

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Environmental Protection

Regulation/Package Title: State Emergency Response Commission

Rule Number(s): 3750-30-25;

Date: April 28, 2017

**Rule Type:**

New

Amended

5-Year Review

Rescinded

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

### **Regulatory Intent**

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

**Amended**

- a. OAC Rule 3750-30-25- Outlines the health and physical hazard categories recently amended by OSHA Hazard Communication Standard due to the adoption of the Global Harmonizing System(GHS). This impacts the Emergency Planning and Community Right-to-Know (EPCRA) annual reporting of chemical inventories.

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

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Ohio Revised Code 3750, Emergency Planning.

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

Yes. The regulations implement the federal Emergency Planning and Community Right-to-Know Act of 1986.

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

Not applicable. This rule does not exceed any federal requirements.

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

This rule enables Ohio to administer the federal Emergency Planning and Community Right-to-Know Act (EPCRA) program and rule incorporates language as recently amended by USEPA for its hazardous chemical reporting regulations.

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

Total number of annual statewide chemical inventory reports received; spill/release notifications and 30-day reports received and grant dollars available maintain past funding levels.

### **Development of the Regulation**

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

On behalf of the SERC, Ohio EPA shall establish an initial 30-day public comment period. Ohio EPA Division of Air Pollution Control (DAPC) sent the notices of our request for comments electronically to the 3,000+ members of Ohio EPA's electronic Interested Parties list for DAPC rulemaking. DAPC also posted the notice on our website and placed the notice in the Director's Weekly Review publication.

- 8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** No comments were received on this rule.

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

Not applicable. This is an administrative rule. No scientific data was necessary to establish the regulation.

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

This rule contains specific administrative requirements pursuant to the federal EPCRA. There were no alternate regulations to consider.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

This rule contains specific administrative requirements pursuant to the federal EPCRA. There are no alternative regulations so this cannot be a performance based regulation.

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

This rule has been in place since 1990. The EPA program does coordinate with members of the State Emergency Response Commission regarding all administrative rules under OAC 3750.

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

Annual outreach through presentations, web site, reporting manuals and the communication with statewide Local Emergency Planning Committees, emergency responders and state agencies and regulated industry. SERC meetings are open meetings and are held 6 times a year.

**Adverse Impact to Business**

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

- a. Identify the scope of the impacted business community;
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
- c. Quantify the expected adverse impact from the regulation.  
*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a*

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*“representative business.” Please include the source for your information/estimated impact.*

Minimal impact expected as result of this rule since it is a reference to required elements from the federal EPCRA law.

**Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The regulations in this chapter implement the federal Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 in the state of Ohio. This rule enables Ohio to administer the federal EPCRA program and provides identification of hazardous chemicals.

**Regulatory Flexibility**

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

This rule is primarily administrative in nature and provide no exemptions.

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

The SERC uses enforcement discretion regarding fines and penalties for facilities committing a first-time reporting violation. In many cases, penalties are waived.

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

The following resources are available:

- The state emergency response commission (SERC), under Chapter 3750 of the Ohio Revised Code (ORC), provides for implementation of the federal Emergency Planning and Community Right-to-Know Act (EPCRA) in Ohio. The SERC operates an informational website at: <http://epa.ohio.gov/dapc/serc.aspx>. SERC program manager Jeff Beattie can be contacted for questions at (614) 644-2269, or [Jeffrey.beattie@epa.ohio.gov](mailto:Jeffrey.beattie@epa.ohio.gov).
- The SERC also operates a public information request website at: <http://epa.ohio.gov/dapc/serc.aspx#122454999-public-information-request> for information on releases or spills.
- DAPC also performs rulemaking activities on behalf of the SERC. DAPC rule writer Paul Braun, the primary contact for this rulemaking, is available to answer questions. He can be reached by calling 614-644-3734 or by e-mail at [paul.braun@epa.ohio.gov](mailto:paul.braun@epa.ohio.gov).

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