

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Environmental Protection Agency

Regulation/Package Title: OAC Rule 3750-30-20, "Facility emergency and hazardous chemical inventory form."

Rule Number(s): OAC Rule 3750-30-20

Date: November 19, 2013

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Rescinded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.

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

Ohio Administrative Code (OAC) Rule 3750-30-20 requires facilities that are subject to OAC rule 3750-30-01 to annually prepare a facility emergency and hazardous chemical inventory report and contains a listing of the information that must be included in this report. Proposed amendments modify the list of required information to bring the list in line with federal requirements.

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

Rule Number	Authorizing Statute	Proposed Action
3750-30-20	3750.02	Amended

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

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

This rule exists to implement parts of section 312 of the Emergency Planning and Community Right-To-Know Act of 1986. The proposed amendments in this rulemaking will bring Ohio's rule in line with amended federal reporting requirements (77 FR 41300).

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

This rule does not exceed any federal requirements. Amendments are being made to this rule to bring the rule in-line with 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 implements parts of section 312 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA). EPCRA was established by the federal government to require facilities utilizing hazardous materials to disclose this information to enhance the safety of first responders and the general public, especially those living in areas surrounding the facilities.

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

The State Emergency Response Commission (SERC) measures the success of this regulation by the number of successful annual reports received. Each annual report received indicates a facility that has contributed to the safety of first responders and surrounding residents.

Development of the Regulation

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

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

On behalf of the SERC, Ohio EPA Division of Air Pollution Control (DAPC) sent a request for stakeholder comments electronically to the 1,248 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 as well as holding on-going meetings with industry representatives. The 30-day comment period closed as of October 18, 2013. Ohio EPA did not receive any comments.

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

No input was received from stakeholders.

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?

There was no scientific information used on Ohio EPA's part to complete this rulemaking. Amendments were made to bring the rule in line with federal requirements.

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?

There are no alternate rules and regulations possible. This rule mirrors federal requirements to keep Ohio's data collection efforts in-line with federal requirements.

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

This rule does not lend itself to being a performance based regulations. USEPA requires a specific set of information be provided and this rule contains that list.

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

Ohio EPA reviewed our own and the SERC regulations and performed a search of regulation from other agencies to determine if duplication was being made. To our knowledge, Ohio EPA is not duplicating another existing Ohio regulation.

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.

The annual reporting required in this rule is due as of March 1 of the reporting year. A standard report form is generated by the SERC and distributed to facilities and all facilities must report their information on this form for consistency.

Adverse Impact to Business

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

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

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

The reports required in this rule have been required since the 1990’s and are well known among the regulated community. The changes made to this rule reorganizes, but does not greatly change, remove, or add to the information required on the annual reporting form. Ohio EPA does not perceive an adverse impact associated with the proposed amendments to this rule.

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

As mentioned above, the proposed amendments to this rule reorganize, but do not greatly change, add or remove information required on the annual reporting form.

Regulatory Flexibility

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

The rule requires all facilities to fill out a standard form. It is necessary for all facilities to fill out the same form as many agencies including local early responders, Ohio EPA and USEPA collect standard data from the forms.

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

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

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

The following resources are available:

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

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