

## RULE SYNOPSIS

### Draft rule language for Amendments to and Rescission of Rules in Ohio Administrative Code (OAC) Chapter 3745-100 “Toxic Release Inventory”

Ohio Administrative Code (OAC) Chapter 3745-100, “Toxic Chemical Release Reporting (TRI),” is authorized by Chapter 3751 of the Ohio Revised Code (ORC). These rules are the state equivalent of Code of Federal Regulations (CFR) 40 Chapter 1 subchapter J part 372 as authorized by Section 313 of the federal Superfund Amendments and Reauthorization Act, (SARA), also known as the Emergency Planning and Community Right to Know Act, (EPCRA).

Section 313 of EPCRA requires facilities which manufacture, process, or otherwise use listed toxic chemicals to annually summarize and report their toxic chemical usages and environmental releases and waste management activities. This is known as Toxic Release Inventory (TRI), Section 313 Reporting. TRI reporting was first required for the 1987 reporting year. The Pollution Prevention Act of 1990 expanded and redefined the scope of TRI reporting. Beginning with the 1991 reporting year, reporting facilities also must report source reduction and recycling data for reportable toxic chemicals. Prior to recent revisions of federal rulemaking, this reporting requirement was limited to owners and operators of facilities that had 10 or more full time employees in a covered Standard Industrial Classification (SIC).

The Ohio legislature enacted chapter 3751 of the ORC shortly after Congress enacted federal TRI reporting. This reinforced the federal rule within the Ohio EPA to provide oversight of the reporting and provided a fee system to support the program.

Facilities which are subject to the reporting requirements must report toxic chemical releases, transfers, waste managements, and pollution prevention activities to both Ohio EPA and U.S. EPA on or before July 1 for the previous calendar year. A separate report is required for each reportable chemical.

Because the Governor’s 2018-2019 Ohio Biennium Budget Bill eliminated TRI fees, OAC rule 3745-100-12 “Fees” must be rescinded. The Ohio Environmental Protection Agency, Division of Air Pollution Control (DAPC) has decided to review all rules in OAC Chapter 3745-100 to determine if the rules should be amended or remain unchanged. Our goal is to make the rules read easier and reference USEPA’s reporting language and statute citations when possible.

On April 3, 2019, these rules were released as draft for a 30-day public comment period ending May 8, 2019. No comments were received and no additional changes were made to the original draft released for comment.

A summary of revisions for this rulemaking is as follows:

**Amend:** OAC rule 3745-100-01 “Definitions”; 3745-100-05 “Covered Facilities for Toxic Chemical Release Reporting”; 3750-100-06 “Thresholds for Reporting”; 3745-100-07 “Reporting Requirements and Schedule for Reporting”; 3745-100-08 “Exemptions”; 3745-100-09 “Notification about Toxic Chemicals”; 3745-100-13 “Trade Secret Claims”; 3745-100-14 “Alternate Threshold and Certification”; and 3745-100-17 “SIC and NAICS Codes to which this Chapter Applies” are being amended to reduce the length of and clarify the language within the rules and incorporate by reference USEPA’s chemical lists and reporting forms. Additionally, various minor fixes are

being made to the rules above to fix typos, update LSC formatting issues and to apply agency formatting standards.

**Rescind:** OAC rule 3745-100-12 “Fees” is being rescinded because the fees were eliminated in the Governor’s 2018-2019 Ohio Biennium Budget.

**No Change:** OAC rules 3745-100-02 “Persons Subject to this Chapter”; 3745-100-03 “Record Keeping”; 3745-100-04 “Compliance and Enforcement” remain necessary and are without need of change.

**Rescind/Propose as New:** 3745-100-10 “Applicable Chemicals and Chemical categories”; 3745-100-11 “Toxic Chemical Release Reporting Form and Instructions”; 3745-100-15 “Alternate Threshold Certification and Instructions” and 3745-100-16 “Lower Thresholds for Chemicals of Special Concern” due to eliminating language and adding federal citation reference language.