

## § 355.2

Substances (EHSs) and Threshold Planning Quantities (TPQs) in Appendices A and B, which are used in determining if you are subject to these requirements.

(b) This part is written in a special format to make it easier to understand the regulatory requirements. Like other Environmental Protection Agency (EPA) regulations, this part establishes enforceable legal requirements. Information considered non-binding guidance under EPCRA is indicated in this regulation by the word “note” and a smaller typeface. Such notes are provided for information purposes only and are not considered legally binding under this part.

### § 355.2 Who do “you,” “I,” and “your” refer to in this part?

Throughout this part, “you,” “I,” and “your” refer to the owner or operator of a facility.

### § 355.3 Which section contains the definitions of the key words used in this part?

The definitions of key words used in this part are in § 355.61. It is important to read the definitions for these key words because the definition explains the word’s specific meaning associated with the regulations in this part.

## Subpart B—Emergency Planning

### WHO MUST COMPLY

### § 355.10 Must my facility comply with the emergency planning requirements of this subpart?

You must comply with the emergency planning requirements in this subpart if your facility meets either of the following two conditions:

(a) Any extremely hazardous substance (EHS) is present at your facility in an amount equal to or greater than its threshold planning quantity (TPQ), or

(b) Your facility has been designated for emergency planning purposes, after public notice and opportunity for comment, by one of the following three entities:

(1) The State Emergency Response Commission (SERC).

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(2) The Governor of the State in which your facility is located.

(3) The Chief Executive Officer of the Tribe for the Indian Tribe under whose jurisdiction your facility is located.

### § 355.11 To what substances do the emergency planning requirements of this subpart apply?

The emergency planning requirements of this subpart apply to any EHS listed in Appendices A and B of this part. Additionally, if a facility is designated for emergency planning purposes, as provided in § 355.10(b), substances that are not EHSs at this facility may become subject to the emergency planning requirements.

### § 355.12 What quantities of extremely hazardous substances trigger emergency planning requirements?

Any EHS present at your facility in an amount equal to or greater than its TPQ triggers the emergency planning requirements of this subpart. The TPQs are listed in Appendices A and B of this part in the column labeled “threshold planning quantity.”

### § 355.13 How do I calculate the quantity of an extremely hazardous substance present in mixtures?

If an EHS is present in a mixture in a particular container, determine the quantity (in pounds) of the EHS in that container by multiplying the concentration of the EHS (in weight percent) by the weight (in pounds) of the mixture in the container. If the concentration of an EHS is less than or equal to one percent in the mixture, you do not have to count that EHS. Here is an example calculation:

*Example:* You have 150 pounds of a mixture that contains 20 weight percent of a certain EHS. The quantity of EHS present in the mixture is:

$$\begin{aligned} \text{EHS (in pounds)} &= (\text{weight percent of EHS}) \times (\text{weight of mixture}) \\ &= (20 \text{ percent}) \times (150 \text{ pound mixture}) \\ &= (0.20) \times (150) \\ \text{EHS (in pounds)} &= 30 \text{ pounds} \end{aligned}$$

**§ 355.14 Do I have to aggregate extremely hazardous substances to determine the total quantity present?**

You must aggregate (*i.e.*, add together) the amounts of each EHS at your facility to determine if a TPQ is present. This means that, for a particular EHS, you must determine the total amount present at any one time at your facility by adding together the quantity of pure EHS and the quantity contained in all mixtures, regardless of location, number of containers, or method of storage. You do not have to count an EHS in a mixture if the concentration of that EHS is less than or equal to one percent.

**§ 355.15 Which threshold planning quantity do I use for an extremely hazardous substance present at my facility in solid form?**

EHSs that are in solid form are subject to one of two different TPQs (for example, TPQs may be listed as 500/10,000 pounds), both of which are listed in Appendices A and B of this part. Here is how to determine which of the two listed TPQs you must use for an EHS present at your facility in solid form:

(a) Use the lower TPQ from Appendices A and B of this part if the solid:

- (1) Is in powdered form and has a particle size less than 100 microns;
- (2) Is in solution;
- (3) Is in molten form; or
- (4) Meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3 or 4 for reactivity.

NOTE TO PARAGRAPH (a): Use the instructions in §355.16 to calculate the quantity present for the categories of solids listed in paragraphs (a)(1), (2) and (3) of this section.

(b) If the solid does not meet one of the criteria in paragraph (a) of this section, then the TPQ is 10,000 pounds.

**§ 355.16 How do I determine the quantity of extremely hazardous substances present for certain forms of solids?**

For the three forms of solids that are listed in §355.15(a)(1) through (3), use these instructions to determine the quantity of extremely hazardous substance present:

(a) *Solid in powdered form with a particle size less than 100 microns.* Multiply the weight percent of solid with a particle size less than 100 microns in a particular container by the total weight of solid in the container.

(b) *Solid in solution.* Multiply the weight percent of the non-reactive solid in solution in a particular container by the total weight of solution in that container. Then multiply by 0.2.

NOTE TO PARAGRAPH (b): This reduction in quantity must not be used to determine the amount present at one-time at a facility for reporting under 40 CFR 370.10.

(c) *Solid in molten form.* Multiply the weight of the non-reactive solid in molten form by 0.3.

NOTE TO PARAGRAPH (c): This reduction in quantity must not be used to determine the amount present at one-time at a facility for reporting under 40 CFR 370.10.

[73 FR 65462, Nov. 3, 2008, as amended at 77 FR 16688, Mar. 22, 2012]

HOW TO COMPLY

**§ 355.20 If this subpart applies to my facility, what information must I provide, who must I submit it to, and when is it due?**

Use this table to determine the information you must provide, who to provide it to, and when:

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What types of emergency planning notification are required?	What information must I provide?	To whom must I provide the information?	When must I provide the information?
(a) Emergency planning notification.	You must provide notice that your facility is subject to the emergency planning requirements of this subpart.	To the SERC and the LEPC ..	Within 60 days after your facility first becomes subject to the requirements of this subpart. If no LEPC exists for your facility at the time you are required to provide emergency planning notification, then you should report to the LEPC within 30 days after an LEPC is established for the emergency planning district in which your facility is located.
(b) Facility emergency coordinator.	You must designate a facility representative who will participate in the local emergency planning process as a facility emergency response coordinator. You must provide notice of this facility representative.	To the LEPC (or the SERC if there is no LEPC, or the Governor if there is no SERC).	Within 60 days after your facility first becomes subject to the requirements of this subpart. If no LEPC exists when you first report, then provide an additional report to the LEPC within 30 days after such LEPC is established for the emergency planning district in which your facility is located.
(c) Changes relevant to emergency planning.	You must provide notice of any changes occurring at your facility that may be relevant to emergency planning.	To the LEPC .....	Within 30 days after the changes have occurred.
(d) Requested information .....	You must provide any information necessary for developing or implementing the local emergency plan if the LEPC requests it.	To the LEPC .....	Promptly. Note: The LEPC may specify a time frame for this information.

**§ 355.21 In what format should the information be submitted?**

EPA does not require any specific format. EPA recommends that you submit the information described in § 355.20 in writing in order to insure appropriate documentation. The SERC or LEPC may request that this information be submitted in a specific format.

**Subpart C—Emergency Release Notification**

WHO MUST COMPLY

**§ 355.30 What facilities must comply with the emergency release notification requirements of this subpart?**

You must comply with the emergency release notification requirements in this subpart if both of these two conditions are met:

- (a) You produce, use, or store a hazardous chemical at your facility; and
- (b) You release a reportable quantity (RQ) of any EHS or of a hazardous sub-

stance as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA Hazardous Substance) at your facility. Certain releases are exempted from these requirements. Exempted releases are listed in § 355.31.

NOTE TO PARAGRAPH (b): In addition to the emergency release notification requirements of this subpart, releases of CERCLA hazardous substances are subject to the notification requirements under CERCLA. This is explained further in subpart D of this part.

**§ 355.31 What types of releases are exempt from the emergency release notification requirements of this subpart?**

You do not have to provide emergency release notification under this subpart for any of the following six types of releases of EHSs or CERCLA hazardous substances that occur at your facility:

- (a) Any release that results in exposure to persons solely within the boundaries of your facility.