

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 (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)

- (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.
- (2) "Article" means a manufactured item which conforms to the following:
 - (a) Is formed to a specific shape or design during manufacture.
 - (b) Has end-use functions dependent in whole or part upon its shape or design during end use.
 - (c) Does not release a toxic chemical under normal conditions of processing or use of that item at the facility or establishment.

(B)

- (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.
- (2) "Boiler" means an enclosed device using controlled flame combustion and having either of the following characteristics:
 - (a) The unit conforms to the following:
 - (i) Has physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases.
 - (ii) The unit's combustion chamber and primary energy recovery section is of integral design meaning that the combustion chamber and the primary energy recovery section (such as waterwalls and superheaters) 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.

(iii) While in operation, the unit 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.

(iv) The unit exports and utilizes at least seventy-five per cent of the recovered energy, calculated on an annual basis. In this calculation, no credit 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).

(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)

(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.

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

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

(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) "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) "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) "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) "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:
 - (a) Cement kilns.
 - (b) Lime kilns.
 - (c) Aggregate kilns.
 - (d) Phosphate kilns.
 - (e) Coke ovens.
 - (f) Blast furnaces.
 - (g) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces).
 - (h) Titanium dioxide chloride process oxidation reactors.
 - (i) Methane reforming furnaces.
 - (j) Pulping liquor recovery furnaces.
 - (k) Combustion devices used in the recovery of sulfur values from spent sulfuric acid.
 - (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 per cent, 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.
 - (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:
 - (i) The design and use of the device primarily to accomplish recovery of material products.
 - (ii) The use of the device to burn or reduce raw materials to make a material product.

- (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.
- (iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product
- (v) The use of the device in common industrial practice to produce a material product.
- (vi) Other factors, as appropriate.

(J) [Reserved.]

(K) [Reserved.]

(L) [Reserved.]

(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.
- (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.

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

(O)

- (1) "Ohio EPA" means the Ohio environmental protection agency.
- (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:
 - (a) The toxic chemical that was disposed, stabilized, or treated for destruction was received from off-site for the purposes of further waste management.
 - (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.

- (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)

- (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."

- (2) "Process" means the preparation of a toxic chemical, after 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 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)

- (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."

- (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)

- (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.

- (2) "SIC" means standard industrial classification.

(T)

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

- (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 the individual's supervision.
 - (b) Is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks.
 - (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.
- (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.
- (3) "Toxic chemical" means a chemical or chemical category listed by the administrator of USEPA under 40 CFR Part 372.65.
- (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 by the administrator of USEPA under 40 CFR Part 372.65.
- (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.
- (U) "USEPA" means the United States environmental protection agency.
- (V) [Reserved.]
- (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.]
- (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.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 <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 of the Census, Room 5H063, Washington, DC 20233," telephone number (301) 763-5172 or www.census.gov/www/naics/.
 - (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 <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."

- (h) Restatement of Torts, Sec. 757, comment B, 1939. Available for inspection and use at most public libraries and "The State Library of Ohio."
 - (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."
 - (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 <http://www.govinfo.gov>. The act is also available for inspection and use at most public libraries and "The State Library of Ohio."
 - (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."
 - (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 <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."
 - (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"; as published in the July 1, 2020 Code of Federal Regulations.

- (c) 40 CFR 260.32; "Variances to be classified as a boiler"; 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.
- (e) 40 CFR 350.7; "Substantiating claims of trade secrecy"; as published in the July 1, 2020 Code of Federal Regulations.
- (f) 40 CFR 350.16; "Address to send trade secrecy claims and petitions requesting disclosure"; as published in the July 1, 2020 Code of Federal Regulations.
- (g) 40 CFR 372; "Toxic Chemical Release Reporting: Community Right-to-Know"; as published in the July 1, 2020 Code of Federal Regulations.
- (h) 40 CFR 372.27; "Alternate thresholds and certifications"; 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.
- (l) 40 CFR 372.85; "Toxic Chemical Release Reporting form and instructions;" as published in the July 1, 2020 Code of Federal Regulations.
- (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.
- (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.
- (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.
- (q) "Restatement of Torts, Sec. 757, comment B, 1939."
- (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.

- (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.
- (t) Standard industrial classification manual; United States. office of management and budget; last amended 1988.
- (u) SW-846 method 9095A; "Paint filter liquids test"; revision 2, November, 2004.
- (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.
- (w) USEPA Form A (EPA Form 9350-2); most current form as reviewed and approved by the United States office of management and budget.
- (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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Five Year Review (FYR) Dates: 8/20/2020 and 08/20/2025

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11/04/2011, 02/11/2017

3745-100-02 Persons subject to this chapter.

Owners and operators of facilities described in rules 3745-100-05 and 3745-100-09 of the Administrative Code are subject to this chapter. If the owner and operator of a facility are different persons, only one need report under rule 3745-100-07 of the Administrative Code or provide a notice under rule 3745-100-09 of the Administrative Code for each toxic chemical in a mixture or trade name product distributed from the facility. However, if no report is submitted or notice provided, the Ohio EPA will hold both the owner and the operator liable under section 3751.10 of the Revised Code, except as provided in paragraph (E) of rule 3745-100-08 and paragraph (G) of rule 3745-100-09 of the Administrative Code.

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3745-100-03 Record keeping.

- (A) Each person subject to the reporting requirements of this chapter shall retain the following records for a period of three years from the date of submission of a report under rule 3745-100-07 of the Administrative Code:
- (1) A copy of each report submitted by the person under rule 3745-100-07 of the Administrative Code.
 - (2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishments is a covered facility under rule 3745-100-05 or 3745-100-09 of the Administrative Code.
 - (3) Documentation supporting the report submitted under rule 3745-100-07 of the Administrative Code including the following:
 - (a) Documentation supporting any determination that a claimed allowable exemption under rule 3745-100-08 of the Administrative Code applies.
 - (b) Data supporting the determination of whether a threshold under rule 3745-100-06 of the Administrative Code applies for each toxic chemical.
 - (c) Documentation supporting the calculations of the quantity of each toxic chemical released to the environment or transferred to an off-site location.
 - (d) Documentation supporting the use indications and quantity on-site reporting for each toxic chemical, including dates of manufacturing, processing or use.
 - (e) Documentation supporting the basis of estimate used in developing any release or off-site transfer estimates for each toxic chemical.
 - (f) Receipts or manifests associated with the transfer of each toxic chemical in waste to off-site locations.
 - (g) Documentation supporting reported waste treatment methods, estimates of treatment efficiencies, ranges of influent concentrations to such treatment, the sequential nature of treatment steps, if applicable, and the actual operating data, if applicable, to support the waste treatment efficiency estimate for each toxic chemical.
- (B) Each person subject to the notification requirements of this chapter shall retain the following records for a period of three years from the date of the submission of a notification under rule 3745-100-09 of the Administrative Code:
- (1) All supporting materials and documentation used by the person to determine whether a notice is required under rule 3745-100-09 of the Administrative Code.
 - (2) All supporting materials and documentation used in developing each required notice under rule 3745-100-09 of the Administrative Code and a copy of each notice.
- (C) Records retained under this rule shall be maintained at the facility to which the report

applies or from which a notification was provided. Such records shall be readily available for purposes of inspection by the Ohio EPA.

- (D) Each owner or operator who determines that the owner operator may apply the alternate threshold as specified under paragraph (A) of rule 3745-100-14 of the Administrative Code shall retain the following records for a period of three years from the date of the submission of the certification statement as required under paragraph (B) of rule 3745-100-14 of the Administrative Code.
- (1) A copy of each certification statement submitted by the person under paragraph (B) of rule 3745-100-14 of the Administrative Code.
 - (2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishment is eligible to apply the alternate threshold as specified in rule 3745-100-14 of the Administrative Code.
 - (3) Documentation supporting the certification statement submitted under paragraph (B) of rule 3745-100-14 of the Administrative Code including the following:
 - (a) Data supporting the determination of whether the alternate threshold specified under paragraph (A) of rule 3745-100-14 of the Administrative Code applies for each toxic chemical.
 - (b) Documentation supporting the calculation of annual reportable amount, as defined in paragraph (A) of rule 3745-100-14 of the Administrative Code, for each toxic chemical, including documentation supporting the calculations and the calculations of each data element combined for the annual reportable amount.
 - (c) Receipts or manifests associated with the transfer of each chemical in waste to off-site locations.

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3745-100-04 Compliance and enforcement.

Violators of this chapter shall be liable for a civil penalty in an amount not to exceed twenty-five thousand dollars each day for each violation as provided in section 3751.10 of the Revised Code.

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3745-100-05 Covered facilities for toxic chemical release reporting.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

A facility that meets all of the following criteria for a calendar year is a covered facility for that calendar year and shall report under rule 3745-100-07 of the Administrative Code:

- (A) The facility has ten or more full-time employees.
- (B) The facility is in a standard industrial classification (SIC) (as in effect on January 1, 1987) major group or industry code listed in paragraph (A) of rule 3745-100-17 of the Administrative Code for which the corresponding North American industry classification (NAICS) (as in effect on January 1, 2012, for reporting year 2013 and thereafter) subsector and industry codes are listed in paragraphs (B) and (C) of rule 3745-100-17 of the Administrative Code) by virtue of the fact that the facility meets one of the following:
 - (1) The facility is an establishment with a primary SIC major group or industry code listed in paragraph (A) of rule 3745-100-17 of the Administrative Code, or a primary NAICS subsector or industry code listed in paragraph (B) or (C) of rule 3745-100-17 of the Administrative Code.
 - (2) The facility is a multi-establishment complex where all establishments have primary SIC major group or industry codes listed in paragraph (A) of rule 3745-100-17 of the Administrative Code, or primary NAICS subsector or industry codes listed in paragraph (B) or (C) of rule 3745-100-17 of the Administrative Code.
 - (3) The facility is a multi-establishment complex in which one of the following is true:
 - (a) The sum of the value of services provided or products shipped or produced from those establishments that have primary SIC major group or industry codes listed in paragraph (A) of rule 3745-100-17 of the Administrative Code, or primary NAICS subsector or industry codes listed in paragraph (B) or (C) of rule 3745-100-17 of the Administrative Code is greater than fifty per cent of the total value of all services provided or products shipped from or produced by all establishments at the facility.
 - (b) One establishment having a primary SIC major group or industry code listed in paragraph (A) of rule 3745-100-17 of the Administrative Code, or a primary NAICS subsector or industry code listed in paragraph (B) or (C) of rule 3745-100-17 of the Administrative Code contributes more in terms of value of services provided or products shipped from or produced at the facility than any other establishment within the facility.
 - (c) The facility manufactured (including imported), processed or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical as

set forth in rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code.

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3745-100-06 Thresholds for reporting.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

Except as provided in rules 3745-100-14 and 3745-100-16 of the Administrative Code, the threshold amounts for purposes of reporting under rule 3745-100-07 of the Administrative Code for toxic chemicals are as follows:

- (A) With respect to a toxic chemical manufactured (including imported) or processed at a facility during the following calendar years:
 - (1) 1987 - seventy-five thousand pounds of the chemical manufactured or processed for the year.
 - (2) 1988 - fifty thousand pounds of the chemical manufactured or processed for the year.
 - (3) 1989 and thereafter - twenty-five thousand pounds of the chemical manufactured or processed for the year.
- (B) With respect to a chemical otherwise used at a facility, ten thousand pounds of the chemical used for the applicable calendar year.
- (C) With respect to activities involving a toxic chemical at a facility, when more than one threshold applies to the activities, the owner or operator of the facility shall report if the facility exceeds any applicable threshold and shall report on all activities at the facility involving the chemical, except as provided in rule 3745-100-08 of the Administrative Code.
- (D) When a facility manufactures, processes or otherwise uses more than one member of a chemical category listed by the administrator of USEPA under 40 CFR Part 372.65, the owner or operator of the facility shall report if the facility exceeds any applicable threshold for the total volume of all the members of the category involved in the applicable activity. Any such report shall cover all activities at the facility involving members of the category.
- (E) A facility may process or otherwise use a toxic chemical in a recycle/reuse operation. To determine whether the facility has processed or used more than an applicable threshold of the chemical, the owner or operator of the facility shall count the amount of the chemical added to the recycle/reuse operation during the calendar year. In particular, if the facility starts up such an operation during a calendar year, or in the event that the contents of the whole recycle/reuse operation are replaced in a calendar year, the owner or operator of the facility shall also count the amount of the chemical placed into the system at these times.
- (F) A toxic chemical may be listed by the administrator of USEPA under 40 CFR Part 372.65 with the notation that only persons who manufacture the chemical, or manufacture the

chemical by a certain method, are required to report. In that case, only owners or operators of facilities that manufacture that chemical as listed by the administrator of USEPA under 40 CFR Part 372.65 in excess of the threshold applicable to such manufacture in rules 3745-10-06, 3745-100-14, and 3745-100-16 of the Administrative Code are required to report. In completing the reporting form, the owner or operator is only required to account for the quantity of the chemical so manufactured and releases associated with such manufacturing, but not releases associated with subsequent processing or use of the chemical at that facility. Owners and operators of facilities that solely process or use such a chemical are not required to report for that chemical.

- (G) A toxic chemical may be listed by the administrator of USEPA under 40 CFR Part 372.65 with the notation that the chemical is in a specific form (for example, fume or dust, solution, or friable) or of a specific color (for example, yellow or white). In that case, only owners or operators of facilities that manufacture, process or use that chemical in the form or of the color specified by the administrator of USEPA under 40 CFR Part 372.65, in excess of the threshold applicable to such activity in rules 3745-100-06, 3745-100-14, and 3745-100-16 of the Administrative Code, are required to report. In completing the reporting form, the owner or operator is only required to account for the quantity of the chemical manufactured, processed or used in the form or color specified by the administrator of USEPA under 40 CFR Part 372.65 and for releases associated with the chemical in that form or color. Owners or operators of facilities that solely manufacture, process or use such a chemical in a form or color other than those specified by the administrator of USEPA under 40 CFR Part 372.65 are not required to report for that chemical.
- (H) Metal compound categories are listed by the administrator of USEPA under 40 CFR Part 372.65. For purposes of determining whether any of the thresholds specified in rules 3745-100-06, 3745-100-14, and 3745-100-16 of the Administrative Code are met for the metal compound category, the owner or operator of a facility shall make the threshold determination based on the total amount of all members of the metal compound category manufactured, processed or used at the facility. In completing the release portion of the reporting form for releases of the metal compounds, the owner or operator is only required to account for the weight of the parent metal released. Any contribution to the mass of the release attributable to other portions of each compound in the category is excluded.

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3745-100-07 Reporting requirements and schedule for reporting.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

(A) For each toxic chemical known by the owner or operator to be manufactured (including imported), processed or otherwise used in excess of an applicable threshold quantity in rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code at its covered facility described in rule 3745-100-05 of the Administrative Code for a calendar year, the owner or operator shall submit to the EPA a completed "U.S. EPA Form R" (EPA Form 9350-1), EPA Form A (EPA Form 9350-2), and, for the dioxin and dioxin-like compounds category, EPA Form R Schedule 1 (EPA Form 9350-3) in accordance with the instructions in rule 3745-100-11 of the Administrative Code.

(B)

(1) The owner or operator of a covered facility shall report as described in paragraph (A) of this rule on a toxic chemical that the owner or operator knows is present as a component of a mixture or trade name product which the owner or operator receives from another person, if that chemical is imported, processed or otherwise used by the owner or operator in excess of an applicable threshold quantity in rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code at the facility as part of that mixture or trade name product.

(2) The owner or operator knows that a toxic chemical is present as a component of a mixture or trade name product if one of the following is true:

(a) If the owner or operator knows or has been told the chemical identity or "Chemical Abstracts Service" registry number of the chemical and the identity or number corresponds to an identity or number as listed by the administrator of USEPA under 40 CFR Part 372.65.

(b) If the owner or operator has been told by the supplier of the mixture or trade name product that the mixture or trade name product contains a toxic chemical subject to section 313 of the act or this rule.

(3) To determine whether a toxic chemical which is a component of a mixture or trade name product has been imported, processed or otherwise used in excess of an applicable threshold in rule 3745-100-06 of the Administrative Code at the facility, the owner or operator shall consider only the portion of the mixture or trade name product that consists of the toxic chemical and that is imported, processed or otherwise used at the facility, together with any other amounts of the same toxic chemical that the owner or operator manufacturers, imports, processes or otherwise uses at the facility as follows:

(a) If the owner or operator knows the specific chemical identity of the toxic chemical and the specific concentration at which it is present in the mixture or

trade name product, the owner or operator shall determine the weight of the chemical imported, processed or otherwise used as part of the mixture or trade name product at the facility and shall combine that with the weight of the toxic chemical manufactured (including imported), processed or otherwise used at the facility other than as part of the mixture or trade name product. After combining these amounts, if the owner or operator determines that the toxic chemical was manufactured, processed or otherwise used in excess of an applicable threshold in rule 3745-100-06 of the Administrative Code, the owner or operator shall report the specific chemical identity and all releases of the toxic chemical on "U.S. EPA Form R" in accordance with the instructions specified in rule 3745-100-11 of the Administrative Code.

- (b) If the owner or operator knows the specific chemical identity of the toxic chemical and does not know the specific concentration at which the chemical is present in the mixture or trade name product, but has been told the upper-bound concentration of the chemical in the mixture or trade name product, the owner or operator shall presume that the toxic chemical is present in the mixture or trade name product at the upper-bound concentration, shall determine whether the chemical has been manufactured, processed or otherwise used at the facility in excess of an applicable threshold as provided in paragraph (B)(3)(a) of this rule and shall report as provided in paragraph (B)(3)(a) of this rule.
- (c) If the owner or operator knows the specific chemical identity of the toxic chemical, does not know the specific concentration at which the chemical is present in the mixture or trade name product and has not been told the upper-bound concentration of the chemical in the mixture or trade name product, and has not otherwise developed information on the composition of the chemical in the mixture or trade name product, then the owner or operator is not required to factor that chemical in that mixture or trade name product into threshold and release calculations for that chemical.
- (d) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical and knows the specific concentration at which the chemical is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed or otherwise used as part of the mixture or trade name product at the facility. Since the owner or operator does not know the specific identity of the toxic chemical, the owner or operator shall make the threshold determination only for the weight of the toxic chemical in the mixture or trade name product. If the owner or operator determines that the toxic chemical was imported, processed or otherwise used as part of the mixture or trade name product in excess of an applicable threshold in rule 3745-100-06 of the Administrative Code, the owner or operator shall report the generic chemical name of the toxic chemical, or a trade name if the generic chemical name is not known, and all releases of the toxic chemical on "U.S. EPA Form R" and in accordance with the instructions specified in rule 3745-100-11 of the Administrative Code.

- (e) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical, and does not know the specific concentration at which the chemical is present in the mixture or trade name product, but has been told the upper-bound concentration of the chemical in the mixture or trade name product, the owner or operator shall do the following:
 - (i) Presume that the toxic chemical is present in the mixture or trade name product at the upper-bound concentration.
 - (ii) Determine whether the chemical has been imported, processed or otherwise used at the facility in excess of applicable threshold as provided in paragraph (B)(3)(d) of this rule.
 - (iii) Report as provided in paragraph (B)(3)(d) of this rule.
 - (f) The owner or operator is not required to report with respect to a specific chemical if the following are true:
 - (i) The owner or operator has been told that a mixture or trade name product contains a toxic chemical.
 - (ii) The owner or operator does not know the specific chemical identity of the chemical.
 - (iii) The owner or operator does not know the specific concentration at which the chemical is present in the mixture or trade name product, including information they have themselves developed.
 - (iv) The owner or operator has not been told the upper-bound concentration of the chemical in the mixture or trade name product.
- (C) A covered facility may consist of more than one establishment. The owner or operator of such a facility at which a toxic chemical was manufactured (including imported), processed or otherwise used in excess of an applicable threshold may submit a separate "U.S. EPA Form R" for each establishment or for each group of establishments within the facility to report the activities involving the toxic chemical at each establishment or group of establishments, provided that activities involving that toxic chemical at all the establishments within the covered facility are reported. If each establishment or group of establishments files separate reports, then for all other chemicals subject to reporting at that facility shall be submitted separately. However, an establishment or group of establishments does not have to submit a report for a chemical that is not manufactured (including imported), processed, or otherwise used or released at that establishment or group of establishments.
- (D) Each report under this rule for activities involving a toxic chemical that occurred during a calendar year at a covered facility shall be submitted on or before July first of the next year. The first such report for calendar year 1988 activities shall be submitted on or before July 1, 1989.

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3745-100-08 Exemptions.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

- (A) De minimis concentrations of a toxic chemical in a mixture. If a toxic chemical is present in a mixture of chemicals at a covered facility, and the toxic chemical is in a concentration in the mixture which is below one per cent of the mixture, or 0.1 per cent of the mixture in the case of a toxic chemical which is a carcinogen as defined in 29 CFR 1910.1200 (d)(4), a person is not required to consider the quantity of the toxic chemical present in such mixture when determining whether an applicable threshold has been met under rule 3745-100-06 of the Administrative Code or determining the amount of release to be reported under rule 3745-100-07 of the Administrative Code. This exemption applies whether the person received the mixture from another person or the person produced the mixture, either by mixing the chemicals involved or by causing a chemical reaction which resulted in the creation of the toxic chemical in the mixture. However, this exemption applies only to the quantity of the toxic chemical present in the mixture. If the toxic chemical is also manufactured (including imported), processed or otherwise used at the covered facility other than as part of the mixture or in a mixture at higher concentrations in excess of an applicable threshold quantity set forth in rule 3745-100-06 of the Administrative Code, the person is required to report under rule 3745-100-07 of the Administrative Code. This exemption does not apply to toxic chemicals listed in rule 3745-100-16 of the Administrative Code, except for purposes of paragraph (D)(1) of rule 3745-100-09 of the Administrative Code.
- (B) Articles. If a toxic chemical is present in an article at a covered facility, a person is not required to consider the quantity of the toxic chemical present in such article when determining whether an applicable threshold has been met under rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code or determining the amount of release to be reported under rule 3745-100-07 of the Administrative Code. This exemption applies whether the person received the article from another person or the person produced the article. However, this exemption applies only to the quantity of the toxic chemical present in the article. If the toxic chemical is manufactured (including imported), processed or otherwise used at the covered facility other than as part of the article in excess of an applicable threshold quantity set forth in rule 3745-100-06 of the Administrative Code, the person is required to report under rule 3745-100-07 of the Administrative Code. Persons potentially subject to this exemption should carefully review the definitions of "article" and "release" in rule 3745-100-01 of the Administrative Code. If a release of a toxic chemical occurs as a result of the processing or use of an item at the facility, that item does not meet the definition of "article."
- (C) Uses. If a toxic chemical is used at a covered facility for a purpose described in paragraphs (C)(1) to (C)(5) of this rule, a person is not required to consider the quantity of the toxic chemical used for such purpose when determining whether an applicable threshold has been met under rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code or determining the amount of releases to be reported under rule

3745-100-07 of the Administrative Code. However, this exemption only applies to the quantity of the toxic chemical used for the purpose described in paragraphs (C)(1) to (C)(5) of this rule. If the toxic chemical is also manufactured (including imported), processed or otherwise used at the covered facility other than as described in paragraphs (C)(1) to (C)(5) of this rule in excess of an applicable threshold quantity set forth in rule 3745-100-06 of the Administrative Code, the person is required to report under rule 3745-100-07 of the Administrative Code. This exemption only applies to the quantity of the toxic chemical for the following purposes:

- (1) Use as a structural component of the facility.
 - (2) Use of products for routine janitorial or facility grounds maintenance. Examples include use of janitorial cleaning supplies, fertilizers and pesticides similar in type or concentration to consumer products.
 - (3) Personal use by employees or other persons at the facility of foods, drugs, cosmetics or other personal items containing toxic chemicals, including supplies of such products within the facility such as in a facility-operated cafeteria, store or infirmary.
 - (4) Use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility.
 - (5) Use of toxic chemicals present in process water and noncontact cooling water as drawn from the environment or from municipal sources, or toxic chemicals present in air used either as compressed air or as part of combustion.
- (D) Activities in laboratories. If a toxic chemical is manufactured, processed or used in a laboratory at a covered facility under the supervision of a technically qualified individual as defined in rule 3745-100-01 of the Administrative Code, a person is not required to consider the quantity so manufactured, processed or used when determining whether an applicable threshold has been met under rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code or determining the amount of release to be reported under rule 3745-100-07 of the Administrative Code. This exemption does not apply in the following cases:
- (1) Specialty chemical production.
 - (2) Manufacture, processing or use of toxic chemicals in pilot plant scale operations.
 - (3) Activities conducted outside the laboratory.
- (E) Certain owners of leased property. The owner of a covered facility is not subject to reporting under rule 3745-100-07 of the Administrative Code if such owner's only interest in the facility is ownership of the real estate upon which the facility is operated. This exemption applies to owners of facilities such as industrial parks, all or part of which are leased to persons who operate establishments in any SIC code or NAICS code in rule 3745-100-17 of the Administrative Code that are subject to the requirements of this part, where the owner has no other business interest in the operation of the covered

facility.

- (F) Reporting by certain operators of establishments on leased property such as industrial parks. If two or more persons, who do not have any common corporate or business interest (including common ownership or control), operate separate establishments within a single facility, each such person shall treat the establishments that person operates as a facility for purposes of this rule. The determinations in rules 3745-100-05 and 3745-100-06 of the Administrative Code shall be made for those establishments. If any such operator determines that the establishment is a covered facility under rule 3745-100-05 of the Administrative Code and that a toxic chemical has been manufactured (including imported), processed or otherwise used at the establishment in excess of an applicable threshold in rule 3745-100-06 of the Administrative Code for a calendar year, the operator shall submit a report in accordance with rule 3745-100-07 of the Administrative Code for the establishment. For purposes of this, a common corporate or business interest includes ownership, partnership, joint ventures, ownership of a controlling interest in one person by the other, or ownership of a controlling interest in both persons by a third person.
- (G) Coal extraction activities. If a toxic chemical is manufactured, processed, or otherwise used in extraction by facilities in SIC code 12, or in NAICS codes 212111, 212112 or 212113, a person is not required to consider the quantity of the toxic chemical so manufactured, processed, or otherwise used when determining whether an applicable threshold has been met under rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code, or determining the amounts to be reported under rule 3745-100-07 of the Administrative Code.
- (H) Metal mining overburden. If a toxic chemical that is a constituent of overburden is processed or otherwise used by facilities in SIC code 10, or in NAICS codes 212221, 212222, 212231, 212234 or 212299, a person is not required to consider the quantity of the toxic chemical so processed, or otherwise used when determining whether an applicable threshold has been met under rule 3745-100-06, 3745-100-14, or 3745-100-16 of the Administrative Code, or determining the amounts to be reported under rule 3745-100-07 of the Administrative Code.

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3745-100-09 Notification about toxic chemicals.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

- (A) Except as provided in paragraphs (C), (D) and (E) of this rule, and listed by the administrator of USEPA under 40 CFR Part 372.65, a person shall notify each person to whom the mixture or trade name product is sold or otherwise distributed from the facility or establishment in accordance with paragraph (B) of this rule if the person owns or operates a facility or establishment which meets the following:
- (1) Is in SIC codes 20 to 39 or a NAICS code that corresponds to SIC codes 20 to 39, as set forth in paragraph (B) of rule 3745-100-17 of the Administrative Code.
 - (2) Manufacturers (including imports) or processes a toxic chemical.
 - (3) Sells or otherwise distributes a mixture or trade name product containing the toxic chemical to a facility described in rule 3745-100-05 of the Administrative Code, or to a person who in turn may sell or otherwise distribute such mixture or trade name product to a facility described in paragraph (B) of rule 3745-100-05 of the Administrative Code.
- (B) The notification required in paragraph (A) of this rule shall be in writing and shall include the following:
- (1) A statement that the mixture or trade name product contains a toxic chemical subject to the reporting requirements of Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and 40 CFR Part 372.
 - (2) The name of each toxic chemical, and the associated CAS number of each chemical, if applicable, as listed by the administrator of USEPA under 40 CFR Part 372.65.
 - (3) The per cent by weight of each toxic chemical in the mixture or trade name product.
- (C) Notification under this rule shall be provided as follows:
- (1) For a mixture or trade name product containing a toxic chemical as listed by the administrator of USEPA under 40 CFR Part 372.65 with an effective date of January 1, 1987, the person shall provide the written notice described in paragraph (B) of this rule to each recipient of the mixture or trade name product with a least the first shipment of each mixture or trade name product to each recipient in each calendar year, beginning January 1, 1989.
 - (2) For a mixture or trade name product containing a toxic chemical as listed by the administrator of USEPA under 40 CFR Part 372.65 with an effective date of January 1, 1989 or later, the person shall provide the written notice described in paragraph (B) of this rule to each recipient of the mixture or trade name product with at least the first shipment of the mixture or trade name product to each recipient in each

calendar year beginning with the applicable effective date.

- (3) If a person changes a mixture or trade name product for which notification was previously provided under paragraph (B) of this rule by adding a toxic chemical, removing a toxic chemical, or changing the per cent by weight of a toxic chemical in the mixture or trade name product, the person shall provide each recipient of the changed mixture or trade name product a revised notification reflecting the change with the first shipment of the changed mixture or trade name product to the recipient.
 - (4) If a person discovers that a mixture or trade name product previously sold or otherwise distributed to another person during the calendar year of the discovery contains one or more toxic chemicals and that any notification provided to such other person in that calendar year for the mixture or trade name product either did not properly identify any of the toxic chemicals or did not accurately present the per cent by weight of any of the toxic chemicals in the mixture or trade name product, the person shall provide a new notification to the recipient within thirty days of the discovery which contains the information described in paragraph (B) of this rule, and identifies the prior shipments of the mixture or product in that calendar year to which the new notification applies.
 - (5) If a "Material Safety Data Sheet" is required to be prepared and distributed for the mixture or trade name product in accordance with 29 CFR 1910.1200, the notification shall be attached to or otherwise incorporated into such "Material Safety Data Sheet." When the notification is attached to the "Material Safety Data Sheet," the notice shall contain clear instructions that the notification must not be detached from the "Material Safety Data Sheet" and that any copying and redistribution of the "Material Safety Data Sheet" shall include copying and redistribution of the notice attached to copies of the "Material Safety Data Sheet" subsequently redistributed.
- (D) Notifications are not required in the following instances:
- (1) If a mixture or trade name product contains no toxic chemical in excess of the applicable de minimis concentration as specified in paragraph (A) of rule 3745-100-08 of the Administrative Code.
 - (2) If a mixture or trade name product is one of the following:
 - (a) An "article" as defined in rule 3745-100-01 of the Administrative Code.
 - (b) Foods, drugs, cosmetics, alcoholic beverages, tobacco or tobacco products packaged for distribution to the general public.
 - (c) Any consumer product, as the term is defined in the Consumer Product Safety Act contained in 15 USC 2051 to 2084, packaged for distribution to the general public.
- (E) If the person considers the specific identity of a toxic chemical in a mixture or trade name product to be a trade secret under provisions of 29 CFR 1910.1200, the notice shall

contain a generic chemical name that is descriptive of that toxic chemical.

- (F) If the person considers the specific per cent by weight composition of a toxic chemical in the mixture or trade name product to be a trade secret under applicable state law or under the "Restatement of Torts," section 757, comment B, the notice shall contain a statement that the chemical is present at a concentration that does not exceed a specified upper-bound concentration value: for example, a mixture contains twelve per cent of a toxic chemical. However, the supplier considers the specific concentration of the toxic chemical in the product to be a trade secret. The notice would indicate that the toxic chemical is present in the mixture in a concentration of no more than fifteen per cent by weight. The upper-bound value chosen shall be no larger than necessary to adequately protect the trade secret.
- (G) A person is not subject to the requirements of this rule to the extent the person does not know that the facility or establishment is selling or otherwise distributing a toxic chemical to another person in a mixture or trade name product. However, for purposes of this rule, a person has such knowledge if the person receives a notice under this rule from a supplier of a mixture or trade name product and the person in turn sells or otherwise distributes that mixture or trade name product to another person.
- (H) If two or more persons who do not have any common corporate or business interest (including common ownership or control), as described in paragraph (F) of rule 3745-100-08 of the Administrative Code, operate separate establishments within a single facility, each such person shall treat the establishment each person operates as a facility for purposes of this rule. The determination under paragraph (A) of this rule shall be made for those establishments.

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3745-100-10 Applicable chemicals and chemical categories.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

The requirements of this chapter apply to the chemicals and chemical categories listed by the administrator of USEPA under 40 CFR Part 372.65.

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3745-100-11 Toxic chemical release reporting form and instructions.

- (A) Availability of reporting form and instructions. The most current version of EPA form R and form R schedule 1 may be found on the following USEPA program web site: <http://www.epa.gov/tri>. Any subsequent changes to the form R or form R schedule 1 will be posted on this web site. Submitters may also contact the TRI program at (202) 564-9554 to obtain this information.
- (B) Filing requirements. Effective January 21, 2014, facilities that submit TRI reporting forms (without claiming a trade secret), including revisions and withdrawals of TRI reporting forms, to Ohio EPA shall prepare, certify, and submit the facility's data to Ohio EPA electronically, using the TRI online-reporting software provided by USEPA.
- (1) Ohio EPA will no longer accept non-trade-secret TRI reports, revisions, or withdrawals on paper reporting forms, magnetic media, or CD-ROMs. Information and instructions regarding online reporting are available on the USEPA TRI web site.
 - (2) Facilities shall submit electronically any revisions or withdrawals of previously submitted TRI reporting forms. Facilities may submit, revise, or withdraw TRI reporting forms for reporting years 1991 through the present reporting year.
 - (3) The only exception to the TRI electronic reporting requirement relates to TRI submissions that claim a trade secret (including sanitized and unsanitized reporting forms) and revisions and withdrawals of such TRI submissions, which shall be submitted to USEPA on paper. Facilities may submit, revise, or withdraw these paper trade secret (including sanitized and unsanitized) TRI reporting forms for reporting years 1991 through the present reporting year.

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3745-100-13 Trade secret claims.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

The owner or operator of a facility subject to the reporting requirements that claims a trade secret shall conform to the following:

- (A) A submitter making a trade secrecy claim under this rule shall submit to entities other than USEPA (for example, the Ohio EPA, local emergency planning committee and local fire department) only the sanitized or public copy of the submission and substantiation.
- (B) Method of asserting claims of trade secrecy for information submitted under section 313 of the act.
 - (1) Submitters may claim as trade secret the specific chemical identity, including the chemical name and other specific identification, of any chemical subject to reporting under section 313.
 - (2) To make a claim, the submitter shall submit to USEPA the rules adopted by the administrator of USEPA in 40 CFR 350.5.
- (C) If a specific chemical identity is submitted under Title III to USEPA, or to a state emergency response commission, designated state agency, local emergency planning committee or local fire department, without asserting a trade secret claim, the chemical identity shall be considered to have been voluntarily disclosed and not a trade secret.

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3745-100-14 Alternate threshold and certification.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

- (A) Except as provided in paragraph (E) of this rule, with respect to the manufacture, process, or otherwise use of a toxic chemical, the owner or operator of a facility may apply an alternate threshold of one million pounds per year to that chemical if the owner or operator calculates that the facility would have an annual reportable amount of that toxic chemical not exceeding five hundred pounds for the combined total quantities released at the facility, disposed within the facility, treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment, or disposal. These volumes correspond to the sum of amounts reportable for data elements on EPA form R (as referenced in paragraph (A) of rule 3745-100-11 of the Administrative Code) as part II column B or sections 8.1 (quantity released), 8.2 (quantity used for energy recovery on-site), 8.3 (quantity used for energy recovery off-site), 8.4 (quantity recycled on-site), 8.5 (quantity recycled off-site), 8.6 (quantity treated on-site), and 8.7 (quantity treated off-site).
- (B) If an owner or operator of a facility determines that the owner or operator may apply the alternate reporting threshold specified in paragraph (A) of this rule for a specific toxic chemical, the owner or operator is not required to submit a report for that chemical under rule 3745-100-07 of the Administrative Code, but shall submit a certification statement that contains the information required in rule 3745-100-15 of the Administrative Code. The owner or operator of the facility shall also keep records as specified in paragraph (D) of rule 3745-100-03 of the Administrative Code.
- (C) Threshold determination provisions of rule 3745-100-06 of the Administrative Code and exemptions pertaining to threshold determinations in rule 3745-100-08 of the Administrative Code are applicable to the determination of whether the alternate threshold has been met.
- (D) Each certification statement under this chapter for activities involving a toxic chemical that occurred during a calendar year at a facility shall be submitted to Ohio EPA on or before July first of the next year.
- (E) The provisions of this chapter do not apply to any chemicals listed in rule 3745-100-16 of the Administrative Code.

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02/11/2017

3745-100-15 Alternate threshold certification and instructions.

Availability of the alternate threshold certification statement and instructions is the same as provided in rule 3745-100-11 of the Administrative Code for availability of the reporting form and instructions.

Replaces: 3745-100-15

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3745-100-16 Lower thresholds for chemicals of special concern.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

Notwithstanding rule 3745-100-06 or 3745-100-14 of the Administrative Code, the threshold amounts for manufacturing (including importing), processing, and otherwise using toxic chemicals are identified in 40 CFR Part 372.28.

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3745-100-17 SIC and NAICS codes to which this chapter applies.

[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 (AA) of rule 3745-100-01 of the Administrative Code titled "Referenced materials."]

The requirements of this chapter apply to facilities in the following SIC and NAICS codes:

(A) SIC codes applicable to this chapter.

Major group or industry code	Exceptions or limitations
10	Except 1011, 1081, and 1094.
12	Except 1241.
20 to 39	
4911, 4931, 4939	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
4953	Limited to facilities regulated under the Resource Conservation and Recovery Act.
5169	
5171	
7389	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis.

(B) NAICS codes that correspond to SIC codes 20 to 39 applicable to this chapter.

Subsector code or industry code	Exceptions or limitations
311 Food Manufacturing	Except 311119-Exception is limited to facilities primarily engaged in Custom Grain Grinding for Animal Feed (previously classified under SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning)
	Except 311340-Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores)
	Except 311352-Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not or immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores)

	Except 311611-Exception is limited to facilities primarily engaged in Custom Slaughtering for individuals (previously classified under SIC 0751, Livestock Services, Except Veterinary, Slaughtering, custom: for individuals)
	Except 311612-Exception is limited to facilities primarily engaged in the cutting up and resale of purchased fresh carcasses for the trade (including boxed beef), and in the wholesale distribution of fresh, cured, and processed (but not canned) meats and lard (previously classified under SIC 5147, Meats and Meat Products)
	Except 311811-Retail Bakeries (previously classified under SIC 5461, Retail Bakeries)
312 Beverage and Tobacco Product Manufacturing	Except 312112-Exception is limited to facilities primarily engaged in bottling mineral or spring water (previously classified under SIC 5149, Groceries and Related Products, NEC)
	Except 312230-Exception is limited to facilities primarily engaged in providing Tobacco Sheeting Services (previously classified under SIC 7389, Business Services, NEC)
313 Textile Mills	Except 313310-Exception is limited to facilities primarily engaged in converting broadwoven piece goods and broadwoven textiles, (previously classified under SIC 5131, Piece Goods Notions, and Other Dry Goods, broadwoven and non-broadwoven piece good converters), and facilities primarily engaged in sponging fabric for tailors and dressmakers (previously classified under SIC 7389, Business Services, NEC (Sponging fabric for tailors and dressmakers))
314 Textile Product Mills	Except 314120-Exception is limited to facilities primarily engaged in making Custom drapery for retail sale (previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores)
	Except 314999-Exception is limited to facilities primarily engaged in Binding carpets and rugs for the trade, Carpet cutting and binding, and Embroidering on textile products (except apparel) for the trade (previously classified under SIC 7389, Business Services Not Elsewhere Classified, Embroidering of advertising on shirts and Rug binding for the trade)
315 Apparel Manufacturing	Except 315220-Exception is limited to custom tailors primarily engaged in making and selling men's and boys' suits, men's and boys' dress shirts, and bridal dresses or gowns or women's, misses' and girls' dresses, cut and sewn from purchased fabric (previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores (custom tailors)) and to custom tailors primarily engaged in making and selling bridal dresses or gowns, or women's, misses' and girls' dresses cut and sewn from

	purchased fabric (except apparel contractors) (custom dressmakers) (previously classified under SIC Code 5699, Miscellaneous Apparel and Accessory Stores)
316 Leather and Allied Product Manufacturing	
321 Wood Product Manufacturing	
322 Paper Manufacturing	
323 Printing and Related Support Activities	Except 323111-Exception is limited to facilities primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming (i.e., instant printing) (previously classified under SIC 7334, Photocopying and Duplicating Services, (instant printing))
324 Petroleum and Coal Products Manufacturing	
325 Chemical Manufacturing	Except 325998-Exception is limited to facilities primarily engaged in Aerosol can filling on a job order or contract basis (previously classified under SIC 7389, Business Services, NEC (aerosol packaging))
326 Plastics and Rubber Products Manufacturing	Except 326212-Tire Retreading, (previously classified under SIC 7534, Tire Retreading and Repair Shops (rebuilding))
327 Nonmetallic Mineral Product Manufacturing	Except 327110-Exception is limited to facilities primarily engaged in manufacturing and selling pottery on site (previously classified under SIC 5719, Miscellaneous Homefurnishing Stores)
331 Primary Metal Manufacturing	
332 Fabricated Metal Product Manufacturing	
333 Machinery Manufacturing	
334 Computer and Electronic Product Manufacturing	Except 334614-Exception is limited to facilities primarily engaged in Software Reproducing (previously classified under SIC 7372, Prepackaged Software, (reproduction of software)) and to facilities primarily engaged in mass reproducing pre-recorded Video cassettes, and mass reproducing Video tape or disk (previously classified under SIC 7819, Services Allied to Motion Picture Production (reproduction of Video))
335 Electrical Equipment, Appliance, and Component Manufacturing	Except 335312-Exception is limited to facilities primarily engaged in armature rewinding on a factory basis (previously classified under SIC 7694 (Armature Rewinding Shops (remanufacturing))
336 Transportation	

Equipment Manufacturing		
337 Furniture and Related Product Manufacturing		Except 337110-Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom wood kitchen cabinets and counter tops (previously classified under SIC 5712, Furniture Stores (custom wood cabinets))
		Except 337121-Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom made upholstered household furniture (previously classified under SIC 5712, Furniture Stores (upholstered, custom made furniture))
		Except 337122-Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture nonupholstered, household type, custom wood furniture (previously classified under SIC 5712, Furniture Stores (custom made wood nonupholstered household furniture except cabinets))
339 Miscellaneous Manufacturing		Except 339113-Exception is limited to facilities primarily engaged in manufacturing orthopedic devices to prescription in a retail environment (previously classified under SIC 5999, Miscellaneous Retail Stores, NEC)
		Except 339115-Exception is limited to lens grinding facilities that are primarily engaged in the retail sale of eyeglasses and contact lenses to prescription for individuals (previously classified under SIC 5995, Optical Goods Stores (optical laboratories grinding of lenses to prescription))
		Except 339116-Dental Laboratories (previously classified under SIC 8072, Dental Laboratories)
111998 All Other Miscellaneous Farming	Crop	Limited to facilities primarily engaged in reducing maple sap to maple syrup (previously classified under SIC 2099, Food Preparations, NEC, Reducing Maple Sap to Maple Syrup)
113310 Logging		
211112 Natural Gas Liquid Extraction		Limited to facilities that recover sulfur from natural gas (previously classified under SIC 2819, Industrial Inorganic chemicals, NEC (recovering sulfur from natural gas))
212324 Kaolin and Ball Clay Mining		Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating kaolin and clay (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1455))
212325 Mining		Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating clay and ceramic and refractory minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1459))

212393 Other Chemical and Fertilizer Mining	Mineral	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating chemical or fertilizer mineral raw materials (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1479))
212399 Nonmetallic Mining	All other Mineral	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating nonmetallic minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1499))
488390 Activities for Transportation	Other Support Water	Limited to facilities that are primarily engaged in providing routine repair and maintenance of ships and boats from floating drydocks (previously classified under SIC 3731, Shipbuilding and Repairing (floating drydocks not associated with a shipyard))
511110 Publishing	Newspaper	
511120 Publishing	Periodical	
511130	Book Publishers	
511140 Directory and Mailing List Publishers		Except facilities that are primarily engaged in furnishing services for direct mail advertising including Address list compilers, Address list publishers, Address list publishers and printing combined, Address list publishing, Business directory publishers, Catalog of collections publishers, Catalog of collections publishers and printing combined, Mailing list compilers, Directory compilers, and Mailing list compiling services (previously classified under SIC 7331, Direct Mail Advertising Services (mailing list compilers))
511191 Publishers	Greeting Card	
511199 Publishers	All Other	
512220	Integrated Record Production/Distribution	
512230	Music Publishers	Except facilities primarily engaged in Music copyright authorizing use, Music copyright buying and licensing, and Music publishers working on their own account (previously classified under SIC 8999, Services, NEC (music publishing))
519130 Publishing and Broadcasting Search Portals	Internet and Web	Limited to facilities primarily engaged in Internet newspaper publishing (previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing), Internet periodical publishing (previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing), Internet book publishing (previously classified under SIC 2731, Books: Publishing, or

	Publishing and Printing), Miscellaneous Internet publishing (previously classified under SIC 2741, Miscellaneous Publishing), Internet greeting card publishers (previously classified under SIC 2771, Greeting Cards); Except for facilities primarily engaged in web search portals
541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)	Limited to facilities that are primarily engaged in Guided missile and space vehicle engine research and development (previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts), and in Guided missile and space vehicle parts (except engines) research and development (previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified)
811490 Other Personal and Household Goods Repair and Maintenance	Limited to facilities that are primarily engaged in repairing and servicing pleasure and sail boats without retailing new boats (previously classified under SIC 3732, Boat Building and Repairing (pleasure boat building))

(C) NAICS codes that correspond to SIC codes other than SIC codes 20 to 39.

Subsector or industry code	exceptions or limitations
212111 Bituminous Coal and Lignite Surface Mining	
212112 Bituminous Coal and Underground Mining	
212113 Anthracite Mining	
212221 Gold Ore Mining	
212222 Silver Ore Mining	
212231 Lead Ore and Zinc Ore Mining	
212234 Copper Ore and Nickel Ore Mining	
212299 Other Metal Ore Mining	
221111 Hydroelectric Power Generation	Limited to facilities that combust coal or oil for the purpose of generating power for distribution in commerce.
221112 Fossil Fuel electric Power Generation	Limited to facilities that combust coal or oil for the purpose of generating power for distribution in commerce.
221113 Nuclear electric Power Generation	Limited to facilities that combust coal or oil for the purpose of generating power for distribution in commerce.
221118 Other electric Power Generation	Limited to facilities that combust coal or oil for the purpose of generating power for distribution in commerce.

221121 Electric Bulk Power Transmission and Control	Limited to facilities that combust coal or oil for the purpose of generating power for distribution in commerce.
221122 Electric Power Distribution	Limited to facilities that combust coal or oil for the purpose of generating power for distribution in commerce.
221330 Steam and Air Conditioning Supply	Limited to facilities engaged in providing combinations of electric, gas, and other services, not elsewhere classified (N.E.C.) (previously classified under SIC 4939, Combination Utility Services Not Elsewhere Classified.)
424690 Other Chemical and Allied Products Merchant Wholesalers	
424710 Petroleum Bulk Stations and Terminals	
425110 Business to Business Electronic Markets	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
425120 Wholesale Trade Agents and Brokers	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
562112 Hazardous Waste Collection	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC).
562211 Hazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act.
562212 Solid Waste Landfill	Limited to facilities regulated under the Resource Conservation and Recovery Act.
562213 Solid Waste Combustors and Incinerators	Limited to facilities regulated under the Resource Conservation and Recovery Act.
562219 Other Nonhazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act.
562920 Materials Recovery Facilities	Limited to facilities regulated under the Resource Conservation and Recovery Act.

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