

## **RULE SYNOPSIS**

Draft rule language for Ohio Administrative Code (OAC) 3745-104, "Accidental Release Prevention" for Five-Year Rule Review

The Ohio Environmental Protection Agency, Division of Air Pollution Control has reviewed OAC Chapter 3745-104 "Accidental Release Prevention" pursuant to Ohio law (Ohio Revised Code Section 119.032) which requires all agencies review existing rules every five years to determine if the rules should be eliminated or amended, or to remain "as-is." Ohio EPA has reviewed the rules in this chapter and determined that changes are needed.

On November 20, 2019, the USEPA Administrator signed the Pre-publication Notice for rescinding, retaining and/or modifying requirements in that initial Risk Management Plan Amendments Rule.

Section 112(r) of the federal Clean Air Act Amendments of 1990 (CAAA) mandated a new focus on the prevention of chemical accidents. The objective of Section 112(r) is to prevent serious chemical accidents that may have the off-site potential to affect public health and the environment. The CAAA required U.S. EPA to promulgate regulations for chemical accident prevention, which includes but not limited to, hazard assessments, a prevention program, and an emergency response program.

The Ohio EPA RMP rules are equivalent and consistent in scope, content and coverage with federal regulations and became effective August 13, 1999. On January 3, 2000, Ohio EPA DAPC received approved delegation of authority from USEPA for the Accidental Release Prevention Program, or Risk Management Plan (RMP) program as codified in Ohio Revised Code Chapter 3753, "Risk Management Plan."

The rules are being reviewed and amended in accordance with Ohio Revised Code chapter 106.03 (5-year review) to correspond with US EPA regulations finalized December 19, 2019.

### Changes Made as a Result of Comments on the Draft Rule Amendments

A draft of amended rules was released to interested parties for a 30-day comment period ending September 19, 2020. No comments were received. A discussion of the original draft changes is included below.

### Original Draft Changes Proposed to the Rules in OAC Chapter 3745-104

The following are original draft changes presented to interested parties for comment. The changes discussed below will be proposed to the Joint Committee on Agency Rule Review (JCARR):

Rule 3745-104-01 (Definitions). The following definitions have been added: Confidential business information and LEPC (local emergency planning committee).

Rule 3745-104-05 (Applicability). Applicability requirements, along with dates, were added for facilities to comply with the new emergency response provisions. The provisions include notification drills for all stationary sources and tabletop and field exercises for those facilities that have their own emergency response team ("responding facilities"). Facilities which have releases of RMP chemicals that go offsite will be required to have a public meeting within 90 days of the incident.

Rule 3745-104-06 (General requirements). The requirement to coordinate with local emergency responders or to develop an emergency response program have been added for facilities with processes that could affect public and environmental receptors.

Rule 3745-104-17 (Program two prevention program: safety information). Material safety data sheet (MSDS) has been changed to safety data sheet (SDS) to correspond with OSHA terminology.

Rule 3745-104-24 (Program two prevention program: process safety information). Material safety data sheet (MSDS) has been changed to safety data sheet (SDS) to correspond with OSHA terminology.

Rule 3745-104-33 (Program three prevention program: employee participation). This rule is being rescinded and proposed as new per LSC requirements as part of a rescind/add new rulemaking because more than 50% of the rule language was changed.

Rule 3745-104-36 (Emergency response: applicability and coordination). The title has been changed to include coordination efforts with local emergency planning agencies to correlate with US EPA requirements. Coordination with local emergency responders have always been obligatory but US EPA has added an annual requirement for both coordination efforts and notification drills. Both responding and non-responding facilities are subject to this rule; however, responding facilities will, in addition, meet with local responders to establish plans for their tabletop and field exercises. An additional paragraph has been added to clarify classified and restricted information.

Rule 3745-104-37 (Emergency response program and exercises). The title has been changed to include the term "exercises." The rule has been amended to outline the responsibilities for responding facilities to conduct tabletop and field exercises, including frequencies and scope. Tabletops are required to be conducted every three years, beginning within seven years of the US EPA publishing the final regulation in the Federal Register. Field exercise frequencies will be determined in coordination efforts with local responders and plans required within four years of the publication of the final rule. All exercises are to be documented and evaluated. The evaluation is required to include recommendations to improve the facility's emergency response plan and increase safety for public and environmental receptors.

Rule 3745-104-42 (Risk management plan: registration). Facilities will be required to include the date of any public meetings held within 90 days of an RMP reportable release. The public meeting is only for those releases that had offsite impacts.

Rule 3745-104-47 (Risk management plan: emergency response program). The rule clarifies the facility's response capabilities in the submitted RMP. Dates will be provided in the plan as to when the facility last coordinated with the local emergency response agencies and conducted a notification drill. In addition, responding facilities will include the date of field and tabletop exercises. This rule is being rescinded and proposed as new per LSC requirements as part of a rescind/add new rulemaking because more than 50% of the rule language was changed. Rule 3745-104-41 (Availability of information to the public). The rule is being amended to include the public meeting requirement for any facility that had an RMP reportable release that had offsite impacts. The meeting is required to be held within 90 days of the release. The rule also clarifies that some information could be considered classified or restricted by Federal agencies.

Rule 3745-104-53 (Fees). This rule is being rescinded to include it in Rule 3745-104-38 (Submission). Paragraph (G) is being added to Rule 3745-104-38.

Ohio EPA is also making minor changes to rules throughout the chapter to fix typos and update the rules to match agency and LSC formatting standards. Additionally, 18 rules remain necessary, but are not in need of change.