



Ohio Revised Code

Section 3750.02 Emergency response commission.

Effective: September 5, 2001

Legislation: House Bill 94

(A) There is hereby created the emergency response commission consisting of the directors of environmental protection and health, the chairperson of the public utilities commission, the fire marshal, the director of public safety, the director of transportation, the director of natural resources, the superintendent of the highway patrol, and the attorney general as members ex officio, or their designees; notwithstanding section 101.26 of the Revised Code, the chairpersons of the respective standing committees of the senate and house of representatives that are primarily responsible for considering environmental issues who may participate fully in all the commission's deliberations and activities, except that they shall serve as nonvoting members; and ten members to be appointed by the governor with the advice and consent of the senate. The appointed members, to the extent practicable, shall have technical expertise in the field of emergency response. Of the appointed members, two shall represent environmental advocacy organizations, one shall represent the interests of petroleum refiners or marketers or chemical manufacturers, one shall represent the interests of another industry subject to this chapter, one shall represent the interests of municipal corporations, one shall represent the interests of counties, one shall represent the interests of chiefs of fire departments, one shall represent the interests of professional firefighters, one shall represent the interests of volunteer firefighters, and one shall represent the interests of local emergency management agencies.

An appointed member of the commission also may serve as a member of the local emergency planning committee of an emergency planning district. An appointed member of the commission who is also a member of a local emergency planning committee shall not participate as a member of the commission in the appointment of members of the local emergency planning committee of which the member is a member, in the review of the chemical emergency response and preparedness plan submitted by the local emergency planning committee of which the member is a member, in any vote to approve a grant to the member's district, or in any vote of the commission on any motion or resolution pertaining specifically to the member's district or the local emergency planning committee on which the member serves. A commission member who is also a member of a local emergency planning committee shall not lobby or otherwise act as an advocate for the member's district to other



members of the commission to obtain from the commission anything of value for the member's district or the local emergency planning committee of which the member is a member. A member of the commission who is also a member of a local emergency planning committee may vote on resolutions of the commission that apply uniformly to all local emergency planning committees and districts in the state and do not provide a grant or other pecuniary benefit to the member's district or the committee of which the member is a member.

The governor shall make the initial appointments to the commission within thirty days after December 14, 1988. Of the initial appointments to the commission, five shall be for a term of two years and five shall be for a term of one year. Thereafter, terms of office of the appointed members of the commission shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The commission may at any time by a vote of two-thirds of all the members remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance. Members of the commission shall serve without compensation, but shall be reimbursed for the reasonable expenses incurred by them in the discharge of their duties as members of the commission.

The commission shall meet at least annually and shall hold such additional meetings as are necessary to implement and administer this chapter. Additional meetings may be held at the behest of either a co-chairperson or a majority of the members. The commission shall, by adoption of internal management rules under division (B)(9) of this section, establish an executive committee and delegate to it the performance of such of the commission's duties and powers under this chapter as are required or authorized to be so delegated by that division. The commission may organize itself into such additional committees as it considers necessary or convenient to implement and administer this chapter. The director of environmental protection and the director of public safety or their designees shall serve as co-chairpersons of the commission and the executive committee. Except as otherwise provided in this chapter, a majority of the voting members of the commission constitutes a



quorum and the affirmative vote of a majority of the voting members of the commission is necessary for any action taken by the commission. Meetings of the executive committee conducted for the purpose of determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce this chapter or rules adopted or orders issued under it are not subject to section 121.22 of the Revised Code pursuant to division (D) of that section.

Except for the purposes of Chapters 102. and 2921. and sections 9.86 and 109.36 to 109.366 of the Revised Code, serving as an appointed member of the commission does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(B) The commission shall:

(1) Adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with and equivalent in scope, content, and coverage to the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and applicable regulations adopted under it:

(a) Identifying or listing extremely hazardous substances and establishing a threshold planning quantity for each such substance. To the extent consistent with that act and applicable regulations adopted under it, the rules may establish threshold planning quantities based upon classes of those substances or categories of facilities at which such substances are present.

(b) Listing hazardous chemicals, establishing threshold quantities for those chemicals, establishing categories of health and physical hazards of those chemicals, establishing criteria or procedures for identifying those chemicals and the appropriate hazard categories of those chemicals, and establishing ranges of quantities for those chemicals to be used in preparing emergency and hazardous chemical inventory forms under section 3750.08 of the Revised Code. To the extent consistent with that act and applicable regulations adopted under it, the rules may establish threshold quantities based upon classes of those chemicals or categories of facilities where those chemicals are present.

To the extent consistent with that act, the threshold quantities for purposes of the submission of lists



of hazardous chemicals under section 3750.07 and the submission of emergency and hazardous chemical inventory forms under section 3750.08 of the Revised Code may differ.

(c) Identifying or listing hazardous substances and establishing reportable quantities of each of those substances and each extremely hazardous substance. In addition to being consistent with and equivalent in scope, content, and coverage to that act and applicable regulations adopted under it, the rules shall be consistent with and equivalent in scope, content, and coverage to regulations identifying or listing hazardous substances and reportable quantities of those substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended.

(d) Prescribing the information to be included in the lists of hazardous chemicals required to be submitted under section 3750.07 of the Revised Code;

(e) Prescribing the information to be included in the emergency and hazardous chemical inventory forms required to be submitted under section 3750.08 of the Revised Code. If the commission establishes its own emergency and hazardous chemical inventory form, the rules shall authorize owners and operators of facilities who also have one or more facilities located outside the state for which they are required to submit inventory forms under the federal act and regulations adopted under it to submit their annual inventories on forms prescribed by the administrator of the United States environmental protection agency under that act instead of on forms prescribed by the commission and shall require those owners or operators to submit any additional information required by the commission's inventory form on an attachment to the federal form.

(f) Establishing procedures for giving verbal notice of releases under section 3750.06 of the Revised Code and prescribing the information to be provided in such a notice and in the follow-up written notice required by that section;

(g) Establishing standards for determining valid needs for the release of tier II information under division (B)(4) of section 3750.10 of the Revised Code;

(h) Identifying the types or categories of information submitted or obtained under this chapter and rules adopted under it that constitute confidential business information;



(i) Establishing criteria and procedures to protect trade secret and confidential business information from unauthorized disclosure;

(j) Establishing other requirements or authorizations that the commission considers necessary or appropriate to implement, administer, and enforce this chapter.

(2) Adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this chapter that may be more stringent than the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. Rules adopted under division (B)(2) of this section shall not be inconsistent with that act or the regulations adopted under it. The rules shall:

(a) Prescribe the information to be included in the chemical emergency response and preparedness plans prepared and submitted by local emergency planning committees under section 3750.04 of the Revised Code;

(b) Establish criteria and procedures for reviewing the chemical emergency response and preparedness plans of local emergency planning committees required by section 3750.04 of the Revised Code and the annual exercise of those plans and for providing concurrence or requesting modifications in the plans and the exercise of those plans. The criteria shall include, without limitation, the requirement that each exercise of a committee's plan involve, in addition to local emergency response and medical personnel, either a facility that is subject to the plan or a transporter of materials that are identified or listed as hazardous materials by regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

(c) Establish policies and procedures for maintaining information submitted to the commission and local emergency planning committees under this chapter, and for receiving and fulfilling requests from the public for access to review and to obtain copies of that information. The criteria and procedures shall include the following requirements and authorizations regarding that information and access to it:

(i) Information that is protected as trade secret information or confidential business information



under this chapter and rules adopted under it shall be kept in files that are separate from those containing information that is not so protected.

(ii) The original copies of information submitted to the commission or committee shall not be removed from the custody and control of the commission or committee.

(iii) A person who, either in person or by mail, requests to obtain a copy of a material safety data sheet submitted under this chapter by a facility owner or operator shall submit a separate application for each facility for which a material safety data sheet is being requested.

(iv) A person who requests to receive by mail a copy of information submitted under this chapter by a facility owner or operator shall submit a separate application for each facility for which information is being requested and shall specify both the facility for which information is being requested and the particular types of documents requested.

(v) Only employees of the commission or committee shall copy information in the files of the commission or committee.

(vi) The commission or committee may require any person who requests to review or obtain a copy of information in its files to schedule an appointment for that purpose with the information coordinator of the commission or committee at least twenty-four hours before arriving at the office of the commission or committee for the review or copy.

(vii) Any person who seeks access to information in the files of the commission or a local emergency planning committee shall submit a written application, either in person or by mail, to the information coordinator on a form provided by the commission or committee. The person also shall provide the person's name and current mailing address on the application and may be requested by the commission or committee to provide basic demographic information on the form to assist in the evaluation of the information access provisions of this chapter and rules adopted under it. Application forms may be obtained by mail or in person or by request by telephone at the office of the commission or committee during regular business hours. Upon receipt of a request for an application by telephone or mail, the information coordinator shall promptly mail an application to the person who requested it.



(viii) The application form shall provide the applicant with a means of indicating that the applicant's name and address are to be kept confidential. If the applicant so indicates, that information is not a public record under section 149.43 of the Revised Code and shall not be disclosed to any person who is not a member or employee of the commission or committee or an employee of the environmental protection agency. When a name and address are to be kept confidential, they also shall be deleted from the copy of the application required to be placed in the file of the facility under division (B)(2)(c)(xii) of this section and shall be withheld from any log of information requests kept by the commission or committee pursuant to that division.

(ix) Neither the commission nor a local emergency planning committee shall charge any fee for access to review information in its files when no copies or computer searches of that information are requested.

(x) An applicant shall be informed of the cost of copying, mailing, or conducting a computer search of information on file with the commission or committee before such a copy or search is made, and the commission or committee shall collect the appropriate fees as established under section 3750.13 of the Revised Code. Each applicant shall acknowledge on the application form that the applicant is aware that the applicant will be charged for copies and computer searches of that information the applicant requests and for the costs of mailing copies of the information to the applicant.

(xi) The commission or committee may require a person requesting copies of information on file with it to take delivery of them in the office of the commission or committee whenever it considers the volume of the information to be large enough to make mailing or delivery by a parcel or package delivery service impractical.

(xii) When the commission or committee receives a request for access to review or obtain copies of information in its files, it shall not routinely notify the owner or operator of the facility involved, but instead shall either keep a log or file of requests for the information or shall place a copy of each completed application form in the file for the facility to which the application pertains. Such a log or file shall be available for review by the public and by the owners and operators of facilities required to submit information to the commission or committee under this chapter and rules adopted under it.



(d) Require that claims for the protection, as a trade secret, of information obtained under this chapter regarding extremely hazardous substances identified or listed in rules adopted under division (B)(1)(a) of this section and hazardous chemicals identified or listed in rules adopted under division (B)(1)(b) of this section be submitted to the administrator of the United States environmental protection agency for determination under section 322 of the the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations adopted under that section;

(e) Establish criteria and procedures for the issuance of variances under divisions (B) and (C) of section 3750.11 of the Revised Code. The rules shall require that, before approval of an application for a variance, the commission or committee find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that the extremely hazardous substances, hazardous chemicals, or hazardous substances that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency management personnel responding to a release of the chemicals or substances, when the substances or chemicals are present at a facility in an amount equal to or exceeding the quantity for which reporting would be required under the reporting requirement for which the variance is sought. The rules shall also require that before approval of an application for a variance, the commission or committee find by a preponderance of the evidence that the development and implementation of a local emergency response plan for releases of the substances or chemicals covered by the reporting requirement will reduce the risk of catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency management personnel, in the event of a release of the substances or chemicals and find by a preponderance of the evidence that the reporting requirement is necessary for the development of such a local emergency response plan. The rules shall require that when determining whether the substances or chemicals that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency management personnel responding to a release of the substance or chemical, the commission or committee consider all of the following factors:

(i) The specific characteristics and degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances;



(ii) The proximity of the facilities that would be subject to the reporting requirement to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;

(iii) The quantities of the extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at facilities that would be subject to the reporting requirement;

(iv) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facilities that would be subject to the reporting requirement in quantities for which reporting would be required thereunder.

(f) Establish criteria and procedures for the issuance of orders under division (D) of section 3750.11 of the Revised Code requiring the placement of emergency response lock box units. The rules shall require that before approval of an application for issuance of such an order, the commission or committee find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that the presence of the extremely hazardous substances, hazardous chemicals, or hazardous substances in the quantities in which they are routinely or intermittently present at the facility for which the order is sought pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of those substances or chemicals from the facility. The rules shall require that before approval of an application for issuance of such an order, the commission or committee also find by a preponderance of the evidence that the placement of an emergency response lock box unit at the facility is necessary to protect against the substantial risk of catastrophic injury to public health or safety or the environment, or to protect against an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of the extremely hazardous substances, hazardous chemicals, or hazardous substances routinely or intermittently present at the facility. The rules shall require that when determining whether the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of those substances or chemicals from the facility, the commission or committee consider all of the following factors:



- (i) The specific characteristics and the degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility;
 - (ii) The proximity of the facility to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;
 - (iii) The quantities of the extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at the facility;
 - (iv) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facility.
- (g) Establish procedures to be followed by the commission and the executive committee of the commission for the issuance of orders under this chapter.
- (3) In accordance with Chapter 119. of the Revised Code adopt rules establishing reportable quantities for releases of oil that are consistent with and equivalent in scope, content, and coverage to section 311 of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 862, 33 U.S.C.A. 1321, as amended, and applicable regulations adopted under it;
- (4) Adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria and procedures for identifying or listing extremely hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(a) of this section and for establishing threshold planning quantities and reportable quantities for the added extremely hazardous substances; for identifying or listing hazardous chemicals in addition to those identified or listed in rules adopted under division (B)(1)(b) of this section and for establishing threshold quantities and categories of health and physical hazards for the added hazardous chemicals; and for identifying or listing hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(c) of this section and for establishing reportable quantities for the added hazardous substances. The criteria for identifying or listing additional extremely hazardous substances and establishing threshold planning



quantities and reportable quantities therefor and for identifying or listing additional hazardous chemicals and establishing threshold quantities and categories of health and physical hazards for the added hazardous chemicals shall be consistent with and equivalent to applicable criteria therefor under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. The criteria for identifying additional hazardous substances and for establishing reportable quantities of the added hazardous substances shall be consistent with and equivalent to the applicable criteria for identifying or listing hazardous substances and establishing reportable quantities therefor under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, and regulations adopted under it.

The rules shall require that, before identifying or listing any such additional extremely hazardous substance, hazardous chemical, or hazardous substance and establishing a threshold planning quantity, threshold quantity, or reportable quantity therefor, the commission find by a preponderance of the scientific evidence based on generally accepted scientific principles or laboratory tests that the substance or chemical poses a substantial risk of catastrophic injury to public health or safety or to the environment, or poses an extraordinary risk of injury to emergency management personnel responding to a release of the chemical or substance, when the chemical or substance is present at a facility in an amount equal to the proposed threshold planning quantity or threshold quantity or, in the instance of a proposed additional extremely hazardous substance or hazardous substance, poses a substantial risk of catastrophic injury to public health or safety or to the environment if a release of the proposed reportable quantity of the substance occurs. The rules shall further require that, before so identifying or listing a substance or chemical, the commission find by a preponderance of the evidence that the development and implementation of state or local emergency response plans for releases of the substance or chemical will reduce the risk of a catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency response personnel, in the event of a release of the substance or chemical and find by a preponderance of the evidence that the identification or listing of the substance or chemical is necessary for the development of state or local emergency response plans for releases of the substance or chemical. The rules shall require that the commission consider the toxicity of the substance or chemical in terms of both the short-term and long-term health effects resulting from exposure to it and its reactivity, volatility, dispersibility, combustibility, and flammability when determining the risks posed by a release of the substance or chemical and, as appropriate, when



establishing a threshold planning quantity, threshold quantity, reportable quantity, or category of health or physical hazard for it.

(5) Adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria and procedures for receiving and deciding claims for protection of information as a trade secret that are applicable only to extremely hazardous substances and hazardous chemicals identified or listed in rules adopted under division (C)(5) of this section. The rules shall be equivalent in scope, content, and coverage to section 322 of the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations adopted under it.

(6)(a) After consultation with the fire marshal, adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the construction, placement, and use of emergency response lock box units at facilities that are subject to this chapter. The rules shall establish all of the following:

(i) Specific standards of construction for lock box units;

(ii) The specific types of information that shall be placed in the lock box units required to be placed at a facility by an order issued under division (D) of section 3750.11 of the Revised Code, which shall include the location of on-site emergency fire-fighting and spill cleanup equipment; a diagram of the public and private water supply and sewage systems serving the facility that are known to the owner or operator of the facility; a copy of the emergency and hazardous chemical inventory form for the facility most recently required to be submitted under section 3750.08 of the Revised Code from which the owner or operator may withhold information claimed or determined to be trade secret information pursuant to rules adopted under division (B)(2)(d) of this section, or pursuant to division (B)(14) of this section and rules adopted under division (B)(5) of this section, and confidential business information identified in rules adopted under division (B)(1)(h) of this section; a copy of the local fire department's and facility's emergency management plans for the facility, if any; a current list of the names, positions, addresses, and telephone numbers of all key facility personnel knowledgeable in facility safety procedures and the locations at the facility where extremely hazardous substances, hazardous chemicals, and hazardous substances are produced, used, or stored. The rules shall stipulate that, in the instance of lock box units placed voluntarily at facilities by the owners or operators of the facilities, such information shall be maintained in them as is prescribed by



agreement by the owner or operator and the fire department having jurisdiction over the facility.

(iii) The conditions that shall be met in order to provide safe and expedient access to a lock box unit during a release or threatened release of an extremely hazardous substance, hazardous chemical, or hazardous substance.

(b) Unless the owner or operator of a facility is issued an order under division (D) of section 3750.11 of the Revised Code requiring the owner or operator to place a lock box unit at the facility, the owner or operator may place a lock box unit at the facility at the owner's or operator's discretion. If the owner or operator chooses to place a lock box unit at the facility, the responsibility to deposit information in the lock box unit is in addition to any other obligations established in this chapter.

(c) Any costs associated with the purchase, construction, or placement of a lock box unit shall be paid by the owner or operator of the facility.

(7) In accordance with Chapter 119. of the Revised Code, adopt rules governing the application for and awarding of grants under division (C) of section 3750.14 and division (B) of section 3750.15 of the Revised Code;

(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing reasonable maximum fees that may be charged by the commission and local emergency planning committees for copying information in the commission's or committee's files to fulfill requests from the public for that information;

(9) Adopt internal management rules governing the operations of the commission. The internal management rules shall establish an executive committee of the commission consisting of the director of environmental protection or the director's designee, the director of public safety or the director's designee, the attorney general or the attorney general's designee, one of the appointed members of the commission representing industries subject to this chapter to be appointed by the commission, one of the appointed members of the commission representing the interests of environmental advocacy organizations to be appointed by the commission, and one other appointed member or member ex officio of the commission to be appointed by the commission. The executive committee has exclusive authority to issue enforcement orders under section 3750.18 of the Revised



Code and to request the attorney general to bring a civil action, civil penalty action, or criminal action under section 3750.20 of the Revised Code in the name of the commission regarding violations of this chapter, rules adopted under it, or orders issued under it. The internal management rules may set forth the other specific powers and duties of the commission that the executive committee may exercise and carry out and the conditions under which the executive committee may do so. The internal management rules shall not authorize the executive committee to issue variances under division (B) or (C) of section 3750.11 of the Revised Code or orders under division (D) of that section.

(10) Oversee and coordinate the implementation and enforcement of this chapter and make such recommendations to the director of environmental protection and the director of public safety as it considers necessary or appropriate to improve the implementation and enforcement of this chapter;

(11) Make allocations of moneys under division (B) of section 3750.14 of the Revised Code and make grants under division (C) of section 3750.14 and division (B) of section 3750.15 of the Revised Code;

(12) Designate an officer of the environmental protection agency to serve as the commission's information coordinator under this chapter;

(13) Not later than December 14, 1989, develop and distribute a state emergency response plan that defines the emergency response roles and responsibilities of the state agencies that are represented on the commission and that provides appropriate coordination with the national contingency plan and the regional contingency plan required by section 105 of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended. The plan shall ensure a well-coordinated response by state agencies that may be involved in assisting local emergency responders during a major release of oil or a major sudden and accidental release of a hazardous substance or extremely hazardous substance. The plan may incorporate existing state emergency response plans by reference. At least annually, the commission and the state agencies that are represented on it shall jointly exercise the state plan in conjunction with the exercise of a local emergency response plan by a local emergency planning committee under section 3750.04 of the Revised Code. After any such exercise, the commission shall review the state plan and make such revisions in it as the commission considers necessary or appropriate.



(14) Receive and decide claims for the protection of information as a trade secret that pertain only to extremely hazardous substances and hazardous chemicals identified or listed by rules adopted under division (C)(5) of this section. If the commission determines that the claim meets the criteria established in rules adopted under division (B)(5) of this section, it shall issue an order to that effect in accordance with section 3750.18 of the Revised Code. If the commission determines that the claim does not meet the criteria established in those rules, it shall issue an order to that effect in accordance with section 3750.18 of the Revised Code.

(15) Annually compile, make available to the public, and submit to the president of the senate and the speaker of the house of representatives a summary report on the number of facilities estimated to be subject to regulation under sections 3750.05, 3750.07, and 3750.08 of the Revised Code, the number of facilities reporting to the commission, an estimate of the percentage of facilities in compliance with those sections, and recommendations regarding the types of activities the commission considers necessary to improve such compliance. The commission shall base its estimate of the number of facilities that are subject to regulation under those sections on the current estimates provided by the local emergency planning committees under division (D)(6) of section 3750.03 of the Revised Code.

(C) The commission may:

(1) Procure by contract the temporary or intermittent services of experts or consultants when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(2) Enter into contracts or agreements with political subdivisions or emergency planning districts for the purposes of this chapter;

(3) Accept on behalf of the state any gift, grant, or contribution from any governmental or private source for the purposes of this chapter;

(4) Enter into contracts, agreements, or memoranda of understanding with any state department, agency, board, commission, or institution to obtain the services of personnel thereof or utilize



resources thereof for the purposes of this chapter. Employees of a state department, agency, board, commission, or institution providing services to the commission under any such contract, agreement, or memorandum shall perform only those functions and provide only the services provided for in the contract, agreement, or memorandum.

(5) Identify or list extremely hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(a) of this section and establish threshold planning quantities and reportable quantities for the additional extremely hazardous substances, identify or list hazardous chemicals in addition to those identified or listed in rules adopted under division (B)(1)(b) of this section and establish threshold quantities and categories or health and physical hazards for the added chemicals, and identify or list hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(c) of this section and establish reportable quantities for the added hazardous substances. The commission may establish threshold planning quantities for the additional extremely hazardous substances based upon classes of those substances or categories of facilities at which they are present and may establish threshold quantities for the additional hazardous chemicals based upon classes of those chemicals or categories of facilities where they are present. The commission shall identify or list such additional substances or chemicals and establish threshold planning quantities, threshold quantities, reportable quantities, and hazard categories therefor in accordance with the criteria and procedures established in rules adopted under division (B)(4) of this section and, after compliance with those criteria and procedures, by the adoption of rules in accordance with Chapter 119. of the Revised Code. The commission shall not adopt rules under division (C)(5) of this section modifying any threshold planning quantity established in rules adopted under division (B)(1)(a) of this section, any threshold quantity established in rules adopted under division (B)(1)(b) of this section, or any reportable quantity established in rules adopted under division (B)(1)(c) of this section.

If, after the commission has adopted rules under division (C)(5) of this section identifying or listing an extremely hazardous substance, hazardous chemical, or hazardous substance, the administrator of the United States environmental protection agency identifies or lists the substance or chemical as an extremely hazardous substance or hazardous chemical under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, or identifies or lists a substance as a hazardous substance under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, the



commission shall rescind its rules adopted under division (C)(5) of this section pertaining to the substance or chemical and adopt the appropriate rules under division (B)(1)(a), (b), or (c) of this section.

(6) From time to time, request the director of environmental protection and the executive director of the emergency management agency to review implementation, administration, and enforcement of the chemical emergency response planning and reporting programs created by this chapter and rules adopted under it regarding their effectiveness in preparing for response to releases of extremely hazardous substances, hazardous chemicals, and hazardous substances. After completion of any such review, the director of environmental protection and the director of public safety shall report their findings to the commission. Upon receipt of their findings, the commission may make such recommendations for legislative and administrative action as the commission finds necessary or appropriate to promote achievement of the purposes of this chapter.

(D) Except as provided in section 3750.06 of the Revised Code, nothing in this chapter applies to the transportation, including the storage incident to transportation, of any substance or chemical subject to the requirements of this chapter, including the transportation and distribution of natural gas.

(E) This chapter authorizes the state, through the emergency response commission, the department of public safety, and the environmental protection agency, to establish and maintain chemical emergency response planning and preparedness, community right-to-know, and hazardous substance and extremely hazardous substance release reporting programs that are consistent with and equivalent in scope, coverage, and content to the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it, except as otherwise specifically required or authorized in this chapter. The commission, department, and agencies may do all things necessary, incidental, or appropriate to implement, administer, and enforce this chapter and to perform the duties and exercise the powers of the state emergency response commission under that act and regulations adopted under it and under this chapter.