of money by any person or of contributions in-kind through the purchase of first response equipment.

No moneys received pursuant to rule 3750-50-10 of the Administrative Code shall be used to provide any of the matching funds required by this rule.

(F) No grant awarded under this rule shall exceed the amount of one hundred thousand dollars.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

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Chapter 3750-60: Trade Secrets

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3750-60-01 **Definitions.**

(A) As used in this chapter:

- (1) "Business confidentiality" or "confidential business information" includes the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its right in the information.
- (2) "Claimant" means a person submitting a claim of trade secrecy to the commission in connection with a chemical listed or identified by the commission under division (C)(5) of section 3750.02 of the Revised Code otherwise required to be disclosed in a report or other filing made pursuant to sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code.
- (3) "Petitioner" means any person who submits a petition under rule 3750-60-60 of the Administrative Code requesting disclosure of a chemical identity claimed as a trade secret.
- (4) "Sanitized" means a version of a document or report from which information claimed as a trade secret or confidential has been omitted or is withheld.
- (5) "Senior management official" means an official with management responsibility for the person or persons completing the report, or the manager of environmental programs for the facility or establishments, or for the corporation owning or operating the facility or establishments responsible for certifying similar reports under other environmental regulatory requirements.
- (6) "Special chemical identity" means the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance. Where the trade name is reported in lieu of the specific chemical identity, the trade name will be treated as the specific chemical identity for purposes of this chapter.
- (7) "Substantiation" means the written answers submitted to the commission by the claimant under rule 3750-60-20 of the Administrative Code in support of a claim that a chemical identity is a trade secret.
- (8) "Trade secrecy claim" means a submittal under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code in which a chemical identity is claimed as a trade secret, and is accompanied by a substantiation in support of the claim of trade secrecy for chemical identity.

- (9) "Trade secret" means any confidential formula, pattern, process, device, information or compilation of information that is used in the claimant's business and which gives the claimant's an opportunity to obtain an advantage over competitors who do not know or use it.
- (10) "Unsanitized" means a version of a document or report from which information claimed as a trade secret or confidential has not been omitted or withheld.

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3750.02(B)(14)
Rule Amplifies: 3750.09
Prior Effective Dates: 6/30/93

3750-60-03 **Scope.**

- (A) The rules adopted under this chapter shall govern the assertion of trade secrecy claims for specific chemical identity information collected under the authority of sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code and for business confidentiality claims for information submitted in the substantiation as provided in rule 3750-60-25 of the Administrative Code.
- (B) Rules adopted under this chapter shall govern the petitions from the public submitted pursuant to rule 3750-60-60 of the Administrative Code requesting the disclosure of chemical identity claimed as a trade secret under rules 3750-60-07 and 3750-60-09 of the Administrative Code, and determinations by the commission of whether the information is entitled to trade secret treatment as set forth under rule 3750-60-40 of the Administrative Code.
- (C) A claim for trade secrecy filed pursuant to rule 3750-60-07 of the Administrative Code may be asserted only for those additional extremely hazardous substances listed in paragraph (B) of rules 3750-20-30 of the Administrative Code or only for those additional hazardous chemicals identified in paragraph (B) of rule 3750-30-25 of the Administrative Code.
- (D) Claims for confidentiality of location of hazardous chemicals under paragraph (H)(8) of rule 3750-30-20 of the Administrative Code are not subject to the requirements under this section.

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3750-60-05 **Assertions of claims of trade secrecy where claim is pending before the administrator.**

[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 the last paragraph of rule 3750-1-01 of the Administrative Code titled "Incorporation by reference."]

- (A) A claimant who is required to file a report or other filing under the reporting requirements of sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code or rules adopted by the commission under divisions (B)(1)(d) or (B)(1)(e) of section 3750.02 of the Revised Code, may withhold from submission to the commission, committee, fire department or from any other person, the specific chemical identity, including the chemical name and other specific identification of an extremely hazardous substance listed under 40 CFR Part 355, Appendices A and B or a hazardous chemical identified in 29 CFR 1910.1200 (C) on the grounds that the information constitutes a trade secret if:
- (1) At the time of filing the submission to which the claim of trade secrecy pertains, the claimant submits a claim for protection of that information as a trade secret pursuant to rules adopted under division (B)(2)(d) of section 3750.02 of the Revised Code and submits a copy of the required report that indicates that such a claim has been filed and contains the generic class or category of the chemical identity in the place of the specific chemical and that is accompanied by the substantiation supporting the trade secret claim that was submitted to the administrator pursuant to section 322 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 USC 11042. The claimant may withhold from the copy of the substantiation submitted to the commission, committee, and fire department having jurisdiction over the facility, the specific chemical identity claimed to be a trade secret and information identified as confidential as provided in rule 3750-60-25 of the Administrative Code; or
 - (2) The claimant indicated to the commission, committee, and fire department having jurisdiction over the facility that such a claim was submitted to the Administrator and that a determination of the trade secrecy claim remains pending.
- (B) A claimant who is required to submit information under the reporting requirements under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code, and who has obtained a final determination from the Administrator that the information otherwise required to be submitted to the commission, committee, and fire department having jurisdiction over the facility, is a trade secret, may withhold the submission of the specific chemical identity under this rule if:

- (1) At the time of filing the submission in which such information is otherwise required, the claimant submits a copy of the Administrator's final determination of trade secret; and,
- (2) The submission to which the trade secret pertains contains the generic class or category of the chemical identity in place of the specific chemical identity. Methods of choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.

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3750.02(B)(14)
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Prior Effective Dates: 6/30/93

3750-60-07 **Assertion of claims for trade secrecy for the specific chemical identity of those additional chemicals listed or identified by the commission.**

(A) Except as provided in paragraph (B) of this rule, a claimant who is required to file a report or other filing under the reporting requirements in sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code may withhold from such submission to the committee and fire department having jurisdiction over the facility or any other person, the specific chemical identity, including the chemical name or other specific identification, of those additional extremely hazardous substance listed under paragraph (B) of rule 3750-20-30 of the Administrative Code or those additional hazardous chemical identified under paragraph (B) of rule 3750-30-25 of the Administrative Code, on the grounds that the information constitutes a trade secret if either of the following conditions are met:

- (1) At the time of the submission of the information to which the claim of trade secrecy pertains, the claimant submits a claim to the commission for protection of that information as a trade secret in accordance with this section and rule 3750-60-09 of the Administrative Code;
 - (a) The claimant files with the commission the claim for trade secrecy along with the required submission which clearly indicates the specific chemical identity claimed as a trade secret in accordance with the procedures set forth in rule 3750-60-09 of the Administrative Code; and
 - (b) The claimant submits to the committee and fire department having jurisdiction over the facility a copy of the required report that contains the generic class or category of the chemical identity in place of the specific chemical identity in accordance with the procedures set forth in rule 3750-60-09 of the Administrative Code. The method of choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code; and
 - (c) The submission to which a trade secret pertains is accompanied by a copy of the substantiation supporting the trade secret claim as identified in rule 3750-60-20 of the Administrative Code. The claimant may withhold from the copy of the substantiation submitted to the committee and fire department having jurisdiction over the facility, the specific chemical identity claimed to be a trade secret and information identified as confidential as provided under rule 3750-60-25 of the Administrative Code.
- (2) The claimant indicates to the committee and fire department having jurisdiction over the facility that such a claim was submitted to the commission and that a determination remains pending; or

- (3) The claimant indicates to committee and fire department having jurisdiction over the facility that a final determination from the commission that the information otherwise required to be submitted is a trade secret.

(B) No person shall withhold the specific identity of a chemical on the grounds that it is a trade secret:

- (1) From any submission under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code, if it has been determined pursuant divisions (B)(2)(d), (B)(5), and (B)(14) of section 3750.02 of the Revised Code that no trade secret exists.
- (2) In any notification of release required by section 3750.06 of the Revised Code.
- (3) When required to provide the specific chemical identity to a health professional, physician, or nurse pursuant to division (E) of section 3750.09 of the Revised Code.
- (4) When the information is requested by the governor, pursuant to division (D) of section 3750.09 of the Revised Code.
- (5) When the information is requested by any treating physician or nurse in a medical emergency pursuant to division (E)(2) of section 3750.09 of the Revised Code.
- (6) When the information is requested by any health profession, including without limitation, a physician, toxicologist, or epidemiologist pursuant to division (E)(3) of section 3750.09 of the Revised Code.

Effective: June 30, 1993

Original signed by: Kenneth A. Schultz, Acting Chairman, State
Emergency Response Commission
Certification

June 11, 1993
Date

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Rule amplifies: R.C. Section 3750.09
Rule authorized by: R.C. sections 3750.02(B)(1)(i),
3750.02(B)(2)(d), 3750(B)(5), and 3750.02(B)(14)
Prior effective dates: None

- (A) Method of asserting claims of trade secrecy for information submitted under division (C) of rule 3750.05 of the Revised Code:
- (1) In submitting information requested by the committee under division (C) of section 3750.05 of the Revised Code, the claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.05 of the Revised Code. To assert a claim for trade secrecy under this section, the claimant shall submit to the commission the following information:
 - (a) A copy of the information which is being submitted under division (C) of section 3750.05 of the Revised Code to the committee, with the chemical identity or identities claimed trade secret deleted, and the generic class or category of the chemical identity or identities inserted in its place. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.
 - (b) A sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for each chemical identity claimed as trade secret. The claimant may claim the information in the substantiation as a trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
 - (2) Trade secret claims asserted under paragraph (A) of this rule shall be sent to the address specified in rule 3750-60-95 of the Administrative Code.
- (B) Methods of asserting claims of trade secrecy for information submitted under section 3750.07 of the Revised Code.
- (1) The claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.07 of the Revised Code on the material safety data sheet. To assert a claim for trade secrecy for a chemical on a material safety data sheet, the claimant shall submit to the commission the following information:
 - (a) One copy of the material safety data sheet which is being submitted under division (E) of section 3750.07 of the Revised Code to the committee and fire department having jurisdiction over the facility, which shall make it available to the public. In place of the specific chemical identity claimed as a trade secret, the generic class or category of the chemical claimed as a trade secret shall be inserted. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.

- (b) A sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for every chemical identity claimed as a trade secret. The claimant may claim the information in the substantiation as a trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
 - (2) The claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.07 of the Revised Code on the chemical list. To assert a claim for trade secrecy for a chemical identity on the list, the claimant shall submit to the commission the following information:
 - (a) An unsanitized copy of the chemical list which is being submitted under division (A) of section 3750.07 of the Revised Code. The claimant shall clearly indicate the specific chemical identity claimed as trade secret, and shall label it "Trade Secret". The generic class or category of the chemical claimed as trade secret shall be inserted directly below the claimed chemical identity. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.
 - (b) A sanitized copy of the chemical list shall be identical to the document identified in paragraph (B)(2)(a) of this rule except that the claimant shall delete the chemical identity or identities claimed as trade secret, leaving in place the generic class or category. This copy shall be sent by the claimant to the committee and fire department having jurisdiction over the facility, which shall make it available to the public.
 - (c) A sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for every chemical identity claimed as a trade secret. The claimant may claim information in the substantiation as a trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
 - (3) Trade secrecy claims asserted under paragraph (B) of this rule shall be sent to the address specified in rule 3750-60-95 of the Administrative Code.
- (C) Methods of asserting claims of trade secrecy for information submitted under section 3750.08 of the Revised Code.
- (1) The claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.08 of the Revised Code. To assert a claim for trade secrecy for a chemical identity reported on an emergency and hazardous chemical inventory form, the claimant shall submit to the commission the following information:
 - (a) An unsanitized copy of the Tier II emergency and hazardous chemical inventory form which is being submitted under division (B) of section

3750.08 of the Revised Code. The claimant shall clearly indicate the specific chemical identity claimed as a trade secret by checking the box marked "Trade Secret" next to the claimed chemical identity. The Tier I emergency and hazardous chemical inventory form does not require the reporting of specific chemical identity and therefore, no trade secrecy claims may be asserted with respect to that form.

- (b) A sanitized copy of the Tier II emergency and hazardous chemical inventory form. This copy shall be identical to the document identified in paragraph (C)(1)(a) of this rule except that the claimant shall delete the chemical identity or identities claimed as a trade secret and include instead the generic class or category of the chemical claimed as a trade secret. The method of choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code. This copy shall be sent by the claimant to the committee and the fire department having jurisdiction over the facility, or whichever entity requested the information.
 - (c) The sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for every chemical identity claimed as a trade secret. The claimant may claim information in the substantiation as trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
- (2) Trade secrecy claims asserted under paragraph (C) of this rule shall be sent to the address specified on rule 3750-60-95 of the Administrative Code.
- (D) If a specific chemical identify is submitted to commission, committee or local fire department having jurisdiction over the facility, without asserting a trade secrecy claim, the chemical identity shall be considered to have been voluntarily disclosed, and non-trade secret.
 - (E) A claimant making a trade secrecy claim under this rule shall submit to entities other than the commission only the sanitized or public copy of the submission and substantiation.

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Original signed by: Kenneth A. Schultz, Acting Chairman, State
Emergency Response Commission
Certification

June 11, 1993
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3750-60-10 **Methods of selecting a generic class or category.**

[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 the last paragraph of rule 3750-1-01 of the Administrative Code titled "Incorporation by reference."]

- (A) A claimant asserting a chemical identity as trade secret should choose a generic class or category for the chemical that is structurally descriptive of the chemical and based upon the following guidelines:
- (1) The purpose of the generic class or category is to provide a description of the chemical that is not as specific as the specific chemical identity.
 - (2) The generic class or category should provide the best description possible of the claimed chemical as determined by the claimant.
 - (3) The generic class or category shall be defined only as broadly as necessary to protect the specific chemical identity from disclosure and sufficient to transmit chemical information to the public.
 - (4) The generic class or category shall be selected to include information regarding the specific chemical identity's release hazards and adverse health effects.
- (B) Based upon the guidelines contained in paragraphs (A)(1) to (A)(4) of this rule, the claimant may select from the following categories as identified under 29 CFR 1910.1200:
- (1) Acute (immediate) health hazard;
 - (2) Chronic (delayed) health hazard;
 - (3) Fire hazard;
 - (4) Reactive hazard; or
 - (5) Sudden release of pressure hazard.

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Prior Effective Dates: 6/30/93

Substantiating claims of trade secrecy.

- (A) Claims of trade secrecy pertaining to those additional extremely hazardous substances listed in paragraph (B) of rule 3750-20-30 of the Administrative Code or those additional hazardous chemicals identified in paragraph (B) of rule 3750-30-25 of the Administrative Code shall be set forth on the report or other filing otherwise required under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code and must be substantiated by providing the specific answers including, where applicable, specific facts, to each of the following questions with the submission to which the trade secrecy pertains. The claimant must answer these questions on a form entitled "Substantiation To Accompany Claims Of Trade Secrecy" as set forth in rule 3750-60-23 of the Administrative Code.
- (B) The substantiation shall contain an explanation as to why the information should be protected as trade secret information and shall include a specific description of the substantiation factors listed below.
- (1) Describe the specific measures the claimant has taken to safeguard the confidentiality of the chemical identity claimed as a trade secret, and indicate whether these measures will continue in the future.
 - (2) Has the claimant disclosed the information claimed as trade secret to any other person (other than an officer or employee of the United States or a state or local government, or claimant's employee) who is not bound by a confidentiality agreement to refrain from disclosing this trade secret information to others?
 - (3) List all local, state, and federal government entities to which the claimant had disclosed the specific chemical identity. For each, indicate whether the claimant asserted a confidentiality claim for the chemical identity and whether the government entity denied that claim.
- (C) In order to show the validity of a trade secrecy claim, the claimant must identify the specific use of the chemical claimed as trade secret and explain why it is a secret of interest to competitors by addressing each of the following:
- (1) Describe the specific use of the chemical claimed as trade secret, identifying the product or process in which it is used. (If the claimant uses the chemical other than as a component of a product or in a manufacturing process, identify the activity where the chemical is used).
 - (2) Has the claimant's company or facility identity been linked to the specific chemical identity claimed as trade secret in a patent, or in publications or other information sources available to the public or the claimant's competitors (of which the claimant is aware)? If so, explain why this knowledge does not eliminate the justification for trade secrecy.

- (3) If this use of the chemical claimed as trade secret is unknown outside the claimant's company, explain how the claimant's competitors could deduce this use from disclosure of the chemical identity on submissions required by sections 3750.04, 3850.05, 3750.07, and 3750.08 of the Revised Code.
 - (4) Explain why the claimant's use of the chemical claimed as a trade secret would be valuable information to the claimant's competitors.
 - (5) Indicate the nature of the harm to the claimant's competitive position that would likely result from disclosure of the specific chemical identity, and indicate why such harm would be substantial.
 - (6) To what extent is the chemical claimed as trade secret available to the public or the claimant's competitors in products, articles, or environmental releases.
 - (7) Describe the factors which influence the cost of determining the identity of the chemical claimed as trade secret by chemical analysis of the product, article, or waste which contain the chemical (e.g., whether the chemical is in pure form or is mixed with other substances).
- (D) The answers to the substantiation questions listed in paragraphs (B) and (C) of this rule are to be submitted on the form identified in rule 3750-60-23 of the Administrative Code which shall be included with the claimant's trade secret claim.
- (E) The claimant, owner, operator or senior official with management responsibility shall sign the certification at the end of the substantiation form contained in rule 3750-60-23 of the Administrative Code. The certification in both the sanitized and unsanitized versions of the substantiation must bear an original signature.

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Original signed by: Kenneth A. Schultz, Acting Chairman, State
Emergency Response Commission
Certification

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Prior effective dates: None

3750-60-23 **Substantiation form to accompany claims of trade secrecy,
instructions to complete substantiation 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 the last paragraph of rule 3750-1-01 of the Administrative Code titled "Incorporation by reference."]

- (A) The form identified in paragraph (B) of this rule must be completed as required in rule 3750-60-20 of the Administrative Code.
- (B) The claimant asserting a trade secret under this section must submit to the commission a completed USEPA "Substantiation To Accompany Claims of Trade Secrecy Under the Emergency Planning and Community Right-To-Know Act of 1986" form in accordance with the instructions set forth in 40 CFR 350.25.
- (C) The substantiation form identified in paragraph (B) of this rule shall be submitted to the address specified in rule 3750-60-95 of the Administrative Code.

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Claims of confidentiality in the substantiation.

- (A) The claimant may claim as confidential any trade secret or confidential business information contained in the substantiation. Such claims for material in the substantiation are not limited to claims of trade secrecy for specific chemical identity, but may also include claims of confidentiality for any confidential business information. To claim this material as confidential, the claimant shall clearly designate those portions of the substantiation to be claimed as confidential by marking those portions "Confidential" or "Trade Secret". Information not so marked will be treated as public and may be disclosed without notice to the claimant.
- (B) A claimant, owner, or operator or senior official with management responsibility shall sign the certification stating that those portions of the substantiation claimed as confidential would, if disclosed, reveal the chemical identity being claimed as a trade secret, or would reveal other confidential business or trade secret information. This certification is contained on the substantiation form set forth in rule 3750-60-23 of the Administrative Code.
- (C) The claimant shall submit to the commission two copies of the substantiation, one of which shall be the unsanitized version and the other shall be the sanitized version.
 - (1) The unsanitized copy shall contain all of the information claimed as a trade secret or as confidential, and marked as indicated in paragraph (A) of this rule.
 - (2) The second copy shall be identical to the unsanitized substantiation identified in paragraph (C)(1) of this rule, except that it will be a sanitized version, in which all of the information claimed as a trade secret or as confidential shall be deleted. If any of the information claimed as a trade secret in the substantiation is the chemical identity which is the subject of the substantiation, the claimant shall include the appropriate generic class or category of the chemical claimed as a trade secret. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code. This sanitized copy shall be submitted to the committee and the fire department having jurisdiction over the facility, as appropriate, and made publicly available.

Effective: June 30, 1993

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Emergency Response Commission
Certification

June 11, 1993
Date

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3750.02(B)(2)(d), 3750(B)(5), and 3750.02(B)(14)
Prior effective dates: None

- (A) The commission may request supplemental information from the claimant in support of its trade secrecy claim, pursuant to paragraph (A)(1)(a) of rule 3750-60-40 of the Administrative Code.
 - (1) The commission may specify the kind of information to be submitted pursuant to paragraph (A) of this rule; or,
 - (2) The claimant may provide any additional detailed information which further supports the truth of the information previously supplied to the commission in its initial substantiation under rule 3750-60-20 of the Administrative Code.

- (B) The claimant may claim as confidential any trade secret or confidential information contained in the supplemental information. To claim this material as confidential, the claimant shall:
 - (1) Clearly designate those portions of the supplemental information claimed as confidential by marking those portions "Confidential" or "Trade Secret". Information not so marked will be treated as public and may be disclosed without notice to the claimant; and,
 - (2) Provide certification by the claimant, owner, operator, or senior official with management responsibility of the claimant that those portions of supplemental information claimed as confidential would, if disclosed, reveal the chemical identity being claimed as confidential or would reveal other confidential business or trade secret information; and
 - (3) Submit two copies of the supplemental information to the commission, in a sanitized and unsanitized version if the supplemental information is requested by the commission and the claimant claims portion of it as trade secret or confidential.
 - (a) The unsanitized version shall contain all the information claimed as a trade secret or as confidential, marked as indicated in paragraph (B)(1) of this rule.
 - (b) The second copy shall be identical to the unsanitized version identified in paragraph (B)(3)(a) of this rule except that it will be sanitized version, in which all the information claimed as a trade secret or as confidential shall be deleted. If any of the information claimed as a trade secret in the supplemental information is the chemical identity which is the subject of the substantiation, the claimant shall include the appropriate generic class or category of the chemical claimed as a trade secret. The method of choosing

a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.

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3750-60-30 **Initial action by the commission.**

- (A) When a claim of trade secrecy, made in accordance with rules 3750-60-07 and 3750-60-09 of the Administrative Code, is received by the commission, that information is treated as confidential until a contrary determination is made.
- (B) A determination as to the validity of a trade secret claim shall be initiated upon receipt by the commission of a petition filed under rule 3750-60-60 of the Administrative Code or may be initiated by the commission at any time if the commission desires to determine whether chemical identity information claimed as trade secret is entitled to trade secret treatment, even though no request for release of the information has been received.
- (C) If the commission initiates a determination to the validity of a trade secrecy claim the procedures set forth in rules 3750-60-40, 3750-60-60, and 3750-60-85 of the Administrative Code shall be followed in making the determination.
- (D) When the commission receives a petition requesting disclosure of trade secret chemical identity or if the commission decides to initiate a determination of the validity of a trade secret claim for chemical identity, the commission shall first make a determination that the chemical identity claimed as a trade secret is not the subject of a prior trade secret determination by the commission concerning the same claimant and facility, or if it is, that the prior determination upheld the claimant's claim of trade secrecy for that chemical identity at that facility.
 - (1) If the commission determines that the chemical identity claimed as a trade secret is not the subject of a prior trade secret determination by the commission concerning the same claimant and the same facility, or if it is, that the prior determination upheld the claimant's claim of trade secrecy, then the commission shall review the claimant's claim according to rule 3750-60-40 of the Administrative Code.
 - (2) If such prior determination held that the claimant's claim for that chemical identity is invalid, and such determination was not challenged by appeal to the environmental board of review, or by review in the appeals court, or, if challenged, was upheld, the commission shall notify the claimant by certified mail (return receipt requested) that the chemical identity claimed as a trade secret is the subject of a prior, final commission determination concerning the same facility in which it was held that such claim was invalid. In this notification, the commission shall include notice of intent to disclose the chemical identity within ten days pursuant to rules 3750-60-90 of the Administrative Code. The commission shall also notify the petitioner by regular mail of the action taken pursuant to this section.

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3750-60-40 **Review of trade secrecy claim.**

(A) Determination of sufficiency.

When the commission receives a petition filed pursuant to rule 3750-60-60 of the Administrative Code or if the commission initiates a determination of the validity of a trade secrecy claim for chemical identity, and the commission has made a determination, as required in paragraph (D)(1) of rule 3750-60-30 of the Administrative Code, then the commission shall determine whether the claimant has presented sufficient support for its claim of trade secrecy in its substantiation. The commission must make such a determination within thirty days of receipt of the petition. A claim of trade secrecy for chemical identity will be considered sufficient if, assuming all the information presented in the substantiation is true, this supporting information could support a valid claim of trade secrecy. A claim is sufficient if it meets the criteria set forth in rule 3750-60-50 of the Administrative Code.

(1) Sufficient claim.

- (a) If the claim meets the criteria of sufficiency set forth in rule 3750-60-50 of the Administrative Code, the commission shall notify the claimant in writing, by certified mail (return receipt requested), that it has thirty days from the date of receipt of the notice to submit supplemental information in writing in accordance with rule 3750-60-27 of the Administrative Code, to support the truth of the facts asserted in the substantiation. The commission will not accept any supplemental information, in response to this notice, submitted after the thirty day period has expired.
- (b) The notice required by this rule shall include the address as set forth in rule 3750-60-95 of the Administrative Code to which supplemental information must be sent. The notice may specifically request supplemental information in particular areas relating to the claimant's claim. The notice must also inform the claimant of his right to claim any trade secret or confidential business information as confidential, and shall include a reference to rule 3750-60-27 of the Administrative Code as the source for the proper procedure for claiming trade secrecy for trade secret or confidential business information submitted in the supplemental information requested by the commission.

(2) Insufficient claim.

- (a) If the claim does not meet the criteria of sufficiency set forth in rule 3750-60-50 of the Administrative Code, the commission shall notify the claimant in writing of this fact by certified mail (return receipt requested). Upon receipt of this notice, the claimant may either file an appeal of the matter to the environmental board of review under rule 3750-60-83 of the

Administrative Code, or, for good cause shown, submit additional material in support of its claim of trade secrecy to the commission under rule 3750-60-43 of the Administrative Code.

- (b) The notice required by this section shall include the reasons for the commission's decision that the claimant's claim is insufficient, and shall inform the claimant of its rights within thirty days of receiving notice to file an appeal with the environmental board of review or to amend its original substantiation for good cause shown. This notice shall include the address of the environmental board of review, and the address as set forth in rule 3750-60-95 of the Administrative Code to which the amendment for good cause shown should be sent. This notice shall also include a reference to rule 3750-60-83 of the Administrative Code as the source on the proper procedure for filing an appeal or rule 3750-60-43 of the Administrative Code for amending the original substantiation.
 - (c) The claimant may file an appeal of a determination of insufficiency with the environmental board of review within thirty days of receipt of the notice of insufficiency in accordance with the procedures set forth in section 3745.04 of the Revised Code.
- (B) Determination of trade secrecy. Once a claim has been determined to be sufficient under paragraph (A)(1) of this rule, the commission must decide whether the claim is entitled to trade secrecy protection.
- (1) Valid trade secret claim.
 - (a) If the commission determines that the information submitted in support of the trade secrecy claim is true and that the chemical identity is a trade secret, the petitioner shall be notified by certified mail (return receipt requested) of the commission's determination and may bring an action within thirty days of receipt of this notice pursuant to rule 3750-60-85 of the Administrative Code.
 - (b) The notice required under this section shall include the reasons for the commission's determination that the chemical identity is a trade secret and shall inform the petitioner of its right to seek review. The claimant shall be notified of the commission's decision by regular mail.
 - (c) The petitioner may file an appeal of the determination of trade secret with the environmental board of review within thirty days of receiving notice of its right in accordance with procedures set forth in the section 3745.04 of the Revised Code.
 - (2) Invalid trade secret claim.

- (a) If the commission decides that the information submitted in support of the trade secret claim is not true and that the chemical identity is not a trade secret, the commission shall notify the claimant by certified mail (return receipt requested) of the commission's determination and claimant's right to appeal to the environmental board of review in accordance with rule 3750-60-85 of the Administrative Code within thirty days of receipt of this notice.
- (b) The notice required by this rule shall include the reasons for commission's determination that the chemical identity is not a trade secret and shall inform the claimant of its right to seek review. The petitioner shall be notified of the commission's decision by regular mail.
- (c) The claimant may file an appeal of a determination of invalidity with the environmental board of review within thirty days of receipt of the notice of invalidity in accordance with the procedures set forth in section 3745.04 of the Revised Code.

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Additional material submitted for good cause.

- (A) In lieu of an appeal to the environmental board of review, the claimant may send additional material in support of its trade secrecy claim, for good cause shown, within thirty days of receipt of the notice of insufficiency as set forth in paragraph (A)(2) of rule 3750-60-40 of the Administrative Code. The claimant shall notify the commission by letter of its contentions as to good cause, and shall include in that letter the additional supporting material.
- (B) Good cause is limited to one or more of the following reasons:
- (1) The claimant was not aware of the facts underlying the additional information at the time the substantiation was submitted, and could not reasonably have known the facts at the time; or
 - (2) The commission's regulations and other commission guidance did not call for such information at the time the substantiation was submitted; or
 - (3) The claimant had made a good faith effort to submit a complete substantiation, but failed to do so due to an inadvertent omission or clerical error.
- (C) If the commission determines that the claimant has meet the standard for good cause, then the commission shall decide, pursuant to paragraph (A)(1) of rule 3750-60-40 of the Administrative Code, whether the claimant's assertion meets the commission's standards of sufficiency set forth in rule 3750-60-50 of the Administrative Code.
- (D) If after receipt of additional material for good cause, the commission decides the claim is sufficient, the commission will determine whether the claim presents a valid claim of trade secrecy according to the procedures set forth in paragraph (B)(1) of rule 3750-60-40 of the Administrative Code.
- (E) If after receipt of additional material for good cause, the commission decides the claim is insufficient, the commission will notify the claimant by certified mail (return receipt requested) and the claimant's right to seek review at the environmental review appeals commission within thirty days of receipt of this notice. The notice required by this section shall include the commission's reasons for its determination, and shall inform the claimant of its rights to seek review at the environmental review appeals commission within thirty days of receipt of the notice in accordance with procedures set forth in section 3745.04 of the Revised Code. The petitioner shall be notified of the commission's decision by regular mail.
- (F) If the commission determines that the claimant has not met the standard for good cause, then the commission shall notify the claimant by certified mail (return receipt requested). The claimant may seek review of the commission's decision at the environmental review appeals commission within thirty days of receipt of the notice.

The notice required in this section shall include the commission's reasons for its determination, and shall inform the claimant of its right to seek review at the environmental review appeals commission within thirty days of the notice in accordance with procedures set forth in section 3745.04 of the Revised Code. The petitioner shall be notified of the commission's decision by regular mail.

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3750-60-50 **Sufficiency of assertions.**

- (A) A substantiation submitted under rule 3750-60-20 of the Administrative Code will be determined to be insufficient to support a claim for trade secrecy, unless the answers to the questions in the substantiation submitted under paragraphs (B) and (C) of rule 3750-60-20 of the Administrative Code support all the following conclusions. This substantiation must include, where applicable, specific facts.
- (1) The claimant has not disclosed the information to any other person, other than an officer or employee of the United States or a state or local government or an employee or other person who is bound by a confidentiality agreement, and the claimant has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures. To support this assertion, the facts established in the substantiation must support all of the following:
 - (a) The claimant has taken reasonable measures to prevent unauthorized disclosure of the specific chemical identity and will continue to take such measures.
 - (b) The claimant has not disclosed the specific chemical identity to any person who is not bound by an agreement to refrain from disclosing the information.
 - (c) The claimant has not previously disclosed the specific chemical identity to a local, state, or federal government entity without asserting a confidentiality claim.
 - (2) The information is not required to be disclosed, or otherwise made available, to the public under any other federal or state law.
 - (3) Disclosure of the information is likely to cause substantial harm to the competitive position of the claimant. To support this assertion, the facts must support all of the following:
 - (a) Competitors do not know or the claimant is not aware that competitors know that the chemical whose identity is being claimed trade secret can be used in the fashion that the claimant uses it and competitors cannot easily duplicate the specific use of this chemical through their own research and development activities; or competitors are not aware or the claimant does not know whether competitors are aware that the claimant is using this chemical in this fashion.
 - (b) The fact that the claimant manufactures, imports or otherwise uses this chemical in a particular fashion is not contained in any publication or other

information source (of which the claimant is aware) available to competitors or the public.

- (c) The sanitized version of the submission under this rule does not contain sufficient information to enable competitors to determine the specific chemical identity withheld therefrom.
 - (d) The information claimed as a trade secret is of value to competitors.
 - (e) Competitors are likely to use the trade secret information to the economic detriment of the claimant and are not precluded from doing so by a United States patent.
 - (f) The resulting harm to claimant's competitive position would be substantial.
- (4) The chemical identity is not readily discoverable through reverse engineering. To support this conclusion, the facts asserted must show that competitors cannot readily discover the specific chemical identity by analysis of the claimant's product or environmental releases.
- (B) The sufficiency of the trade secret claim shall be decided entirely upon the information submitted under rules 3750-60-20 or 3750-60-43 of the Administrative Code.

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Standards for sufficiency of substantiation of a trade secret claim.

- (A) The claimant withholding specific chemical identity from required submissions under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code must make factual assertions that are sufficient to support a conclusion that the chemical identity is a trade secret. These assertions are made by completely answering all the questions of rule 3750-60-20 of the Administrative Code.
- (B) The commission has adopted under rule 3750-60-50 of the Administrative Code sufficiency criteria which are standards used to determine whether the claimant has established a prima facie case for trade secrecy.
- (C) The facts asserted under rule 3750-60-20 of the Administrative Code will be considered against the sufficiency criteria to make a trade secret determination of rule 3750-60-50 of the Administrative Code.

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Public petitions requesting disclosure of chemical identity claimed as trade secret.

- (A) The public may request the disclosure of chemical identity claimed as a trade secret by submitting a written petition to the address specified in rule 3750-60-95 of the Administrative Code.
- (B) The petition shall include:
 - (1) The petitioner's name, address, and telephone number. The petitioner may be an individual, corporation or other entity;
 - (2) The name and address of the company claiming the chemical identity as a trade secret; and
 - (3) A copy of the submission in which the claimant claimed the chemical identity as a trade secret, with a specific indication as to which chemical identity the petitioner seeks disclosed.
- (C) The commission shall acknowledge, by letter to the petitioner, the receipt of the petition.
- (D) If the information in the petition is not sufficient to allow the commission to identify which chemical identity the petitioner is seeking to have released, the commission shall notify the petitioner that the petition can not be further processed until additional information is furnished. The commission will make every reasonable effort to assist a petitioner in providing sufficient information for the commission to identify the chemical identity the petitioner is seeking to have released.
- (E) The commission shall make the determination of a petition requesting disclosure in accordance with rule 3750-60-40 of the Administrative Code within the time specified in paragraph (A) of rule 3750-60-80 of the Administrative Code.

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Orders issued by the commission.

- (A) The commission upon receipt of a petition requesting the disclose of information claimed as a trade secret or upon a review initiated by the commission, shall make a determination within thirty days.
- (1) The commission may extend the period for review one hundred eighty days.
 - (2) If the commission does not make a determination within two hundred seventy days, until such a determination is made, the information submitted shall be protected.
- (B) If the commission determines either that the claimant's substantiation filed in support of a trade secrecy claim is insufficient or that the claimant's trade secrecy claim is invalid, the commission shall issue an order pursuant to section 3750.18 of the Revised Code that the information is not protected as a trade secret. The commission may issue a notice of intent to release the information pursuant to rule 3750-60-90 of the Administrative Code.
- (C) If the commission determines that the claimant's substantiation filed in support of a trade secrecy claim is sufficient or that the claimant's trade secrecy claim is valid, the commission shall issue an order pursuant to section 3750.18 of the Revised Code that the information is protected as a trade secret.
- (D) The commission shall appoint a reviewing committee only of members who are public officials of the commission to determine the sufficiency and the validity of the trade secrecy claim based upon information submitted to the commission.
- This committee shall report its findings and recommendations to the commission whom shall approve or disapprove the committee's findings.
- (E) The committee established in paragraph (D) of this rule may contract with a consultant pursuant to division (C)(4) of section 3750.02 of the Revised Code to aid the committee in determining sufficiency and validity of the trade secrecy claim provided such consultant signs a confidentiality agreement to refrain from disclosing the trade secret information to others.

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Appeal from commission's determination of the sufficiency of trade secrecy claim.

- (A) If the commission issues an order pursuant to rule 3750-60-80 of the Administrative Code in which it is determined that the claimant's substantiation filed in support of the trade secrecy claim is insufficient, pursuant to paragraph (A) of rule 3750-60-40 of the Administrative Code; or insufficient after receipt of additional material pursuant to paragraph (E) of rule 3750-60-43 of the Administrative Code; or if the claimant has not met the standard for good cause as provided in paragraph (F) of rule 3750-60-43 of the Administrative Code; the claimant may appeal such order to the environmental review appeals commission in accordance with the procedures established in sections 3750.19 and 3745.04 of the Revised Code and the rules adopted thereunder.
- (B) Hearings of appeals to the Environmental review appeals commission permitted by this section shall be conducted in accordance with the procedures set forth in section 3745.05 of the Revised Code and the rules adopted thereunder.
- (C) Any party to the proceedings before the environmental review appeals commission who is adversely affected by an order of the board may appeal to the court of appeals of Franklin county in accordance with the procedures set forth in section 3745.06 of the Revised Code and the rules adopted thereunder.

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3750-60-85

**Appeal from commission's determination of the validity of trade
secrecy claim.**

- (A) If the commission issues an order pursuant to rule 3750-60-80 of the Administrative Code in which it is determined that the trade secret claim is invalid pursuant to paragraph (B) of rule 3750-60-40 of the Administrative Code, the claimant may appeal such order to the environmental review appeals commission in accordance with the procedures set forth in sections 3750.19 and 3745.04 of the Revised Code and the rules adopted thereunder.
- (B) Hearings on such appeals before the environmental review appeals commission shall be conducted in accordance with the procedures established in section 3745.05 of the Revised Code and the rules adopted thereunder.
- (C) Any party to the appeal to the environmental review appeals commission who is adversely affected by an order of the board may appeal to the court of appeals of Franklin county in accordance with the procedures established in section 3745.06 of the Revised Code and the rules adopted thereunder.

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**Release of chemical identity determined to be a non-trade secret;
notice of intent to release chemical identity.**

- (A) Where a claimant failed to seek review by the environmental review appeals commission pursuant to procedures established in section 3745.04 of the Revised Code or the court of appeals of Franklin county pursuant to procedures established in section 3745.06 of the Revised Code within twenty days of receiving notice of a determination by the commission that the trade secrecy claim is invalid or that the chemical identity is not entitled to trade secret protection, the commission may furnish notice of intent to disclose that chemical identity claimed as a trade secret within ten days by furnishing the claimant with the notice set forth in paragraph (D) of this rule by certified mail (return receipt requested).
- (B) Where a claimant failed to seek review by the environmental review appeals commission pursuant to procedures established in section 3750.04 of the Revised Code or by the court of appeals of Franklin county pursuant to procedures established in section 3745.06 of the Revised Code within twenty days of receiving notice of a determination by the commission that the trade secret is insufficient, or insufficient after receipt of additional material, or if the claimant has not met the standard for good cause, the commission may furnish notice of intent to disclose the chemical identity claimed as a trade secret within ten days of furnishing the claimant with the notice set forth in paragraph (D) of this rule by certified mail (return receipt requested).
- (C) Where the commission, upon initial review pursuant to rule 3750-60-30 of the Administrative Code, determines that the chemical identity claimed as a trade secret in a submittal submitted pursuant to paragraph (D)(2) of rule 3750-60-30 of the Administrative Code is the subject of a prior final commission determination concerning a claim of trade secrecy for the same chemical identity for the same facility, in which such claim was held invalid, the commission may furnish notice of intent to disclose chemical identity within ten days by furnishing the claimant with the notice set forth in paragraph (D) of this rule by certified mail (return receipt requested).
- (D) The commission shall furnish notice of its intent to release chemical identity information claimed as trade secret by sending the following information to the claimant under the circumstances set forth in paragraphs (A), (B), and (C) of this rule.
 - (1) The notice shall state that the commission will make the chemical identity available to the petitioner and the public on the tenth working day after the date of the claimant's receipt of written notice unless the environmental review appeals commission or the court of appeals has first been notified of the claimant's commencement of an action to obtain review of the determination at issue and to obtain preliminary injunctive relief against disclosure.

- (2) The notice shall further state that if the court action is timely commenced, the commission may nonetheless make the information available to the petitioner and the public (in the absence of an order by the court to the contrary), once the court has denied a motion for preliminary injunction in the action or has otherwise upheld the commission determination, or, that if the appeal to the environmental review appeals commission or court of appeals is timely commenced, the commission may nonetheless make the information available to the petitioner and the public whenever it appears to the environmental review appeals commission or the court of appeals, after reasonable notice to the claimant, that the claimant is not taking appropriate measures to obtain a speedy resolution of the action.

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Disclosure of trade secret information.

- (A) Nothing under these rules and regulations adopted by the commission pursuant to division (B)(5) of section 3750.02 of the Revised Code shall authorize any person to withhold information which is required to be disclosed in accordance with divisions (C), (D), and (E) of section 3750.09 of the Revised Code.
- (B) A member of the commission, officer or employee of the environmental protection agency, member or employee of the committee, or officer or employee of a fire department shall not request the owner or operator of a facility subject to Chapter 3750 of the Revised Code to submit to him a trade secret claim or copy thereof, report required by sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code, substantiation of the trade secret or copy thereof, or explanation or supporting information pertaining to a trade secret or copy thereof, that contains any information claimed or determined to be a trade secret pursuant to rules 3750-60-05 and 3750-60-07 of the Administrative Code, or identified as confidential business information as provided under rule 3750-60-25 of the Administrative Code. If any such member, officer, or employee knows or has reason to believe that any such trade secret claim, report, substantiation or explanation or supporting information pertaining to a trade secret claim contains such information, he shall immediately return it to the owner pursuant to the procedures established in division (F)(1) and (2) of section 3750.09 of the Revised Code.
- (C) No member of the commission or his designees, officer, or employee of the environmental protection agency, member or employee of a committee, health professional, physician, nurse, or other person who receives information claimed or determined as a trade secret under rules 375-60-05 and 3750-60-07 of the Administrative Code, or who receives confidential business information identified under rule 3750-60-25 of the Administrative Code, shall release the information to any person not authorized to have that information. Civil and criminal violations for the release of trade secret or confidential information are set forth under section 3750.20 of the Revised Code and division (B)(3) of section 3750.99 of the Revised Code.

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Rule authorized by: R.C. sections 3750.02(B)(1)(i),
3750.02(B)(2)(d), 3750(B)(5), and 3750.02(B)(14)
Prior effective dates: None

3750-60-94 **Adverse health effects.**

The commission shall identify the adverse health effects associated with each of the chemicals claimed as trade secret and shall make this information available to the public. The material safety data sheets submitted to the commission may be used to this purpose.

Effective: June 30, 1993

Original signed by: Kenneth A. Schultz, Acting Chairman, State
Emergency Response Commission
Certification

June 11, 1993
Date

Promulgated under: R.C. Chapter 119
Rule amplifies: R.C. Section 3750.09
Rule authorized by: R.C. sections 3750.02(B)(1)(i),
3750.02(B)(2)(d), 3750(B)(5), and 3750.02(B)(14)
Prior effective dates: None

3750-60-95

Address to send trade secret claims and petitions requesting disclosure.

- (A) All claims of trade secrecy under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code and all public petitions requesting disclosure of chemical identities claimed as a trade secret should be sent to the following address:

"State Emergency Response Commission

c/o Ohio Environmental Protection Agency

P.O. Box 1049

Columbus, Ohio 43216-0149"

[Comment: Any packages and/or certified mail not acceptable for post office box delivery should be sent to street address "50 West Town Street, Suite 700, Columbus, Ohio 43215."]

- (B) All information submitted pursuant to this section shall be clearly marked as "confidential trade secret information enclosed".

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

CERTIFIED ELECTRONICALLY
Certification

12/19/2006
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1)(i), 3750.02(B)(2)(d), 3750(B)(5), and
3750.02(B)(14)
Rule Amplifies: 3750.09
Prior Effective Dates: 6/30/93

Chapter 3750-75: Emergency Response Lock Box Units

Contact: Jeff Beattie 614-644-2269
Jeff.Beattie@EPA.State.Oh.US

3750-75-02 **Facilities subject to the emergency response lock box unit requirements.**

- (A) Any facility where an extremely hazardous substance, hazardous chemical, or hazardous substance is produced used or stored, whose owners or operators have entered into agreement with the fire department of the political subdivision having jurisdiction over the facility, for the placement and maintenance of an emergency lock box unit, after the effective date of this rule shall do so in compliance with the rules adopted under this chapter as set forth by division (D) of section 3750.11 of the Revised Code.
 - (1) Emergency response lock box units installed in agreement with a fire department of the political subdivision having jurisdiction prior to the effective date of this rule shall be deemed to be in compliance with the rules set forth under this chapter.
 - (2) For the purposes of rules 3750-75-02 to 3750-75-10 of the Administrative Code the fire department of the political subdivision having jurisdiction shall include any public employee duly authorized, as set forth in section 3750.16 of the Revised Code, by the fire department to enforce Chapter 3737. of the Revised Code.
- (B) Any facility subject to the emergency planning requirements of section 3750.05, or to the hazardous chemical reporting requirements of sections 3750.07 and 3750.08 of the Revised Code to whom an order has been issued under division (D) of section 3750.11 of the Revised Code is subject to the requirements of division (B)(6) of section 3750.02 of the Revised Code and the rules adopted there under, unless the facility meets the criteria listed in paragraph (C) of this rule.
- (C) This chapter does not apply to facilities meeting the following criteria:
 - (1) Possesses only one chemical subject to the reporting requirements of section 3750.05 or 3750.07 and 3750.08 of the Revised Code, or
 - (2) Occupies one building having less than two thousand square feet of floor space, and
 - (3) Signage is present that makes the hazardous chemical on site commonly known to emergency responders.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

CERTIFIED ELECTRONICALLY

Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98

Criteria for the construction of an emergency response lock box unit.

[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 the "Incorporation by Reference" section at the end rule 3750-1-01 of the Administrative Code.]

(A) All emergency response lock box units shall be constructed to meet the following minimum criteria:

(1) Each emergency response lock box unit shall have a minimum interior size of fourteen inches by twelve inches by two inches, except as follows;

(a) Where the fire department of the political subdivision having jurisdiction has agreed with the owner(s) or operator(s) of the facility that a smaller emergency response lock box unit will be large enough to permit the storage of all required documents to be contained therein; or

(b) Where the emergency response lock box unit must be larger to permit the storage of all required documents to be stored there in.

(2) Each emergency response lock box unit shall be constructed of a material which is "non-combustible".

(a) Noncombustible means a material in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire.

Note: Materials tested in accordance with ASTM E136 Standard Test Method for Behavior of Materials in a Verticle Tube Furnace at 750* C and conforming to the criteria contained in section 7 of NFPA 101, the Life Safety Code, shall be considered noncombustible.

(3) Each emergency response lock box unit shall be constructed to be "weatherproof".

(a) Weatherproof means sufficiently protected to prevent the penetration of rain, snow, and wind driven sand, dirt or dust under all operating conditions as set forth in NFPA 414 "Standard for Aircraft Rescue and Fire-Fighting Vehicles, 1995 edition."

(4) Each emergency response lock box unit shall be secured in the manner established by the fire department of the political subdivision having jurisdiction.

- (5) Each emergency response lock box unit shall be colored and marked in a manner prescribed by the fire department of the political subdivision having jurisdiction.
- (B) The construction of key boxes is not regulated under Chapter 3750-75 of the Administrative Code.

Effective: 02/10/2005

R.C. 119.032 review dates: 08/20/2004 and 02/10/2010

CERTIFIED ELECTRONICALLY
Certification

01/31/2005
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98.

3750-75-04 **Emergency response lock box unit contents and maintenance.**

[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 the “Incorporation by Reference” section at the end rule 3750-1-01 of the Administrative Code.]

(A) The emergency response lock box unit shall contain the information set forth below as authorized by division (B)(6)(a)(ii) of section 3750.02 of the Revised Code.

(1) A site plan showing the following:

- (a) The information as set forth by rule 3750-30-20 of the Administrative Code which shows the location of chemicals produced, used or stored at the facility.
- (b) The location of on-site emergency firefighting and spill clean up equipment, such as but not limited to:
 - (i) Neutralizers.
 - (ii) Sorbent materials.
 - (iii) Hazardous chemical personal protective equipment.
 - (iv) Fire extinguishers and hydrants.
- (c) The location and sizes of the public and private water supply, including the location of:
 - (i) Water mains.
 - (ii) Fire department connection thread size and design.

Note: Paragraph (B)(6) of rule 1301:7-7-05 of the Administrative Code requires that all threads provided for fire department connections shall be compatible with connections utilized by the local fire department.

- (d) The locations of the sewer systems servicing the facility, including:
 - (i) Sanitary sewer drains connected to the publicly operated treatment works system.
 - (ii) Storm sewer drains connected to publicly operated collection systems, ditches, or waters of the state.

- (e) The fire department of the political subdivision having jurisdiction may also request that the site plan show:
 - (i) Electrical and natural gas services,
 - (ii) Water shut off locations,
 - (iii) Process piping, and
 - (iv) Additional mechanical features identified through pre-planning meetings.
- (2) The most recent copy of the emergency and hazardous chemical inventory form for the facility required to be submitted under section 3750.08 of the Revised Code.

Note: Section 3750.05 of the Revised Code requires that the commission and committee be notified within sixty days after first acquiring an extremely hazardous substance. Section 3750.07 of the Revised Code requires the commission, committee and local fire department be provided a chemical list or MSDS within three months after acquiring a chemical defined as hazardous chemicals under OSHA for which an MSDS is required, or new information on an existing on-site chemical is determined.
- (3) Material safety data sheets (MSDSs) are to be placed in the emergency response lock box unit or if the volume of the MSDSs is too great, the facility shall enter into an agreed upon alternate location with the jurisdictional fire department where the MSDS information can be easily accessed either in hard copy and/or to a computer terminal where the information can be readily accessed and/or downloaded by the emergency responders.
- (4) A copy of any emergency management plan for the facility prepared by the fire department of the political subdivision having jurisdiction, when such a document has been provided by the fire department to the owners or operators of the facility for the purposes of this rule.
- (5) A copy of any emergency management plan prepared by the owner(s) or operator(s) as requested by the fire department of the political subdivision having jurisdiction such as:
 - (a) The facility plan developed under the national response team's guidelines for consolidated contingency plans as set forth in the federal register on June 5, 1996; or

- (b) One or more of the plans listed below, selected in consultation with the fire department of the political subdivision having jurisdiction.
 - (i) Occupational safety and health administration (OSHA) chemical process safety plan developed under 29 CFR 1910.119, 29 CFR 1910.120(q); or
 - (ii) United States coast guard (USCG) facility response plan developed under 33 CFR part 154, subpart F; or
 - (iii) Resource Conservation Recovery Act (RCRA) contingency plan developed under 40 CFR part 264, subpart D, 40 CFR part 265 subpart D, and 40 CFR 279.53; or
 - (iv) Clean Air Act risk management plan developed under 40 CFR part 68; or
 - (v) Spill prevention control and countermeasure (SPCC) facility response plan developed under 40 CFR parts 112.7(d) to 112.21; or
 - (vi) Department of transportation (DOT) pipeline response plan developed under 49 CFR part 194; or
 - (vii) Stormwater pollution prevention plan developed under 40 CFR part 122.
- (6) A current list of the names, positions, home addresses and telephone numbers of key personnel knowledgeable in facility safety procedures and the locations at the facility where extremely hazardous substances, hazardous chemicals, and hazardous substances are produced, used or stored.
 - (a) If key personnel listed have telephone numbers other than home numbers, such as pager or cellular phone numbers, these shall also be provided.
 - (b) At facilities with more than one work shift, the work hours of the key personnel listed shall be indicated.
 - (c) For purposes of this rule, key personnel includes; the facility emergency coordinator, the facility manager, process supervisors, the facility safety manager, and members of the facility emergency organization.
- (B) The information set forth in paragraph (A) of this rule shall be maintained as follows:
 - (1) Where the emergency response lock box unit has been placed voluntarily by the owners or operators of the facility, the information shall be maintained as

prescribed by an agreement between the owners or operators and the fire department of the political subdivision having jurisdiction over the facility.

- (2) Where the commission has issued an order requiring the placement of an emergency response lock box unit, the information set forth in that order shall be maintained in the manner prescribed by that order.
 - (3) A review of the information placed in the facility's emergency response lock box unit shall be conducted by the owner/operator at least annually. Information contained in the lock box unit shall be updated as needed to maintain the accuracy of the information.
 - (4) The fire department of the political subdivision having jurisdiction may request a more frequent review and updating of the information contained in the emergency response lock box unit.
- (C) The contents of a key box unit is not regulated under Chapter 3750-75 of the Administrative Code, except for the placement of a lock box key into a key box to provide for lock box access when requested by the fire department having jurisdiction.

Effective: 02/10/2005

R.C. 119.032 review dates: 08/20/2004 and 02/10/2010

CERTIFIED ELECTRONICALLY
Certification

01/31/2005
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98.

Conditions for the placement of, and access to an emergency lock box unit.

- (A) To provide for the safe location of an emergency response lock box unit during a release or threatened release of an extremely hazardous substance, hazardous chemical, or hazardous substance as required by division (B)(6)(a)(iii) of section 3750.02 of the Revised Code, the following conditions shall be met.
- (1) The location(s) selected for the placement of the emergency response lock box unit(s) shall be approved by the fire department of the political subdivision having jurisdiction, which to the extent possible shall be consistent throughout the local emergency planning district.
 - (2) In selecting the number(s) and location(s) for the placement of the emergency response lock box unit(s), the fire department of the political subdivision having jurisdiction, in consultation with the facility operator, shall consider the following factors that may affect safe and expedient access during a release or threatened release of an extremely hazardous substance, hazardous chemical or hazardous substance:
 - (a) The type(s) of release(s) that is (are) likely to occur;
 - (b) The point(s) of entry that the emergency responders plan to use during a release or threatened release; and
 - (c) Prevailing wind patterns would make access of the emergency response lock box unit unsafe; and
 - (d) Whether more than one emergency response lock box unit is necessary to ensure safe access due to facility size.
 - (3) A facility that voluntarily places an emergency response lock box unit shall contact the fire department of the political subdivision having jurisdiction to ensure placement that is consistent within the emergency planning district.
 - (a) In those local emergency planning districts where emergency response lock box unit placement has not been addressed by either the fire department of the political subdivision having jurisdiction or the local emergency planning committee, the owner or operator of the facility may contact the state emergency response commission for guidance.
- (B) To ensure expedient access to an emergency response lock box unit during a release or threatened release of an extremely hazardous substance, hazardous chemical or hazardous substance as required by division (B)(6)(a)(iii) of section 3750.07 of the Revised Code, the fire department of the political subdivision having jurisdiction

shall be provided with the key or access code to the emergency response lock box unit(s) placed at a facility at the time of installation.

- (1) The facility in coordination with the fire department of the political subdivision having jurisdiction, shall consider the following factors in establishing the keying or access code system:
 - (a) Security necessary to deter vandalism of the emergency response lock box unit; and
 - (b) Whether the emergency response lock box unit is located at an entry point where facility security is provided on a twenty-four hour basis; and
 - (c) Whether keys or access codes need to be provided to mutual aid organizations who are likely to be requested to respond, in these instances the owner or operator of the facility shall be advised of such distribution.
 - (d) If a common key is used to secure all emergency response lock box units throughout the fire department's jurisdiction, information that has been claimed to be "trade secret" or "confidential location" information under Chapter 3750-60 of the Administrative Code shall be provided by means other than the emergency response lock box unit.
- (2) In those political subdivisions where the fire department having jurisdiction refuses to accept the key or access code of an emergency response lock box unit, the owner or operators of a facility voluntarily placing a lock box unit shall provide the key or access code to the first response organization during a release or emergency response.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

CERTIFIED ELECTRONICALLY

Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98

Application for issuance of a lock box order by a fire department.

- (A) When the fire department of the political subdivision having jurisdiction over the facility is unable to reach an agreement with the owners and operators of a facility for the placement and maintenance of an emergency lock box unit, the fire department may apply through their local emergency planning committee for the issuance of an order by the commission requiring the placement of an emergency response lock box unit under division (D) of section 3750.11 of the Revised Code.
- (B) The fire department of a political subdivision applying for an order requiring the placement of lock box under division (D) of section 3750.11 of the Revised Code shall submit its application in writing to the local emergency planning committee of the district in which the facility is located, that includes:
 - (1) A certified copy of documentation of the refusal by the facility to place a lock box unit meeting the requirements of rules 3750-75-02 to 3750-75-05 of the Administrative Code;
 - (2) A signed statement from the fire department subdivision stating the basis for requesting the issuance of an order requiring the placement of a lock box unit(s) at the facility; and
 - (3) Documents, sworn statements and other materials which support and address each criteria listed in paragraphs (A) and (B) of rule 3750-75-10 of the Administrative Code.
- (C) Fourteen days prior to the date that the fire department submits an application for the issuance of an order requiring the placement of a lock box to the committee, the fire department shall also mail by certified mail, return receipt requested, notice of the application and a summary of the lock box requirements to the owner or operator of the facility within the political subdivision that the fire department determines would be subject to the lock box requirements.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

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Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98.

3750-75-08

Application for issuance of lock box order by a local emergency planning committee.

- (A) If, in the opinion of the local emergency planning committee, the application for an order requesting the issuance of a lock box order by the fire department of the political subdivision having jurisdiction meets the criteria for issuance of an order established in rule 3750-75-10 of the Administrative Code. The local emergency planning committee shall, within ninety days of the date on which the complete application for an order was received from a fire department, meet to consider a resolution approving or denying the request for the issuance of a lock box order.
- (B) At least fourteen calendar days prior to a meeting of the committee where the committee is to vote on an application from a fire department for the issuance of a lock box order, a copy of the proposed agenda shall be provided by the committee to the fire department and the facility that would be subject to the order should it be granted. This proposed agenda shall provide the location, date, and time of the meeting.
- (C) Any application for the issuance of a lock box order that fails to provide sufficient information for the committee to make the findings required by rule 3750-75-10 of the Administrative Code shall be considered incomplete. A fire department that submits an incomplete application shall be notified in writing of the nature of the deficiencies. No action shall be taken on an incomplete application, until the deficiencies have been addressed.
- (D) Any local emergency planning committee approving to forward a fire department request for an order to install a lock box unit to the commission for the issuance of an order requiring the installation of an emergency response lock box unit under division (D) of section 3750.11 of the Revised Code shall submit to the commission the following:
 - (1) A certified copy of the resolution, which shows that the application for the issuance of a lock box order was approved by at least sixty per cent of the committee's members.
 - (2) A signed statement from the local emergency planning committee stating the basis for forwarding the request for the issuance of a lock box order.
 - (3) Copies of documents, sworn statements, or other materials submitted by the fire department which support and address each criterion set forth in paragraphs (A) and (B) of rule 3750-75-10 of the Administrative Code; and
- (E) Fourteen days prior to the date that the local emergency planning committee forwards the application for the issuance of an order to the commission, the local emergency planning committee shall mail by certified mail, return receipt requested, notice of

approval of the application and a summary of the lock box requirement to the owner or operator of each facility and the fire department(s) having jurisdiction within the emergency planning district that the local emergency planning committee determines would be subject to the lock box requirement.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

CERTIFIED ELECTRONICALLY

Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98.

Decision by emergency response commission regarding a lock box application from a local emergency planning committee.

- (A) Fourteen days prior to a meeting where commission will consider an application for the issuance of a lock box order, the commission will provide a copy of the meeting agenda, return receipt requested, to the facility, the applying fire department, and the forwarding committee.
- (B) The emergency response commission shall vote to grant or deny the issuance of a lock box order within two commission meetings at which a quorum of voting members is present after the date on which a complete application for the issuance of a lock box order is received.
 - (1) The commission shall issue an order requiring the placement of the lock box when sixty per cent or more of the voting members of the commission determine that the application has met the criteria set forth in rule 3750-75-10 of the Administrative Code and have voted to approve the application.
 - (2) The commission shall issue an order denying an application for the issuance of a lock box order if voting members of the commission determine that the criteria set forth in rule 3750-75-10 of the Administrative Code has not been met, and/or when less than sixty per cent of the voting members of the commission vote to approve the application for the issuance of an order requiring the placement of a lock box.
 - (3) If the commission determines that the application, or information presented at the meeting, needs further evaluation, then the commission may approve a motion to delay a vote on the application for the issuance of a lock box order until its next regularly scheduled meeting.
 - (4) If the commission determines that an application for the issuance of a lock box order is incomplete, the commission shall notify the committee and fire department in writing within sixty days of the nature of the deficiencies. No action shall be taken on an incomplete application until the deficiencies have been addressed.
- (C) Within sixty days of the date on which the commission either voted to grant or deny the issuance of a lock box order, the commission shall mail by certified mail, return receipt requested, a copy of the order approving or denying the placement and maintenance of a lock box, to the committee, fire department, and facility affected by the order.
- (D) An order of the commission granting or denying an application for the placement of a lock box may be appealed to the environmental review appeals commission in accordance with section 3750.19 of the Revised Code.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

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Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98

Criteria for issuing an order requiring the placement of a lock box upon a request by a political subdivision.

- (A) Before making or approving an application for the issuance of a lock box order the following conditions shall be demonstrated, using scientific evidence, generally accepted scientific principals or laboratory tests:
- (1) Extremely hazardous substances, hazardous substances, or hazardous chemicals are routinely or intermittently present at the facility which would be subject to the order; and
 - (2) Extremely hazardous substances, hazardous substances, or hazardous chemicals are present at the facility in amounts equal to or exceeding the quantities for which reporting is required under section 3750.05 or 3750.07 of the Revised Code and rules adopted there under; and
 - (3) Based upon generally accepted techniques of hazards analysis, a release of the extremely hazardous substances, hazardous substances, or hazardous chemicals present at the facility could pose a substantial risk of catastrophic injury to:
 - (a) The public health or safety;
 - (b) The environment; or
 - (c) An extraordinary risk of injury to emergency response personnel responding to a release of the extremely hazardous substances, hazardous substances, or hazardous chemicals present at the facility.
 - (4) The placement of a lock box will reduce the risk of catastrophic injury to:
 - (a) The public health or safety;
 - (b) The environment; or
 - (c) Emergency response personnel responding to a release of the extremely hazardous substances, hazardous substances, or hazardous chemicals present at the facility.
- (B) All of the following factors shall be considered in determining whether the substances or chemicals that would be subject to the lock box requirements pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency response personnel responding to a release of the substance or chemical:

- (1) The specific characteristics, and degree and nature of the hazards posed by releases that may occur of the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility;
- (2) The proximity of the facility(ies) that would be subject to the lock box requirements to:
 - (a) Residential areas;
 - (b) Areas where significantly large numbers of people are employed or otherwise congregate; and
 - (c) Environmental resources that would be subject to injury by a release.
- (3) The quantities of extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely or intermittently present at the facility that would be subject to the lock box requirements; and
- (4) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facility(ies) that would be subject, if the lock box order is granted.

R.C. 119.032 review dates: 08/20/2004 and 08/19/2009

CERTIFIED ELECTRONICALLY

Certification

08/20/2004

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(6)
Rule Amplifies: 3750.11(D)
Prior Effective Dates: 9/1/98.

Chapter 3750-80: Variance to Local Emergency Planning Committees

Contact: Jeff Beattie 614-644-2269
Jeff.Beattie@EPA.State.Oh.US

Application for variance by local emergency planning committee.

- (A) Any local emergency planning committee applying for a variance under division (B) of section 3750.11 of the Revised Code shall submit its application in writing to the emergency response commission. The local emergency planning committee shall include in its application:
- (1) A certified copy of the resolution, rule, or requirement which is the subject of the application for the variance;
 - (2) A signed statement from the local emergency planning committee stating the basis for requesting the variance; and
 - (3) Documents, sworn statements or other materials which support and address each criterion set forth in paragraphs (A) and (B) of rule 3750-80-02 of the Administrative Code.
- (B) On or before the date that the local emergency planning committee submits the variance application to the commission, the local emergency planning committee shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the emergency planning district that the local emergency planning committee determines would be subject to the reporting requirement.
- (C) At least seventy two hours prior to a meeting of the commission where the commission is to vote on an application for a variance, a copy of the proposed agenda shall be provided by the commission to the committee and to the facility that would be subject to the variance should it be granted. This proposed agenda shall provide the location, date, and time of the meeting.
- (D) Any application for a variance that fails to provide sufficient information for the emergency response commission to make the findings required by rule 3750-80-02 of the Administrative Code shall be considered incomplete. A local emergency planning committee that submits an incomplete application shall be notified in writing of the nature of the deficiencies. No action shall be taken on an incomplete application, until the deficiencies have been addressed.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

CERTIFIED ELECTRONICALLY

Certification

01/13/2006

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(2)(e)
Rule Amplifies: 3750.11(B) and (C)
Prior Effective Dates: 9/1/95

Criteria for granting a variance to a local emergency planning committee.

- (A) Before approving of an application for a variance, the commission shall find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that:
- (1) The extremely hazardous substances, hazardous chemicals, or hazardous substances that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency response personnel responding to a release of the chemicals or substances, when the substances or chemicals are present at a facility in an amount equal to or exceeding the quantity for which reporting would be required under the reporting requirement for which the variance is sought; and
 - (2) The development and implementation of a local emergency response plan for releases of the substances or chemicals covered by the reporting requirement will reduce the risk of catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency response personnel, in the event of a release of the substances or chemicals; and
 - (3) The reporting requirement is necessary for the development of such a local emergency response plan.
- (B) The commission shall consider all of the following factors in its determination of whether the substances or chemicals that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health, or safety or to the environment, or pose an extraordinary risk of injury to emergency response personnel responding to a release of the substance or chemical:
- (1) The specific characteristics and degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances;
 - (2) The proximity of the facilities that would be subject to the reporting requirement to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;
 - (3) The quantities of extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at facilities that would be subject to the reporting requirement; and

- (4) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facilities that would be subject to the reporting requirement in quantities for which reporting would be required thereunder.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

CERTIFIED ELECTRONICALLY
Certification

01/13/2006
Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(2)(e)
Rule Amplifies: 3750.11(B) and (C)
Prior Effective Dates: 9/1/95

Decision by emergency response commission.

- (A) The emergency response commission shall vote to grant or deny the application for a variance within one hundred twenty days of the date on which a completed application for a variance is received, unless information is presented to the commission at the meeting which in the judgment of the commission requires additional review and evaluation. If the commission determines that the information presented at the meeting needs further evaluation then the commission may approve a motion to delay a vote on the application for a variance until its next regularly scheduled meeting.
- (1) The commission shall issue an order granting the variance when sixty per cent or more of the voting members of the commission vote to approve the variance application.
 - (2) The commission shall issue an order denying the variance when less than sixty per cent of the voting members of the commission vote to approve the variance application.
- (B) The commission shall issue an order within sixty days of the date on which the commission has voted to either grant or deny the application for a variance.
- (C) An order of the commission granting or denying an application for a variance may be appealed to the environmental board of review in accordance with section 3750.19 of the Revised Code.

R.C. 119.032 review dates: 01/13/2006 and 01/13/2011

CERTIFIED ELECTRONICALLY
Certification

01/13/2006
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Statutory Authority: 3750.02(B)(2)(e)
Rule Amplifies: 3750.11(B) and (C)
Prior Effective Dates: 9/1/95

Chapter 3750-85: Variances to Political Subdivisions

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3750-85-01 **Application for variance by political subdivision.**

- (A) Any political subdivision applying for a variance under division (C) of section 3750.11 of the Revised Code shall submit its application in writing to the local emergency planning committee of the district in which the political subdivision is located. The political subdivision shall include in its application:
- (1) A certified copy of the ordinance, resolution, rule, or requirement which is the subject of the application for the variance;
 - (2) A signed statement from the political subdivision stating the basis for requesting the variance; and
 - (3) Documents, sworn statements and other materials which support and address each criteria listed in criterion listed in paragraphs (A) and (B) of rule 3750-85-02 of the Administrative Code.
- (B) On or before the date that the political subdivision submits the variance application to the committee, the political subdivision shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the political subdivision that the political subdivision determines would be subject to the reporting requirement.
- (C) At least seventy two hours prior to a scheduled meeting of the committee where an application for a variance is to be considered, a copy of the proposed agenda shall be provided by the committee to the political subdivision applying for the variance, and the facility that would be subject to the variance should it be granted. This proposed agenda shall provide the location, date, and time of the meeting.
- (D) Any application for a variance that fails to provide sufficient information for the local emergency planning committee to make the findings required under rule 3750-85-02 of the Administrative Code shall be considered incomplete. A political subdivision that submits an incomplete application will be notified in writing of the nature of the deficiencies. No action will be taken on an incomplete application, until the deficiencies have been addressed.

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Criteria for granting a variance to a political subdivision.

- (A) Before approving an application for a variance, the local emergency planning committee shall find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that:
- (1) The extremely hazardous substances, hazardous chemicals, or hazardous substances that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency response personnel responding to a release of the chemicals or substances, when the substances or chemicals are present at a facility in an amount equal to or exceeding the quantity for which reporting would be required under the reporting requirement for which the variance is sought; and
 - (2) The development and implementation of a local emergency response plan for releases of the substances or chemicals covered by the reporting requirement will reduce the risk of catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency response personnel, in the event of a release of the substances or chemicals; and
 - (3) The reporting requirement is necessary for the development of such a local emergency response plan.
- (B) The local emergency planning committee shall consider all of the following factors in its determination of whether the substances or chemicals that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency response personnel responding to a release of the substance or chemical:
- (1) The specific characteristics and degree and nature of the hazards posed by release of the extremely hazardous substances, hazardous chemicals, or hazardous substances;
 - (2) The proximity of the facilities that would be subject to the reporting requirement to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;
 - (3) The quantities of extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at facilities that would be subject to the reporting requirement; and

- (4) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facilities that would be subject to the reporting requirement in quantities for which reporting would be required thereunder.

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Decision by local emergency planning committee.

- (A) If, in the opinion of the local emergency planning committee, the ordinance, resolution, rule or requirement of the political subdivision meets the criteria for issuance of a variance established in rule 3750-85-02 of the Administrative Code and does not conflict with any resolution, rule or requirement adopted by the local emergency planning committee, the committee shall, within 120 days of the date on which the complete application for a variance was received from a political subdivision, meet to pass a resolution approving the request for the issuance of the variance. The committee shall send a copy of its resolution, the political subdivision's variance application, and the ordinance, resolution, rule or requirement to the commission within sixty days of passage of the resolution approving issuance of the political subdivision's application.
- (B) The local emergency planning committee shall not approve issuance of a variance unless at least sixty per cent of the voting members of the committee vote to approve it.
- (C) The commission shall review the resolution, the political subdivision's variance application, and the ordinance, resolution, rule or requirement in accordance with Chapter 3750-80 of the Administrative Code.

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