

3745-300-01 Definitions.

(A) Except as otherwise provided in this chapter, the following definitions are applicable:

- (1) "Absorption factors" means the chemical-specific values that represent the fraction of the chemical from the soil that can pass across the intact skin and into the blood stream of a human.
- (2) "Affected Media" means any environmental media present on or off property that contains concentrations of chemical(s) of concern.
- (3) "Affiliated" means under common ownership or control.
- (4) "Agency" or "Ohio EPA" means the Ohio Environmental Protection Agency.
- (5) "Applicable standards," unless the context indicates otherwise, means standards established in or pursuant to sections 3746.05, 3746.06, and 3746.07 of the Revised Code, or rule 3745-300-07, 3745-300-08, 3745-300-09, 3745-300-10, or 3745-300-15 of the Administrative Code, as applicable.
- (6) "Background levels" means the concentrations of naturally occurring hazardous substances or petroleum at a property and areas surrounding a property that are unaffected by any current or past activities involving the management, handling, treatment, storage, or disposal of hazardous substances or petroleum. Background levels include only naturally occurring substances, but exclude naturally occurring substances from anthropogenic sources.
- (7) "Certified laboratory" means a laboratory certified by the director pursuant to rule 3745-300-04 of the Administrative Code, or deemed to be certified under division (E) of section 3746.07 of the Revised Code to perform analyses in connection with voluntary actions.
- (8) "Certified professional" means a person certified by the director pursuant to rule 3745-300-05 of the Administrative Code, or deemed to be certified under division (D) of section 3746.07 of the Revised Code to issue no further action letters under section 3746.11 of the Revised Code.
- (9) "Chemical(s) of concern" means the specific constituents of hazardous substances or petroleum which are on, underlying or emanating from a property, and are identified in a "Phase II Property Assessment," property-specific risk assessment or exposure assessment process.
- (10) "Cumulative risk" means the risk associated with multiple chemicals or multiple exposure routes.
- (11) "Dermal absorption" means the process by which chemicals enter the bloodstream of a human by passing through intact skin.

- (12) "Director" means the director of the Ohio environmental protection agency.
- (13) "Document" means any record, device, or item, regardless of physical form or characteristic, including but not limited to, electronic or hard copy records of reports, studies, data, correspondence, and all other information.
- (14) "Engineering control" means man-made structures or systems that effectively and reliably eliminate or mitigate human or important ecological resource exposure to hazardous substances or petroleum on, underlying or emanating from a property, which are protective of human health, safety and the environments. Examples of engineering controls include, but are not limited to, cap systems and ground water gradient systems.
- (15) "Environmental media" means soil, sediments, surface water, ground water, bedrock, and air and transitional zones between two or more media.
- (16) "Exposure" means contact of a receptor with a chemical(s) of concern that is quantified as the amount of the chemical(s) of concern available for absorption at the exchange boundaries of the organism, such as the skin, lungs or gastrointestinal tract.
- (17) "Exposure factor" means a parameter that defines one term in an equation used to quantify the exposure of a receptor to a chemical of concern by means of one exposure pathway. Exposure factors may be represented by point values or by a distribution of values.
- (18) "Exposure pathway" means a mechanism by which a receptor is exposed to chemical(s) of concern.
- (19) "Hazard index" means a numerical value that describes the potential for threshold-effect non-carcinogenic toxicity to occur in an individual as a result of exposure to multiple chemicals of concern over a specified time period through an exposure pathway(s). This numerical value is expressed as the unitless sum of the hazard quotient values for each of the chemical(s) of concern and for each pathway.
- (20) "Hazardous substance" includes all of the following:
- (a) Any substance identified or listed in rules adopted under division (B)(1)(c) of section 3750.02 of the Revised Code;
 - (b) Any product registered as a pesticide under section 921.02 of the Revised Code when the product is used in a manner inconsistent with its required labeling;
 - (c) Any product formerly registered as a pesticide under that section for which the

registration was suspended or canceled under section 921.05 of the Revised Code; and

- (d) Any mixture of a substance described in paragraphs (A)(20)(a) to (A)(20)(c) of this rule with a radioactive material.
- (21) "Identified area" means any location at a property which hazardous substances or petroleum are known or suspected to be present.
- (22) "Important ecological resources" means specific ecological communities, populations or individual organisms protected by federal, state, or local laws and regulations, or ecological resources that provide important natural or economic resource functions and values. Important ecological resources include, but are not limited to: surface waters and wetlands protected under federal law and state of Ohio's water quality laws; dedicated natural areas and preserves; threatened and endangered species and their associated habitats that are designated by the federal government or the State of Ohio; special interest or declining species, and their associated habitats, designated by the State of Ohio; wildlife populations and their associated important nesting areas and food resources, taking into consideration land use and the quality and extent of the habitat on and in the vicinity of the property.
- [Comment: An industrialized property may have limited green space around buildings, roadways, etc. and there may be a limited number of trees with nests but this type of situation generally would not be considered to be providing important nesting areas and food resources to wildlife populations.]
- (23) "Individual" means any person, but not an organization. Organization includes, but is not limited to, any corporation, government or governmental subdivision, agency, partnership, trust, estate, association, or two or more persons having a joint or common interest.
- (24) "Institutional Control" means a restriction that is documented in writing which limits access to or use of the property such that the exposure to hazardous substances or petroleum are effectively and reliably eliminated or mitigated. Examples of institutional controls include but are not limited to, deed restrictions and land and water use restrictions.
- (25) "Ninety-five per cent upper confidence limit" or "Ninety-five percent UCL" means the upper limit of an interval within a frequency distribution curve in which the observed mean of a data set will occur ninety-five percent of the time.
- (26) "Owner or operator" includes both of the following:

- (a) Any person owning or holding a legal, equitable, or possessory interest in or having responsibility for the daily activities on a property; and
 - (b) In the case of property title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to this state or a political subdivision of this state, any person who owned, operated, or otherwise controlled activities occurring on the property before the conveyance.
- (27) "Peer-reviewed" means that a document or study meets the following criteria:
- (a) The document or study has been published in a recognized scientific journal or publication;
 - (b) The document or study is generally-accepted within the scientific community as being accurate and reliable; and
 - (c) The results contained in the document or study have been independently reproduced or the methods described in the document or study have been proven to produce consistent results.
- (28) "Person" means any person as defined in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, any other body of this state or of a political subdivision of this state, and the United States and any agency or instrumentality thereof.
- (29) "Petroleum" means oil or petroleum of any kind and in any form, including, without limitation, crude oil or any fraction thereof, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, used oil, substances or additives utilized in the refining or blending of crude petroleum or petroleum stock, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, and mixtures of natural gas and synthetic gas.
- (30) "Phase I property assessment" means all the activities required to evaluate a property in accordance with Chapter 3746. of the Revised Code and the standards provided in division (B) of section 3746.07 of the Revised Code or rules adopted under division (B)(3) of section 3746.04 of the Revised Code, whichever is applicable.
- (31) "Phase II property assessment" means all the activities required to evaluate a property in accordance with Chapter 3746. of the Revised Code and the standards provided in division (C) of section 3746.07 of the Revised Code or rules adopted under division (B)(4) of section 3746.04 of the Revised Code, whichever is applicable.

- (32) "Point of compliance" means any location on or off the property to which applicable standards must be met and maintained.
- (33) "Potable use standard" means an applicable standard for ground water which takes into account the exposures to humans which may result from such activities as drinking ground water, showering, or bathing with ground water, or cooking with ground water, or cooking with ground water. There are two different types of potable use standards which are as follows:
- (a) "Unrestricted potable use standard" are standards based on the assumption that ground water will be used as a source of water for drinking, cooking showering, or bathing. Unrestricted potable use standards include both of the following types of standards:
- (i) Generic unrestricted potable use standards. These standards are contained in table VII at paragraph (C)(3) of rule 3745-300-08 of the administrative code and are designed to protect receptors located both on and off the property; and
- (ii) Risk-derived unrestricted potable use standards. These standards are developed in accordance with rule 3745-300-09 of the administrative code for human exposures resulting from drinking, cooking, showering or bathing and are designed to protect receptors located both on and off the property; and
- (b) Property-specific potable use standards. These standards are developed in accordance with rule 3745-300-09 of the Administrative Code, but are designed to protect only those receptors who are located on the property and may only be applied in conjunction with an institutional or engineering control, developed and employed in accordance with rules 3745-300-09 and 3745-300-15 of the Administrative Code, which prevents exposures to humans on the property resulting from drinking, cooking, showering or bathing with ground water from exceeding the risk goal applied to the generic unrestricted potable use standards contained in table VII at paragraph (C)(3) of rule 3745-300-08 of the Administrative Code.
- (34) "Property," except for the purposes of sections 3746.02, 3746.26, and 3746.27 of the Revised Code, means any parcel of real property, or portion thereof, and any improvements thereto, the limits of which have been described in writing by the owner of record or a legally appointed representative of the owner and that is or has been the subject of a voluntary action under this chapter and Chapter 3746. of the Revised Code.

- (35) "Property-specific risk assessment" means an analysis conducted in accordance with the requirements of rule 3745-300-09 of the Administrative Code.
- (36) "Radioactive material" means a substance that spontaneously emits ionizing radiation.
- (37) "Reasonably available" means situations under which information is:
- (a) Publicly available or known of and available to the volunteer or owner/operator of the property;
 - (b) Provided or made available by the source within ninety days of receiving a written request; and
 - (c) Practically reviewable.
- (38) "Receptor or receptor population" means humans or important ecological resources that are reasonably anticipated to come in contact with chemicals of concern, based on the distribution of the chemicals of concern on the property and the activity patterns of those humans or important ecological resources on or adjacent to the property.
- (39) "Related" means the persons are, or formerly were, related by consanguinity or marriage.
- (40) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing of any hazardous substance or petroleum into the environment, including, without limitation, the abandonment or discarding of barrels, containers, or any other closed receptacle containing any hazardous substance, petroleum, or pollutant or contaminant. "Release" does not include any of the following:
- (a) Any release that results solely in the exposure of individuals to hazardous substances or petroleum in the workplace with respect to which those individuals may assert a claim against their employer and that is regulated under the "Occupational Health and Safety Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended, and regulations adopted under that act, or under Chapter 4167. of the Revised Code and rules adopted under it;
 - (b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;
 - (c) Any release of a source, byproduct, or special nuclear material from a nuclear incident, as "source material," "byproduct material," "special nuclear

material," and "nuclear incident" are defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, if the release is subject to financial protection requirements under section 170 of that act unless any such material is mixed with a hazardous substance or petroleum;

- (d) Any federally permitted release as defined in section 101(10) of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 3300, 42 U.S.C.A. 9601, as amended;
 - (e) The normal application of a fertilizer material that is intended to improve the quality or quantity of plant growth.
- (41) "Remedy" or "remedial activities" means actions that are taken at a property to treat, remove, transport for treatment or disposal, dispose of, contain, or control hazardous substances or petroleum, which are protective of public health and safety and the environment, and which are consistent with a permanent remedy, including, without limitation, excavation, treatment, off-site disposal, the use of engineering or institutional controls or measures, the issuance and implementation of a consolidated standards permit under section 3746.15 of the Revised Code, and the entering into and implementation of an operation and maintenance agreement pursuant to section 3746.12 of the Revised Code.
- (42) "Revised Code" means the Ohio Revised Code, a codification of all of the Ohio statutes of a general and permanent nature.
- (43) "Risk assessment" means a quantification of the risk posed by exposure of a human or ecological receptor to hazardous substances or petroleum that is performed in compliance with rules adopted under division (B)(2) of section 3746.04 of the Revised Code. This process incorporates the following:
- (a) Data collection and evaluation, including data regarding the environmental setting of the site, identities of suspected chemical releases, and concentrations of these chemicals;
 - (b) Exposure assessment, including the identification of the exposure pathway(s), identification of the receptor(s), quantification of the chemical concentration(s) of the identified chemical(s) for each pathway and quantification of the likely intake(s) of the identified chemical(s) by the receptor(s);
 - (c) Toxicity assessment, including the chemical-specific qualitative description of the type of adverse effect(s) and the target organ(s), and the chemical-specific quantification of the dose-response relationship between the

chemical concentration and the exhibited effect(s), in an experimental population representing the receptor population; and

- (d) Risk characterization, including the quantification of the total excess cancer unit risk posed by the chemical(s) to the receptor, the quantification of the total non-cancer hazards posed by the chemical(s) to the receptor, and the evaluation of the uncertainty introduced into the process by all the data, descriptions and assumptions used.
- (44) "Sediment" means unconsolidated inorganic and organic material that has precipitated and deposited below surface waters. Sediment includes: (a) materials below the water surface under bankfull conditions in streams, lakes and ditches; (b) materials below normal pool elevation for reservoirs; (c) materials within the federal jurisdictional boundaries of wetlands; (d) materials below maximum capacity for ponds and lagoons; (e) Materials found below high water conditions at Lake Erie, as defined over a five-year period by the United States Geological Survey.
- (45) "Source" means either:
- (a) An event which releases hazardous substances or petroleum into environmental media; or
 - (b) A vessel or impoundment which contains hazardous substances or petroleum and from which a release of hazardous substances or petroleum has occurred or is occurring.
- (46) "Source area" means any affected media containing chemical(s) of concern at concentrations sufficient to, contribute to an exceedance of applicable standards in any environmental media.
- (47) "Support document for generic standards" means the "Support document for the development of generic numerical standards and risk assessment procedures," October, 1996.
- (48) "This chapter" means Chapter 3745-300 of the Administrative Code.
- (49) "Upper-bound value" means a parameter value from a distribution of such values which is contained within the highest decile (ten percent) of that distribution.

- (50) "Voluntary action" means a series of measures that may be undertaken to identify and address contamination and potential sources of contamination of properties by hazardous substances or petroleum and to establish that the property complies with applicable standards. "Voluntary action" may include, without limitation: a Phase I property assessment; a Phase II property assessment; a sampling plan; a remedial plan; remedial activities; or such other actions the volunteer considers to be necessary or appropriate to address the contamination, followed by the issuance of a no further action letter indicating that the property complies with applicable standards. To demonstrate that applicable standards have been met, the person undertaking such measures must establish either that there is no information indicating that there has been a release of hazardous substances or petroleum at or upon the property or that there has been a release of hazardous substances or petroleum at or upon the property and that applicable standards were not exceeded or have been or will be achieved in accordance with Chapter 3746. of the Revised Code and this chapter.
- (51) "Volunteer" means a person conducting a voluntary action, and, unless the context indicates otherwise, includes the owner of the property, if different from the person conducting the voluntary action, and any authorized representative of the person conducting the voluntary action.

Effective: _____

Certification: _____

Date: _____

Promulgated under: RC Chapter 119.

Rule amplified: RC Chapter 3746.

Rule authorized by: RC Chapter 3746.

Prior effective dates: December 29, 1995