

3745-100-01

Definitions.

[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 paragraph ~~(FF)~~ (AA) of this rule entitled "Referenced materials."]

Terms defined in sections 313(b)(1)(C) and 329 of Title III, Emergency Planning and Community Right-to-Know Act, of the Superfund Amendments and Reauthorization Act of 1986, and not explicitly defined herein are used within the meaning given in Title III. For the purpose of this chapter:

(A)

~~(A)~~(1) "Act" means Title III, Emergency Planning and Community Right-to-Know Act, of the Superfund Amendments and Reauthorization Act of 1986, contained in 42 USC sections 11001 to 11050.

~~(B)~~(2) "Article" means a manufactured item which conforms to the following:

~~(1)~~(a) Is formed to a specific shape or design during manufacture.

~~(2)~~(b) Has end-use functions dependent in whole or part upon its shape or design during end use.

~~(3)~~(c) Does not release a toxic chemical under normal conditions of processing or use of that item at the facility or establishment.

(B)

~~(C)~~(1) "Beneficiation" means the preparation of ores to regulate the size (including crushing and grinding) of the product, to remove unwanted constituents, or to improve the quality, purity, or grade of a desired product.

~~(D)~~(2) "Boiler" means an enclosed device using controlled flame combustion and having either of the following characteristics:

~~(1)~~(a) The unit ~~shall conform~~ conforms to the following:

~~(a)~~(i) ~~Have~~Has physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases.

~~(b)~~(ii) The unit's combustion chamber and primary energy recovery section ~~shall be~~ is of integral design. ~~To be of integral design, meaning that~~ the combustion chamber and the primary energy

recovery section (such as waterwalls and superheaters) ~~shall be~~ are physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units.

~~(e)~~(iii) While in operation, the unit ~~shall maintain~~ maintains a thermal energy recovery efficiency of at least sixty per cent, calculated in terms of the recovered energy compared with the thermal value of the fuel.

~~(d)~~(iv) The unit ~~shall export and utilize~~ exports and utilizes at least seventy-five per cent of the recovered energy, calculated on an annual basis. In this calculation, no credit ~~shall be~~ is given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps).

~~(2)~~(b) The unit is one which the director has determined, on a case-by-case basis, to be a boiler, after considering the standards in 40 CFR 260.32.

(C)

~~(E)~~(1) "Coal extraction" means the physical removal or exposure of ore, coal, minerals, waste rock, or overburden prior to beneficiation, and encompasses all extraction-related activities prior to beneficiation. Extraction does not include beneficiation (including coal preparation), mineral processing, in situ leaching or any further activities.

~~(F)~~(2) "Customs territory of the United States" means the fifty states, the District of Columbia and Puerto Rico.

~~(G)~~(D) "Disposal" means any underground injection, placement in landfills/surface impoundments, land treatment, or other international land disposal.

~~(H)~~(E) "Establishment" means an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed.

(F)

~~(1)~~(1) "Facility" means all buildings, equipment, structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person who controls, is controlled by, or under common control with such person). A facility may contain more than one establishment.

~~(2)~~(2) "Full-time employee" means two thousand hours per year of full-time equivalent employment. A facility would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by two thousand hours.

(G) [Reserved.](H) [Reserved.](I)

~~(1)~~(1) "Import" means to cause a chemical to be imported into the customs territory of the United States. For purposes of this definition, "to cause" means to intend that the chemical be imported and to control the identity of the imported chemical and the amount to be imported.

~~(2)~~(2) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

~~(1)~~(a) Cement kilns.

~~(2)~~(b) Lime kilns.

~~(3)~~(c) Aggregate kilns.

~~(4)~~(d) Phosphate kilns.

~~(5)~~(e) Coke ovens.

~~(6)~~(f) Blast furnaces.

~~(7)~~(g) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces).

- ~~(8)~~(h) Titanium dioxide chloride process oxidation reactors.
- ~~(9)~~(i) Methane reforming furnaces.
- ~~(10)~~(j) Pulping liquor recovery furnaces.
- ~~(11)~~(k) Combustion devices used in the recovery of sulfur values from spent sulfuric acid.
- ~~(12)~~(l) Halogen acid furnaces (HAFS) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of twenty per cent as-generated.
- ~~(13)~~(m) Such other devices as the director may, after notice and comment, add to this list on the basis of one or more of the following:
 - ~~(a)~~(i) The design and use of the device primarily to accomplish recovery of material products.
 - ~~(b)~~(ii) The use of the device to burn or reduce raw materials to make a material product.
 - ~~(c)~~(iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks.
 - ~~(d)~~(iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product
 - ~~(e)~~(v) .The use of the device in common industrial practice to produce a material product.
 - ~~(f)~~(vi) Other factors, as appropriate.

(J) [Reserved.]

(K) [Reserved.]

(L) [Reserved.]

(M)

~~(M)~~(1) "Manufacture" means to produce, prepare, import or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from other chemicals or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical or mixture of chemicals as an impurity.

~~(N)~~(2) "Mixture" means any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction. However, if the combination was produced by a chemical reaction, but could have been produced without a chemical reaction, the combination is also treated as a mixture. A mixture also includes any combination which consists of a chemical and associated impurities.

~~(O)~~(N) "NAICS" means North American industrial classification system.

(O)

~~(P)~~(1) "Ohio EPA" means the Ohio environmental protection agency.

~~(Q)~~(2) "Otherwise use" or "use" means any use of a toxic chemical, including a toxic chemical contained in a mixture or other trade name product or waste, that is not covered by the terms "manufacture" or "process". Otherwise use of a toxic chemical does not include disposal, stabilization (without subsequent distribution in commerce), or treatment for destruction unless either of the following is true:

~~(R)~~(a) The toxic chemical that was disposed, stabilized, or treated for destruction was received from off-site for the purposes of further waste management.

~~(S)~~(b) The toxic chemical that was disposed, stabilized, or treated for destruction was manufactured as a result of waste management activities on materials received from off-site for the purposes of further waste management activities.

Relabeling or redistributing a container of a toxic chemical where no repackaging of the toxic chemical occurs does not constitute use or processing of the toxic chemical.

~~(T)~~(3) "Overburden" means the unconsolidated material that overlies a deposit of useful materials or ores. Overburden does not include any portion of ore or waste rock.

(P)

~~(S)~~(1) "Previously classified" means properly classified according to paragraph (B) of rule 3745-100-05 of the Administrative Code under a given SIC code, as identified in the "Standard Industrial Classification Manual."

~~(T)~~(2) "Process" means the preparation of a toxic chemical, after ~~its~~the toxic chemical's manufacture, for distribution in commerce that conforms to either of the following:

~~(+)~~(a) In the same form or physical state as, or in a different form or physical state from, that in which ~~it~~the toxic chemical was received by the person so preparing such substance.

~~(=)~~(b) As part of an article containing the toxic chemical. Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.

(Q) [Reserved.](R)

~~(U)~~(1) "RCRA approved test method" includes SW-846 method 9095A ("Paint Filter Liquids Test") contained in "SW-846 Test Methods for Evaluating Solid Waste, Physical/Chemical Methods."

~~(V)~~(2) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any toxic chemical.

(S)

~~(W)~~(1) "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 establishment, or for the corporation owning or operating the facility or establishment responsible for certifying similar reports under other environmental regulatory requirements.

~~(X)~~(2) "SIC" means standard industrial classification.

(T)

~~(Y)~~(1) "Technically qualified individual" means a person or persons who fulfills the following:

~~(1)~~(a) Because of education, training or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under ~~his or her~~ the individual's supervision.

~~(2)~~(b) Is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks.

~~(3)~~(c) Is responsible for the safety assessments and clearances related to the procurement, storage, use and disposal of the chemical substance as may be appropriate or required within the scope of conducting a research and development activity.

~~(Z)~~(2) "Title III" means Title III, Emergency Planning and Community Right-to-Know Act, of the Superfund Amendments and Reauthorization Act of 1986, contained in 42 USC sections 11001 to 11050.

~~(AA)~~(3) "Toxic chemical" means a chemical or chemical category listed ~~in rule 3745-100-10 of the Administrative Code~~ by the administrator of USEPA under 40 CFR Part 372.65.

~~(BB)~~(4) "Trade name product" means a chemical or mixture of chemicals that is distributed to other persons and that incorporate a toxic chemical component that is not identified by the applicable chemical name or "Chemical Abstracts Service" registry number listed ~~in rule 3745-100-10 of the Administrative Code~~ by the administrator of USEPA under 40 CFR Part 372.65.

~~(CC)~~(5) "Treatment for destruction" means the destruction of a toxic chemical in waste such that the substance is no longer the toxic chemical subject to reporting under Section 313 of the Emergency Planning and Community Right-to Know Act of 1986. Treatment for destruction does not include the destruction of a toxic chemical in waste where the toxic chemical has a heat value greater than five thousand British thermal units and is combusted in any device that is an industrial furnace or boiler.

~~(DD)~~(U) "USEPA" means the United States environmental protection agency.

(V) [Reserved.]

~~(EE)~~(W) "Waste stabilization" means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free

liquid as determined by a Resource Conservation and Recovery Act approved test method for evaluating solid waste as defined in this section. A waste stabilization process includes mixing the hazardous waste with binders or other materials, and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "stabilization," "waste fixation," or "waste solidification."

(X) [Reserved.]

(Y) [Reserved.]

(Z) [Reserved.]

~~(FF)~~(AA) Referenced materials. This chapter includes references to certain matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, or the particular edition or version of the material is included in this rule. For material subject to change, only the specific versions specified in this rule are referenced. Material is referenced 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 applicable unless and until this rule has been amended to specify the new dates.

(1) Availability. The referenced materials are available as follows:

- (a) 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.
- (b) 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 ~~<http://www.gpo.gov/fdsys/>~~<http://www.govinfo.gov>. The CFR compilations are also available for inspection and use at most public libraries and "The State Library of Ohio."
- (c) Consumer Product Safety Act. Information and copies may be obtained by writing to: "U.S. Consumer Product Safety Commission, Washington, D.C. 20207-0001." Or electronically at <http://www.cpsc.gov/businfo/cpsatext.html>. A copy of the Act is also available for inspection and use at most public libraries and "The State Library of Ohio."

- (d) Dunn and 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/>.
- (e) 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 ~~www.gpo.gov/fdsys/~~<http://www.govinfo.gov>. The act is also available for inspection and use at most public libraries and "The State Library of Ohio."
- (f) North American Industry Classification System (NAICS). Information and content of industries or request for electronic copies of NAICS tables to: Classification Activities, Economic Statistical Methods Division, Bureau or the Census, Room 5H063, Washington, DC 20233, telephone number (301) 763-5172 or www.census.gov/www/naics/.
- ~~(g)~~(g) 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 ~~www.gpo.gov/fdsys/~~<http://www.govinfo.gov>. A copy of the act is also available for inspection and use at most public libraries and "The State Library of Ohio."
- ~~(g)~~(h) Restatement of Torts, Sec. 757, comment B, 1939. Available for inspection and use at most public libraries and "The State Library of Ohio."
- ~~(h)~~(i) Standard industrial classification manual (SICM). Information and copies may be ordered by writing to: "U.S. Department of Commerce, Technology Administration, National Technical Information Service, Springfield, Virginia, 22161." or by calling 1-800-553-6847. A copy of the manual is also available for inspection and use at most public libraries and "The State Library of Ohio."
- ~~(i)~~(j) 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 ~~www.gpo.gov/fdsys/~~<http://www.govinfo.gov>. The act is also available

for inspection and use at most public libraries and "The State Library of Ohio."

~~(j)~~(k) SW-846 method 9095A as contained in "SW-846 Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." These documents are also available in electronic format at <http://www.epa.gov/epaoswer/hazwaste/test/main.htm>. SW-846 methods are also available for inspection and use at most public libraries and "the State library of Ohio."

~~(k)~~(l) 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 ~~www.gpo.gov/fdsys/~~<http://www.govinfo.gov>. The U.S.C. compilations are also available for inspection and use at most public libraries and "The State Library of Ohio."

~~(l)~~(m) USEPA Form R (EPA Form 9350-1) Form R schedule 1, and Form A. The most current version of USEPA Form R (EPA Form 9350-1), Form R schedule 1, and Form A may be found on the following USEPA program web site: <http://www.epa.gov/tri>. Any subsequent changes to the Form R, Form R Schedule 1, or Form A will be posted on this web site. Submitters may also contact the TRI program at (202) 564-9554 to obtain this information.

(2) Incorporated materials.

(a) 15 USC 2051 to 2084: "Consumer Product Safety Act;" Public Law 92-573, 86 Stat. 1207, Oct. 27, 1972.

(b) 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; 77 FR 17785, Mar. 26, 2012; 78 FR 9313, Feb. 8, 2013~~ as published in the July 1, 2020 Code of Federal Regulations.

(c) 40 CFR 260.32; "Variances to be classified as a boiler;" ~~50 FR 662, Jan. 4, 1985, as amended at 59 FR 48041, Sept. 19, 1994~~ as published in the July 1, 2020 Code of Federal Regulations.

- (d) 40 CFR 350.5; "Assertion of claims of trade secrecy;" as published in the July 1, 2020 Code of Federal Regulations.
- ~~(d)~~(e) 40 CFR 350.7; "Substantiating claims of trade secrecy;" 53 FR 28801, July 29, 1988 as published in the July 1, 2020 Code of Federal Regulations.
- ~~(e)~~(f) 40 CFR 350.16; "Address to send trade secrecy claims and petitions requesting disclosure;" 68 FR 64724, Nov. 14, 2003 as published in the July 1, 2020 Code of Federal Regulations.
- ~~(f)~~(g) 40 CFR 372; "Toxic Chemical Release Reporting: Community Right-to-Know;" 53 FR 4525, Feb. 16, 1988, as amended at 55 FR 30656, July 26, 1990; 53 FR 12748, Apr. 18, 1988; 53 FR 4525, Feb. 16, 1988, as amended at 73 FR 32470, June 9, 2008; 55 FR 30656, July 26, 1990; 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 4500, January 17, 2001; 70 FR 37698, June 30, 2005; 70 FR 39931, July 12, 2005; 72 FR 26545, May 10, 2007; 73 FR 76960, December 18, 2008; 74 FR 19001, April 27, 2009; 75 FR 72727, November 26, 2010; 77 FR 23418, April 19, 2012; 78 FR 42875, July 18, 2013; 78 FR 52860, August 27, 2013; 78 FR 66484, November 7, 2013; 79 FR 58686, September 30, 2014; 80 FR 72906, November 23, 2015 as published in the July 1, 2020 Code of Federal Regulations.
- ~~(g)~~(h) 40 CFR 372.27; "Alternate thresholds and certifications;" 59 FR 61502, Nov. 30, 1994, as amended at 70 FR 39949, July 12, 2005; 71 FR 32477, June 6, 2006; 71 FR 76945, Dec. 22, 2006; 74 FR 19006, April 27, 2009 as published in the July 1, 2020 Code of Federal Regulations.
- (i) 40 CFR 372.28; "Lower thresholds for chemicals of special concern;" as published in the July 1, 2020 Code of Federal Regulations.
- (j) 40 CFR 372.23; "Lower thresholds for chemicals of special concern;" as published in the July 1, 2020 Code of Federal Regulations.
- (k) 40 CFR 372.65; "Chemicals and chemical categories to which this part applies.;" as published in the July 1, 2020 Code of Federal Regulations.
- ~~(h)~~(l) 40 CFR 372.85; "Toxic Chemical Release Reporting form and instructions;" 56 FR 29186, June 26, 1991, as amended at 64 FR 58753, Oct. 29, 1999; 70 FR 39949, July 12, 2005; 71 FR 32477, June 6, 2006;

~~72 FR 26553, May 10, 2007; 78 FR 52867, August 27, 2013~~ as published in the July 1, 2020 Code of Federal Regulations.

~~(i)~~(m) 42 USC 11001 to 11050; "Title III of the Superfund Amendments and Reauthorization Act of 1986; Contained in 42 USC 11001 to 11050; published January 6, 2003 in Supplement II of the 2000 edition of the United States Code; Pub. L. 99-499, Title III, Section 301-330, October 17, 1986, 100 Stat. 1729-1758.

~~(j)~~(n) "Consumer Product Safety Act;" Public Law 92-573, 86 Stat. 1207, Oct. 27, 1972.

~~(o)~~ North American Industry Classification System Manual; United States Bureau of the Census; last amended 2017.

~~(k)~~(p) Resource Conservation and Recovery Act; Subtitle C, contained in 42 USC Section 6921 to 6939e, "Hazardous Waste Management;" Pub. L. 89-272, title II, Sec. 3001, as added Pub. L. 94-580, Sec. 2, Oct. 21, 1976, 90 Stat. 2806; amended Pub. L. 96-482, Sec. 7, Oct. 21, 1980, 94 Stat. 2336; Pub. L. 98-616, title II, Secs. 221(a), 222, 223(a), Nov. 8, 1984, 98 Stat. 3248, 3251, 3252; Pub. L. 104-119, Sec. 4(1), Mar. 26, 1996, 110 Stat. 833.

~~(h)~~(q) "Restatement of Torts, Sec. 757, comment B, 1939."

~~(m)~~(r) Section 313 of the Emergency Planning and Community Right-to-Know Act; "Toxic chemical release forms;" contained in 42 USC 11023 and 11048; published January 3, 2005 in Supplement IV of the 2000 edition of the United States Code; Pub. L. 99-499, title III, Sec. 313, Oct. 17, 1986, 100 Stat. 1741.

~~(n)~~(s) Section 329 of the Emergency Planning and Community Right-to-Know Act; contained in 42 USC 11049; "Definitions;" published January 3, 2005 in Supplement IV of the 2000 edition of the United States Code; Pub. L. 99-499, title III, Sec. 329, Oct. 17, 1986, 100 Stat. 1757.

~~(e)~~(t) Standard industrial classification manual; United States. office of management and budget; last amended 1988.

~~(p)~~(u) SW-846 method 9095A; "Paint filter liquids test;" revision 2, November, 2004.

~~(q)~~(v) Title III of the Superfund Amendments and Reauthorization Act of 1986; contained in 42 USC 11001 to 11050. Published January 3,

2005 in Supplement IV of the 2000 edition of the United States Code; Pub. L.99-499, Title III, Section 301-330, October 17, 1986, 100 Stat.1729-1758.

~~(r)~~(w) USEPA Form A (EPA Form 9350-2); most current form as reviewed and approved by the United States office of management and budget.

~~(s)~~(x) USEPA Form R and USEPA Form R Schedule 1 (EPA Form 9350-1); most current form as reviewed and approved by the United States office of management and budget.

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Certification

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