



Cessation of Regulated Operations (CRO) Program

DHWM Guidance Document

Date: September 2004

What is the Purpose of this Guidance?

In 1987, vandals entered the closed Dayton Tire & Rubber facility to remove copper cores from several large transformers remaining at the facility. This vandalism resulted in the discharge of Askerol (PCB oil) from the transformers to Wolf Creek. Cleaning up and demolishing the site took three years and cost approximately \$8 million.

This incident and many others prompted State Representative Thomas Roberts to introduce House Bill (HB) 98. This law went into effect July 1, 1996, when Ohio created the Cessation of Regulated Operations (CRO) program.

Facility abandonment is a precursor to the creation of a Superfund site. These sites can cause environmental and human health hazards that can result in extremely high cleanup costs, health care costs and/or loss of habitat.

What Background Information was used to Develop this Guidance?

The initial rules became effective September 30, 1996. These rules established guidelines for the submittal of an application for a waiver; prescribed methods to be used in securing buildings, structures and outdoor locations of operation; and defined the phrase "contaminated with." On February 20, 2001, new and improved rules became effective and are contained in Ohio Administrative Code Chapter [3745-352](#). The new rules are designed to eliminate the need for the regulated community and the public to read both the statute and rules to determine regulatory requirements.

"Cessation of Regulated Operations" means the discontinuation or termination of regulated operations or the finalizing of any transaction or proceeding through which those operations are discontinued. "Regulated Operations" means the production, use, storage or handling of regulated substances.

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Who Has to Comply?

It is estimated that about 7,000 facilities throughout Ohio would be subject to the CRO program if they cease their regulated operations. This group consists of facilities that must submit an Annual Chemical Inventory Report to the [State Emergency Response Commission](#) (SERC) with the following exceptions:

- Oil/gas production operations;
- Public Utilities; and
- Underground Storage Tanks (USTs) regulated by the State Fire Marshal's Bureau of Underground Storage Tank Regulation ([BUSTR](#)).

What Substances are Affected?

The following substances are regulated:

- Extremely hazardous substances;
- Hazardous substances;
- Flammable substances; and
- Petroleum.

What Do I Have to Do if I am the Owner or Operator of a Reporting Facility that Ceases Regulated Operations?

Within 30 days from the CRO you must:

- Submit a notice of CRO on a form prescribed by the director to Ohio EPA, [Local Emergency Planning Committee](#) (LPEC) and local fire departments where the facility is located;
- Designate a contact person;
- Secure and post warning signs around areas that contain or are contaminated with a regulated substance; and
- Maintain security and warning signs.

Within 90 days of the CRO you must:

- Submit to the director of Ohio EPA the most recent emergency and hazardous chemical inventory form submitted to the SERC;
- Submit to the director of Ohio EPA a current [OSHA](#) hazardous chemical list or MSDS for each chemical at the facility required to be on file with the SERC;
- Submit to the director of Ohio EPA a list of every stationary tank, vat, electrical transformer and vessel that will remain at the facility that contains or is contaminated with a regulated substance prior to or at the time of cessation;
- Drain and remove all regulated substances from each stationary tank, vat, electrical transformer and vessel and from all piping;

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- Lawfully dispose, sell or transfer the regulated substances off-site;
- Lawfully transfer off-site all debris, non-stationary equipment, furnishings, containers, motor vehicles and rolling stock that contain or are contaminated with a regulated substance; and
- Certify to the director on a form prescribed that the actions required in the previous three items have been completed.

After you submit the certification, Ohio EPA must promptly conduct an inspection to determine compliance with the CRO statute and any rules adopted thereunder.

What Do I Have to Do if I Temporarily Discontinue All Regulated Operations at My Facility for Greater Than 30 Days?

Within 45 days after the Temporary CRO (TCRO), the owner or operator shall certify to Ohio EPA that the TCRO will not exceed 365 days. Surface and coal mines with valid permits and construction sites idled due to weather or scheduling delays are exempt from this requirement.

If you anticipate you will have a TCRO longer the 365 days, you may request a waiver from the CRO requirements. The director may approve or deny a waiver application.

What Do I Do if I am the Holder of First Mortgage or the Fiduciary for a Facility Where the Owner or Operator Has Ceased Regulated Operations?

The holder of first mortgage and a fiduciary of a reporting facility both have specific statutory duties under Ohio law. No later than 15 days after the first mortgage holder receives a notice of abandonment and within 60 days after the fiduciary receives a notice of cessation of regulated operations, the holder and fiduciary are required to do the following if the operator fails to take the required steps under the CRO program:

- Secure and post warning signs around areas that contain or are contaminated with regulated substances;
- Maintain security and warning signs; and
- Submit a notice of abandonment on the form prescribed by Ohio EPA's director to Ohio EPA, the [LEPC](#) and the local fire department.

Thirty days before filing the release of the mortgage and/or releasing all rights to the facility and ending security and warning measure, you must notify Ohio EPA, the [LEPC](#) and the local fire department where the facility is located.

Are There Penalties for Violations of the CRO Program?

Fines for violating CRO requirements can range from the cost incurred by the regulating authority up to \$25,000, and four years in jail per each day of violation.

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With written approval from the director, the county's prosecuting attorney, city law director or village solicitor can bring civil action against a party that violated or is violating the CRO regulations and rules adopted thereunder.

Where Can I Obtain More Information?

If you would like more information about the CRO program or if you want to speak with an Ohio EPA representative, call or e-mail Ohio EPA's [Compliance Assurance Section](#) at (614) 644-2621.