

(h) The health professional receiving the trade secret information may disclose it to EPA only under the following circumstances: The health professional must believe that such disclosure is necessary in order to learn from the Agency additional information about the chemical necessary to assist him in carrying out the responsibilities set forth in paragraphs (c), (d), and (e) of this section. Such information comprises facts regarding adverse health and environmental effects.

## PART 355—EMERGENCY PLANNING AND NOTIFICATION

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APPENDIX A TO PART 355—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES (ALPHABETICAL ORDER)

APPENDIX B TO PART 355—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES (CAS NUMBER ORDER)

AUTHORITY: 42 U.S.C. 11002, 11004, and 11048.

SOURCE: 52 FR 13395, Apr. 22, 1987, unless otherwise noted.

### § 355.10 Purpose.

This regulation establishes the list of extremely hazardous substances, threshold planning quantities, and facility notification responsibilities necessary for the development and implementation of State and local emergency response plans.

### § 355.20 Definitions.

*Act* means the Superfund Amendments and Reauthorization Act of 1986.

*CERCLA* means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

*CERCLA Hazardous Substance* means a substance on the list defined in section 101(14) of CERCLA.

NOTE: Listed CERCLA hazardous substances appear in table 302.4 of 40 CFR part 302.

*Chief Executive Officer of the tribe* means the person who is recognized by the Bureau of Indian Affairs as the

chief elected administrative officer of the tribe.

*Commission* means the emergency response commission for the State in which the facility is located except where the facility is located in Indian Country, in which case, *commission* means the emergency response commission for the tribe under whose jurisdiction the facility is located. In absence of an emergency response commission, the Governor and the chief executive officer, respectively, shall be the commission. Where there is a cooperative agreement between a State and a Tribe, the commission shall be the entity identified in the agreement.

*Committee or Local emergency planning committee* means the local emergency planning committee appointed by the emergency response commission.

*Environment* includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

*Extremely hazardous substance* means a substance listed in appendices A and B of this part.

*Facility* means all buildings, equipment, structure, and other stationary items that 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 which controls, is controlled by, or under common control with, such person). *Facility* shall include manmade structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.

*Hazardous chemical* means any hazardous chemical as defined under §1910.1200(c) of Title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

- (1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.
- (2) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
- (3) Any substance to the extent it is used for personal, family, or household

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purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

*Indian Country* means *Indian country* as defined in 18 U.S.C. 1151. That section defines Indian country as:

(a) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

*Indian tribe* means those tribes federally recognized by the Secretary of the Interior.

*Mixture* means a heterogenous association of substances where the various individual substances retain their identities and can usually be separated by mechanical means. Includes solutions or compounds but does not include alloys or amalgams.

*Person* means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

*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 hazardous chemical, extremely hazardous substance, or CERCLA hazardous substance.

*Reportable quantity* means, for any CERCLA hazardous substance, the reportable quantity established in table 302.4 of 40 CFR part 302, for such substance, for any other substance, the reportable quantity is one pound.

*State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, any other territory or possession over which the United States has jurisdictions and Indian Country.

*Threshold planning quantity* means, for a substance listed in appendices A and B, the quantity listed in the column "threshold planning quantity" for that substance.

[52 FR 13395, Apr. 22, 1987; 54 FR 38853, Sept. 21, 1989, as amended at 55 FR 30645, July 26, 1990]

### § 355.30 Emergency planning.

(a) *Applicability.* The requirements of this section apply to any facility at which there is present an amount of any extremely hazardous substance equal to or in excess of its threshold planning quantity, or designated, after public notice and opportunity for comment, by the Commission or the Governor for the State in which the facility is located. For purposes of this section, an *amount of any extremely hazardous substance* means the total amount of an extremely hazardous substance present at any one time at a facility at concentrations greater than one percent by weight, regardless of location, number of containers, or method of storage.

(b) *Emergency planning notification.* The owner or operator of a facility subject to this section shall provide notification to the Commission that it is a facility subject to the emergency planning requirements of this part. Such notification shall be provided: on or before May 17, 1987 or within sixty days after a facility first becomes subject to the requirements of this section, whichever is later.

(c) *Facility emergency coordinator.* The owner or operator of a facility subject to this section shall designate a facility representative who will participate in the local emergency planning process as a facility emergency response