



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

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SEP 21 2006

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY
(ENVIRONMENT, SAFETY, AND OCCUPATIONAL HEALTH)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ENVIRONMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(ENVIRONMENT, SAFETY, AND OCCUPATIONAL HEALTH)
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Consolidated Emergency Planning and Community Right-to-Know Act (EPCRA)
Policy for DoD Installations, Munitions Activities, and Ranges

Attached is the Consolidated Emergency Planning and Community Right-to-Know Act (EPCRA) Policy for DoD Installations, Munitions Activities, and Ranges. This policy provides guidance on applying EPCRA and explains how Executive Order 13148 policy, goals, and requirements apply to DoD installations. The updated policy consolidates and supersedes all previous DoD EPCRA policies issued by the Office of the Secretary of Defense.

The effective date for the guidance will begin with Reporting Year 2007 for Toxic Release Inventory (TRI) reports due July 1, 2008. The current policy and definitions will remain in place through Reporting Year 2006.

Should you have any questions, my point of contact is Mr. David Asiello, (703) 571-9068; e-mail, david.asiello@osd.mil.

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Assistant Deputy Under Secretary of Defense
(Environment, Safety & Occupational Health)

Attachments:
As stated



Consolidated Emergency Planning and Community Right-to-Know Act (EPCRA) Policy for DoD Installations, Munitions Activities, and Operational Ranges

**Note: This policy supersedes March 1995, June 1996,
March 1998, and March 2000 DoD EPCRA policy.**

**This policy is effective for Reporting Year 2007,
for Toxics Release Inventory Report due July 1, 2008.**

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Appendix 1

Appendix 2

1.0 INTRODUCTION

Executive Order (E.O.) 12856, “Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements” was signed on August 3, 1993. E.O. 12856 challenged the Federal government to become a leader in pollution prevention and to be a “good neighbor” by providing information through compliance with the planning and reporting provisions of the Emergency Planning and Community Right-to-Know Act (EPCRA).

On April 22, 2000, E.O. 13148, “Greening the Government Through Leadership in Environmental Management” was signed. E.O. 13148 replaces E.O. 12856 and maintains the intent of Federal facility compliance with EPCRA. E.O. 13148 also challenges the Federal government with new goals for toxic chemical reduction and pollution prevention.

The U.S. Department of Defense (DoD) is committed to achieving E.O. 13148 goals, particularly informing the public of hazardous chemicals used at and released from Federal facilities.

2.0 PURPOSE

This policy: (1) explains how E.O. 13148 policy, goals, and requirements apply to DoD installations; and (2) consolidates and supersedes all previous DoD EPCRA policies issued by the Office of the Secretary of Defense. These policies include:

- DoD Guidance for Implementation of E.O. 12856 (March 1995), “Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements”
- Supplemental Guidance on EPCRA Requirements for E.O. 12856 (June 1996), memorandum from Sherri W. Goodman (Deputy Under Secretary of Defense (Environmental Security)) (DUSD(ES))
- Updated Guidance: EPCRA Compliance for Munitions Related Issues (March 1998)
- Guidance on Applying EPCRA Toxics Release Inventory (TRI) Requirements to Ranges (April 2000) (i.e., “March 2000 Range Guidance”)
- EPCRA TRI Reporting for CY 1999, memorandum from Sherri W. Goodman (DUSD(ES)) (21 June 2000)
- Questions and Answers Regarding TRI Reporting for Range Training and Demilitarization Activities (31 October 2001)
- DoD EPCRA TRI Motor Vehicle and Aircraft Refueling Memorandum (9 November 2001)
- TRI Reporting Questions and Issues Addressing the Coincidental Manufacture of Toxic Chemicals, Record Retention Time, and Hospital Activities (19 February 2002)

3.0 GENERAL EPCRA POLICY

3.1 Applicability

To meet E.O. 13148 requirements, DoD installations shall, to the extent permitted by law (including E.O. 13148), comply with the provisions of EPCRA and the Environmental Protection Agency's (EPA) EPCRA regulations (40 CFR Parts 355 to 372) in any State of the United States, the District of Columbia, the Commonwealths of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction. DoD installations outside of these areas shall make reasonable best efforts to comply with E.O. 13148 EPCRA goals as laid out in DoDI 4715.5 and/or country specific agreements.

3.2 DoD Policy Use

The DoD components shall refer to this policy and any service-specific policy when complying with EPCRA. The DoD components may also refer to EPA EPCRA policy. However, should EPA policy and this policy conflict, this policy takes precedence.

If a conflict between DoD and EPA EPCRA policies causes a discrepancy to arise during a DoD installation EPCRA inspection, the DoD installation shall refer the matter through its chain of command to its Component headquarters and the appropriate DoD Regional Environmental Coordinator (REC). The Component and REC will refer the matter to the office of the Secretary of Defense (OSD). OSD will consult with EPA headquarters to reconcile EPCRA policies.

3.3 EPCRA Report Submissions

Each DoD installation shall meet EPCRA reporting "deadline" requirements of E.O. 13148 and EPA's EPCRA regulations. Each DoD installation must also submit copies of EPCRA Section 313 Form R reports to their DoD Component's designated Form R collection organization using EPA's current automated Toxics Release Inventory (TRI) reporting software. Submissions should be in the Federal TRI-Made Easy (TRI-ME) 18 flat file format, sent via email or CD. If regulatory prerequisites (e.g., threshold quantities) for any EPCRA reporting requirement are not met, including EPCRA Section 313 TRI reporting, then no reporting is required.

3.4 EPCRA Documentation

DoD installations shall conduct the necessary efforts to determine whether reporting is required under each section of EPCRA. All DoD installations subject to the requirements must maintain supporting documentation of these efforts, even if reports are not required to be submitted. DoD installations must maintain applicable EPCRA documentation for a minimum of five years, unless a cross governing regulation (e.g., the Resource Conservation and Recovery Act) requires the installation to retain the records for a longer period. For TRI data, facilities should also archive previous versions of TRI-ME and State Utility (UTIL) software for five years to read previous year data.

3.5 EPA Inspections and Penalty Assessments

E.O. 13148 authorizes EPA to review and inspect EPCRA compliance on DoD installations. DoD installations shall fully cooperate with EPA Headquarters and Regional personnel conducting EPCRA inspections and reviews. EPA EPCRA inspections and reviews may be part of other media-specific or multi-media inspections.

E.O. 13148 does not give the EPA the authority to penalize (e.g., fine) DoD installations for EPCRA noncompliance. However, the EPA may issue Notices of Noncompliance or Violation for EPCRA violations (e.g., a failure to report toxic chemical releases, a failure to maintain toxic chemical release records). DoD shall respond to EPCRA Notices of Noncompliance or Violation with the same urgency and attention as Notices of Noncompliance or Violation associated with other environmental laws (e.g., Clean Water Act, Clean Air Act).

3.6 State EPCRA Requirements and Fees

E.O. 13148 and EPCRA do not require DoD installations to comply with state and local right-to-know requirements. However, DoD encourages compliance with state and local right-to-know requirements to the extent that funding is available in purpose and amount.

DoD installations shall comply with EPCRA Section 311 and Section 312 reporting requirements (40 CFR Part 370). State and local regulators can not waive DoD installation EPCRA reporting requirements by allowing Section 312 annual hazardous chemical inventory reporting to substitute for Section 311, material safety data sheet (MSDS) or list reporting.

For EPCRA Section 312 annual hazardous chemical inventory reporting, DoD installations may substitute state and local Tier II inventory forms, provided all the information (i.e., information fields) from the EPA Tier II inventory form is included within the state and local forms. DoD installations may file Section 312 inventory forms electronically Tier II Submit software where permitted.

Because EPCRA does not require DoD installations to comply with state and local right-to-know requirements, DoD installations cannot pay state and local right-to-know fees. DoD installations shall forward all state and local right-to-know fee invoices and reimbursement requests to their legal office for review.

3.7 EPCRA Awareness

Each DoD installation shall educate its civilian employees, military personnel, and on-site contractor personnel operating under DoD direction of DoD compliance obligations.

3.8 Public Involvement and EPCRA Report Availability

E.O. 13148 and EPCRA encourage community outreach. DoD components are similarly encouraged to establish processes for appropriate DoD installation community outreach (e.g., public information, community meetings, and notices of availability).

A primary goal of EPCRA is to give the public access to information concerning hazardous chemicals present in their community. EPCRA requires the State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC) to provide any EPCRA reports to the public upon request. Written requests for DoD EPCRA reports must be treated and processed by the applicable DoD component pursuant to the Freedom of Information Act, 5 U.S.C. §552. See DoD Freedom of Information Act Program, 5400.7-R. DoD installations are encouraged to refer non-written requests for EPCRA information to the appropriate Federal, state or local authorities.

3.9 National Security Exemptions

Section 801 of E.O. 13148 includes a National Security Exemption permitting the Secretary of Defense to request a Presidential exemption for particular DoD facilities from complying with the provisions of any or all provisions of E.O. 13148. A Presidential exemption would follow the procedures set forth in Section 120(j)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, with the following exceptions: (a) an exemption issued under EPCRA Section 801 will be for a specified period of time that may not exceed one year; (b) notice of any exemption granted under Section 801 for provisions not otherwise required by law is only required to the Director of the Office of Management and Budget, the Chair of the Council on Environmental Quality (CEQ), and the Director of the National Security Council; and (c) an exemption under Section 801 may be issued due to lack of appropriations, provided that the head of the agency requesting the exemption shows that necessary funds were requested by the agency in its budget submission and agency plan under E.O. 12088 of October 13, 1978, and were not contained in the President's budget request or the Congress failed to make available the requested appropriation. A DoD installation that may include several DoD facilities may, in rare circumstances, request a "blanket" Presidential exemption for a specified period of time.

DoD installation EPCRA reporting staff should consult with their security officer about how unclassified information reported under E.O. 13148 may affect installation or homeland security. Nothing in E.O. 13148 and EPCRA affects classified information management (e.g., access, safeguarding) requirements.

3.10 Contract Language

Section 3-305(c) of E.O. 13148 and Federal Acquisition Regulation (FAR) 23.1005 require contracting officers to insert the clause (and applicable alternate language) at FAR 52.223-5 in solicitations and contracts generally related to DoD installation operations and maintenance and contractor performance on DoD installations. Under FAR 52.223-5, contractors need to provide

“all information needed by the Federal facility to comply with ...EPCRA.” Contracting officers must refer to FAR 23.1005 to identify specific applicability to their DoD installation service contracts.

4.0 TIMELINE

Appendix 1 is a timeline of important dates and events related to E.O. 13148, EPCRA compliance, and pollution prevention.

5.0 DEFINITIONS

Appendix 2 contains definitions applicable to this policy.

6.0 GENERAL APPLICATION OF EPCRA TO DOD INSTALLATIONS

6.1 EPCRA Reporting

Under E.O. 13148, a DoD installation meeting the EPCRA definition of “facility”, is subject to EPCRA Section 313 reporting requirements regardless of Standard Industrial Classification (SIC) code and must also comply with EPCRA Sections 301-312 and their implementing regulations. Therefore, each DoD installation must identify its covered facility or facilities, their boundaries, and processes subject to EPCRA reporting. As a general rule, the potential applicability of EPCRA reporting requirements must be considered for all substances in all locations on a DoD installation, including chemicals brought on-site and used by DoD-directed contractors. EPCRA generally does not apply to the transportation of substances otherwise subject to EPCRA, except for EPCRA Section 304 emergency notification requirements for reportable extremely hazardous substance or hazardous substance releases.

A DoD installation with noncontiguous land may evaluate each discrete land area as a potential covered facility. The DoD installation shall clearly document its covered facility evaluation and consistently apply it in subsequent EPCRA reporting.

A DoD component installation geographically contiguous with another DoD component installation is only responsible for EPCRA reporting requirements for its own covered facility or facilities. For example, an Air Force base and Army base that share a fence line report as two separate facilities under EPCRA and E.O. 13148.

A DoD installation crossing state and local boundaries may have EPCRA reporting requirements to several state and local jurisdictions. When this occurs, the installation should report to all applicable state and local jurisdictions unless specifically instructed by those agencies not to do so.

6.2 Multiple-Tenant DoD Installation Reporting

A DoD component host installation is responsible for EPCRA reporting of other DoD component facilities. Host-tenant agreements and Interservice Support Agreements (ISAs)

should be written or revised to permit a host installation to receive timely and accurate EPCRA reporting information from other DoD components.

A host DoD installation is not generally responsible for EPCRA reporting of tenant non-DoD Federal agency facilities because tenant non-DoD Federal agency facilities are independently responsible for their EPCRA reporting. However, should a host DoD installation know of an unreported, reportable release from a tenant non-DoD Federal agency facility, the DoD installation shall ensure proper EPCRA reporting.

A host DoD installation is not responsible for the EPCRA reporting of non-Federal tenant facilities that do not support DoD operations in the conduct of their business on the host DoD installation.

DoD tenant covered facilities on non-DoD property are responsible for their EPCRA reporting requirements.

6.3 DoD Operational Ranges and “Facility”

DoD applies the EPCRA definition of “facility” to its operational ranges to assess EPCRA Section 313 applicability and calculate threshold quantities. DoD installations shall not separate contiguous operational ranges from the rest of the installation for EPCRA Section 313 reporting and shall not seek a separate TRI facility identification number for operational ranges. Where a range is not adjacent or contiguous to any other DoD property, the range may be considered separately for purposes of EPCRA Section 313. The EPCRA definition of “facility” includes “all buildings, equipment, structures, and other stationary items....” Although this definition is expansive, many operational ranges are areas with few or no structures. Some operational ranges may contain stationary targets, an observation control tower, or a temporary ammunition storage magazine; however, these buildings or structures do not “manufacture, process, or otherwise use” TRI toxic chemicals and would not be subject to EPCRA Section 313 threshold quantity calculations. In contrast, military training activities on indoor ranges or at or from other fixed, constructed equipment or structures, would “manufacture, process, or otherwise use” TRI toxic chemicals and would be included in EPCRA Section 313 threshold quantity calculations. Where it is not practical to aggregate individual facilities on a range to determine applicability or to calculate threshold quantities, a Service may view an entire operational range as a “facility” in determining threshold quantities.

DoD considers certain military munitions treatment activities to be “otherwise use” of toxic chemicals in facilities, therefore, toxic chemicals and chemical category members destroyed in the following activities shall be subject to EPCRA Section 313 threshold quantity requirements:

- Open burning and open detonation (OB/OD);
- Incineration;
- Chemical neutralization or stabilization; and
- Other methods of final treatment that alter the chemical composition of the military munitions and/or their components.

Once the threshold quantity is exceeded for a specific toxic chemical, the DoD installation shall report any releases of the specific toxic chemical from all non-exempt activities throughout the installation. However, EPCRA Section 313 reporting from operational range activities should be tracked separately from the main installation. Both the installation and associated operational range would report as “Part B” in Part I, Section 4.2 on the Form R using the distinct name but the same TRI Facility Identification Number (e.g., Facility A and Facility A Range).

Toxic chemical manufacturing, processing, and use in a laboratory under the supervision of technically qualified individual is not included in threshold quantity calculations or the amount of a release reported once a threshold quantity is exceeded. This “laboratory exemption” may be applicable to DoD operational ranges used for military munitions testing (e.g., indoor test ranges).

To calculate toxic chemical threshold quantities, DoD installations shall assume that all military munitions used at each operational range facility that manufactures, processes, or otherwise uses toxic chemicals will function as intended (i.e., the dud rate will be considered as zero) and all energetics will detonate or burn as designed.

6.4 Government-Owned, Contractor-Operated (GOCO) Facilities

Contractors operating DoD facilities (i.e., GOCOs) are generally responsible for complying with EPCRA and any reporting requirements applicable to their operations.

GOCO EPCRA Section 313 releases are included in the DoD baseline and measurements of achievement for E.O. 13148 toxic chemical release reduction goals.

7.0 EPCRA REPORTING

7.1 Sections 302 and 303 – Emergency Planning Notification

7.1.1 General

EPCRA Sections 302 and 303 concern emergency planning. Section 504 of E.O. 13148 requires DoD installations comply with EPCRA Section 302 and report to the SERC and LEPC the presence of each extremely hazardous substance (EHS) at any one time meeting or exceeding its threshold planning quantity (TPQ) at concentrations greater than one percent by weight. Section 504 of E.O. 13148 also requires DoD installations comply with EPCRA Section 303 and report certain emergency planning information to state and local emergency response planners so that they may protect public health, safety, and the environment, and establish and coordinate emergency planning activities.

Each DoD installation with an EHS on-site at any one time in an amount meeting or exceeding the TPQ must report under EPCRA Section 302. EHSs within military munitions and munitions related items are included within calculations for determining EPCRA Section 302 and Section 303 reporting applicability. DoD installations storing military munitions should advise the LEPC of whether the installation fire department or local fire department received

training on site-specific explosive hazards from the stored military munitions (See also 7.2 General, which discusses installation fire department where munitions are stored.).

7.1.2 DoD Installation EPCRA Sections 302 and 303 Reporting Requirements

- Each DoD installation meeting or exceeding an EPCRA Section 302 EHS TPQ shall, within 60 days after becoming aware of meeting or exceeding the TPQ, submit an EPCRA Section 302 notice to the SERC and LEPC stating that the installation is subject to EPCRA Section 302 emergency planning provisions.
- Each DoD installation submitting an EPCRA Section 302 notice to the SERC shall also submit an EPCRA Section 303 notice to the SERC and LEPC. The notice shall identify the DoD installation representative who will participate in the local emergency planning process as a facility emergency response coordinator (See 40 CFR §355.30).
- Each DoD installation shall promptly resubmit its EPCRA Section 303 notice following any change at the DoD installation that may be relevant to emergency planning.
- DoD installations may provide EPCRA Section 303 notice with state right-to-know reporting formats, provided the formats meet or exceed EPCRA Section 303 reporting requirements.
- LEPCs have the authority to request additional information necessary for developing and implementing a local emergency plan. To support local emergency plan development, DoD installations should provide LEPCs information from installation emergency response plans to the fullest extent practicable and shall cooperate with all LEPC requests for information to the extent permitted by law.
- Section 504 of E.O. 13148 requires DoD installations comply with EPCRA Sections 302 and 303. DoD does not require compliance with state and local right-to-know requirements that are more stringent than the Federal EPCRA requirements; however, such compliance is encouraged.

7.1.3 Insignificant EHS Volume

Mixtures containing an EHS at a concentration of less than or equal to one percent by weight in a compound or mixture are regarded as *de minimis*, and the volume is not considered in determining the presence of an EHS TPQ.

7.2 Section 304 – Emergency Notification

7.2.1 General

In the event of a reportable quantity EHS or CERCLA hazardous substance (HS) release from a facility (See Appendix 2 for the definition of “facility” which includes motor vehicles, rolling stock, and aircraft for Section 304 purposes), Section 504 of E.O. 13148 requires DoD installations to comply with EPCRA Section 304 requirements to immediately provide notice of the release to the community emergency coordinator for the LEPC of the area likely to be affected by the release and to the SERC of any state likely to be affected by the release. The

EPCRA Section 304 emergency notice is intended to protect the public from EHS and CERCLA HS releases.

DoD explosives safety policy discourages the use of local fire departments in fighting uncontrolled fires involving military munitions because local firefighters may be subject to risks for which they are unprepared. DoD installations storing military munitions should maintain their own fire departments and properly train and equip their emergency response personnel.

Motor vehicles, rolling stock (i.e., rail cars), and aircraft are a “facility” for purposes of EPCRA Section 304 emergency notice. Therefore, an accidental EHS or CERCLA HS release from a motor vehicle, rail car, or aircraft, including EHS and CERCLA HS transported under active shipping papers, is subject to EPCRA Section 304 emergency notice requirements if the release meets or exceeds its EPCRA reportable quantity. Vessels (e.g., ships and barges) are not a facility for purposes of EPCRA Section 304 emergency notice.

7.2.2 DoD Installation EPCRA Section 304 Emergency Notification Requirements

- Each DoD installation with reportable quantity EHS or CERCLA HS release meeting the applicable EPCRA Section 304 reportable quantity in any 24-hour period shall provide an immediate notice of the release to the community emergency coordinator for the LEPC of the area likely to be affected by the release and to the SERC of any state likely to be affected by the release. Mandatory notice contents are listed at 40 CFR §355.40.
- Each DoD installation providing an EPCRA Section 304 emergency notification shall, as soon as practicable following the release, provide a written follow-up emergency notice. Follow-up emergency notice contents are listed at 42 U.S.C. §11004(c) and 40 CFR §355.40.
- Each DoD installation providing an EPCRA Section 304 emergency notification and a follow-up emergency notice shall provide additional written follow-up emergency notifications as more information becomes available to submit or update emergency notice contents.
- For CERCLA HS, providing EPCRA Section 304 emergency notice is a requirement in addition to notice required under CERCLA Section 103 to the National Response Center (NRC) at 1-800-424-8802. Federal, state, or local requirements may mandate other spill or release notices based upon: (1) the quantity and properties of the substance released; (2) the environmental media and other natural resources impacted by the release; and (3) the terms and conditions of applicable permits or interagency agreements.
- Each DoD installation providing an EPCRA Section 304 emergency notification shall also report the release through their chain of command. The report’s contents shall mirror 40 CFR §355.40 mandatory notice requirements.

7.2.3 EPCRA Section 304 Exemptions (42 U.S.C. §11004, 40 CFR §355.40)

EHS and CERCLA HS release exemptions from EPCRA Section 304 emergency notification include:

- Any release which results in exposure to persons solely within the boundaries of the facility.
- Any release that is a “Federally permitted release” as defined under CERCLA Section 101(10) (42 U.S.C. §9601(10)).
- “Continuous releases” that are stable in quantity and rate, provided other restrictions established as defined under CERCLA Section 103(f) are met – reporting would be required for the initial release and statistically significant increases.
- Application of a pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the handling or storage of such pesticide by an agricultural producer (42 U.S.C. §9603(e)).
- Any release not meeting the definition of release under CERCLA Section 101(22), including: (1) emissions from engine exhaust of a motor vehicle, rolling stock, aircraft, or pipeline pumping stationary engine; (2) the normal applications of fertilizer; and (3) releases which result in exposure to persons solely within a workplace with respect to a claim which such persons may assert against their employers.
- Any radionuclide release which occurs naturally in soil from such places as parks, golf courses, or other large tracts of land or which occurs naturally from land disturbance activities, including farming and construction.

7.3 Sections 311 and 312 – MSDS Reporting and Hazardous Chemical Inventory Reporting

7.3.1 General

Section 504 of E.O. 13148 requires DoD installations to comply with EPCRA Sections 311 and 312, which collectively require facilities (See Appendix 2 for the definition of “facility”) that maintain material safety data sheets (MSDSs) to: (1) submit the MSDSs or a list of all hazardous chemicals present at the facility to the LEPC, SERC, and the local fire department; and (2) submit emergency and hazardous chemical inventory forms to the LEPC, SERC, and the local fire department. For both reports, the hazardous chemical must be present in an amount equal to or greater than the applicable threshold level at any one time in order to be reported (See 40 CFR §370.25).

The purposes of these requirements are: (1) increasing community awareness of chemical hazards; (2) providing comprehensive information about the identity and amounts of stored chemicals; and (3) making information available to the public, emergency planners, and responders.

Hazardous chemical components of military munitions and munitions related items are subject to EPCRA Sections 311 and 312 reporting requirements if they are stored in bulk form and are not military munitions or munitions end items (e.g., rockets, bombs, mines, bullets, fuses, initiators, or bursters). However, the DoD and the Occupational Safety and Health Administration (OSHA) consider stored military munitions end items and the hazardous

chemicals and EHS within them to be exempt from OSHA MSDS requirements and EPCRA Section 311 and 312 reporting requirements.

Hazardous chemicals and EHS controlled under the Chemical Stockpile Emergency Preparedness Program (CSEPP) are subject to Section 311 and 312 reporting requirements. MSDS and emergency and hazardous chemical inventory information from CSEPP stockpile sites should be reported to the LEPC, SERC, and the local fire department to the maximum extent practicable as allowed by national security requirements.

7.3.2 DoD Installation EPCRA Section 311 and 312 Reporting Requirements

When EPCRA Section 311 and 312 reports are required:

- Each DoD installation shall submit its EPCRA Section 311 list of chemicals or MSDS compilation to the LEPC, SERC, and the local fire department within three months after becoming subject to EPCRA Sections 311 reporting requirements or within three months after discovering significant new information about a hazardous chemical previously reported.
- Each DoD installation shall submit an EPCRA Section 312 Tier II inventory form to the LEPC, SERC, and the local fire department on or before 1 March of each year if hazardous chemicals or EHSs at any facility on the DoD installation meet or exceed their EPCRA Section 311-312 threshold quantities at any one time during the previous calendar year.
- A state regulator cannot waive Federal agency EPCRA Section 311 compliance.
- If a list of hazardous chemicals was provided rather than the MSDS, the LEPC may request an MSDS for any hazardous chemical on a DoD installation (See 40 CFR §370.21(d)). Each DoD installation shall attempt to comply with such a request within 30 days.
- When a DoD installation fire department exclusively serves the installation, the DoD installation fire department shall, with the LEPC and SERC, receive the DoD installation's EPCRA Section 311 and 312 reports.
- Each DoD installation may submit its EPCRA Section 312 inventory form electronically to any LEPC, SERC, or local fire department that accepts electronic submissions using EPA's "Tier II Submit" software.
- The DoD installation commander is not required to sign the EPCRA Section 312 Tier II inventory form (or state-equivalent form). Any responsible management official may sign the report.
- The Standard Industrial Classification (SIC) code for DoD installation EPCRA Section 312 reporting is "9711."
- The North American Industrial Classification System (NAICS) code for DoD installation EPCRA Section 312 reporting is "928110."
- Each DoD installation may use a state and local emergency and hazardous chemical inventory form reporting format in lieu of the Section 312 Federal Tier II information report format, provided all Tier II information is included.

7.3.3 Exemptions Under EPCRA Sections 311 and 312

For evaluating EPCRA Section 311 and 312 applicability, the term “hazardous chemical” means any chemical that is a physical hazard or a health hazard as defined in 29 CFR §910.1200 (the Hazard Communication Standard, an OSHA regulation). However, the term does not include:

- Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.
- A substance present as a solid in any manufactured item such that exposure to the substance does not occur under normal conditions of use.
- Any substance that is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.
- Any substance used in a research laboratory, hospital, or other medical facility under the direct supervision of a technically-qualified individual.
- Any substance used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer (See 42 U.S.C. §11021(e)).

As stated above, when evaluating EHSs or hazardous chemicals in mixtures, the *de minimis* exemption may be applied. Hazardous chemicals and EHS present in a mixture or solution in a concentration that is less than or equal to 1 percent, or less than or equal to 0.1 percent if the substance is carcinogenic, may be exempted (See 40 CFR §370.28).

7.4 EPCRA Section 313 – Toxic Chemical Release Reporting

7.4.1 General

Section 501 of E.O. 13148 requires each DoD installation to comply with EPCRA Section 313 and submit toxic chemical release forms (i.e., EPA “Form R”) to the EPA and State if they have a “facility” that manufactured, processed, or otherwise used toxic chemicals in excess of threshold quantities. This process is commonly known as the Toxics Release Inventory (TRI). TRI’s primary purpose is to inform the public of the total annual toxic chemical releases from facilities in the community. E.O. 13148 requires EPCRA Section 313 reporting by each DoD installation if the “facility” meets the following criteria:

- Has 10 or more full-time employees (or the equivalent); and
- Manufactured, processed, or otherwise used toxic chemicals (See 40 CFR §372.65) in excess of EPCRA Section 313 threshold quantities during the calendar year for which a release form is required.

See Section 6.3 of this policy for how DoD applies the EPCRA definition of “facility” to its operational ranges to assess EPCRA Section 313 applicability and calculating threshold quantities.

7.4.2 Employee Criterion for EPCRA Section 313

To calculate whether the DoD installation has 10 or more full-time employees, the installation shall add full-time and part-time civilian employee and military personnel work hours during the calendar year. A DoD installation or non-contiguous operational range with less than 20,000 employee work hours on the installation during the calendar year is not required to conduct TRI reporting for that calendar year.

7.4.3 EPCRA Section 313 “Facility”

As with its operational ranges, DoD applies the EPCRA definition of “facility” to the DoD installation to assess EPCRA Section 313 applicability and calculate threshold quantities. The EPCRA definition of “facility” includes “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 and operated by the same person...” (See Appendix 2 for the EPCRA definition of “facility”.) Although this definition is expansive, many outdoor activities on a DoD installation do not occur within a “facility” and would not be included in EPCRA Section 313 threshold calculations. Where it is not practical to aggregate individual facilities on a range to determine applicability or to calculate threshold quantities, a Service may view an entire operational range as a “facility” in determining threshold quantities.

Once the threshold quantity is exceeded for a specific toxic chemical at any facility on a DoD installation, however, the DoD installation shall report all non-exempt toxic chemical or toxic chemical category releases throughout the DoD installation – including those facilities on the DoD installation’s operational ranges.

7.4.4 DoD Installation EPCRA Section 313 Reporting Requirements

- Using only the EPA-approved means, each DoD installation, subject to the reporting requirements of EPCRA Section 313, shall prepare a Form R report for each toxic chemical and toxic chemical category exceeding a threshold quantity, even if no release or off-installation (i.e., off-site) transfer of each toxic chemical occurred (See 40 CFR §372.30(a)). When a threshold is exceeded for a given toxic chemical, all non-exempt releases of that toxic chemical from all activities on the installation for the entire calendar year shall be reported.
- Each DoD installation commander shall sign the Form R report(s), unless the installation commander delegates this authority, in writing, to a subordinate.
- Each DoD installation shall submit its Form R report(s) to the EPA and state on or before 1 July of each year (covering activities during the previous calendar year). Each DoD installation shall forward copies of its Form R submissions to its service’s EPCRA Section 313 coordinator.

- DoD installations shall not use EPA Form A as an alternative to Form R for EPCRA Section 313 reporting requirements.
- Each DoD installation shall submit its Form R report(s) electronically to the EPA and to the state, provided the state accepts the report(s) electronically.
- Numerical estimates for each toxic chemical release on the installation and each off-site toxic chemical transfer quantity must be entered on the Form R report. However, despite EPA Form R instructions permitting the use of “range codes” to denote certain ranges of releases (e.g., A=1-10 pounds, B=11-499 pounds, C=500-999 pounds) in lieu of actual numbers, DoD installations shall not use range codes to report releases and off-site transfer quantities.
- The SIC code for DoD installation EPCRA Section 313 reporting is “9711.”
- The NAICS code for DoD installation EPCRA Section 313 reporting is “928110.”
- Each DoD installation shall submit revised Form R report(s) to the EPA, state, and its service’s designated EPCRA Section 313 when necessary to correct errors or omissions in a prior year’s reporting.
- Each DoD installation shall maintain EPCRA TRI documentation for at least five years. Documentation shall include all reports, data, calculations, interviews, notes, and pertinent correspondence for threshold determinations and release reporting. Such documentation is crucial to supporting evidence on whether the TRI chemical thresholds were exceeded or not. This documentation can then be used as supporting evidence in the event of an audit or dispute.
- Each DoD TRI Component POC shall submit to OSD, TRI Form R data for installations under the Components control and any revisions to previously submitted TRI Form Rs reported to State and/or EPA regulators. Submissions should be in the Federal TRI-ME 18 Flat file format, sent via email or CD.

7.4.5 EPCRA Section 313 Activities and Thresholds

A separate threshold for each activity, “manufacture,” “processing,” and “otherwise use” applies to each EPCRA Section 313 toxic chemical and toxic chemical category. If a toxic chemical or toxic chemical category exceeds any one of the thresholds at any facility on a DoD installation, then all non-exempt releases of that toxic chemical or toxic chemical category on the DoD installation shall be reported.

7.4.5.1 Manufacture and Coincidental Manufacture

“Manufacture” means to produce, prepare, import, or compound a toxic chemical (See 42 U.S.C. §11023). “Coincidental manufacture” includes the creation of an EPCRA Section 313 toxic chemical as a byproduct or impurity separated from another chemical (EPCRA Section 313 listed or not) or mixture of chemicals.

Other than the coincidental manufacture of a chemical impurity remaining in a product distributed in commerce and chemicals contained in motor vehicle exhaust, coincidentally-manufactured toxic chemicals do not qualify for any exemption from EPCRA Section 313

reporting requirements. Toxic chemicals coincidentally manufactured from an exempt activity often cannot be exempted and must be included in threshold quantity and release calculations. For example, toxic chemicals contained in sewage are exempt from EPCRA Section 313 reporting requirements, but water dissociable nitrate compounds generated during treatment of sanitary wastewater are not exempt. Similarly, combustion of fuels for heating buildings is exempt from EPCRA Section 313 reporting requirements, but hydrochloric acid and polycyclic aromatic compounds produced from fuel combustion heat plants are not exempt.

DoD considers all toxic chemicals in motor vehicle exhaust to be exempt from EPCRA Section 313 threshold quantity and release calculations. Therefore, as stated above, coincidentally-manufactured products in motor vehicle exhaust are also considered exempt from threshold and release calculations. Motor vehicles include military and civilian motorized vehicles such as: trucks, cars, cranes, forklifts, aircraft, ships, and locomotives.

The generation or creation of toxic chemicals for use in munitions related items and the intentional or coincidental production of toxic chemicals (e.g., as byproducts of combustion from the treatment or destruction of military munitions) are considered manufacturing and subject to EPCRA Section 313 threshold quantity and release requirements.

DoD installations shall report on each toxic chemical and toxic chemical category that exceeds the manufacturing threshold quantity of 25,000 pounds per calendar year, or the lower threshold quantity that applies to each toxic chemical that is a persistent, bioaccumulative, and toxic (PBT) chemical.

7.4.5.2 Processing

“Process” or “Processing” means the preparation of a toxic chemical (or member of a toxic chemical category), after its manufacture, for distribution in commerce. Processing also includes the intentional incorporation of a toxic chemical into a product or serviced item. Repackaging (e.g., pouring contents of a 55-gallon drum into smaller containers) a toxic chemical and sending it to another DoD installation is processing, and repackaging and other processing of toxic chemicals within a facility for distribution off a DoD installation is subject to EPCRA Section 313 threshold quantity requirements.

Demilitarization of military munitions and munitions related items may include operations considered processing for EPCRA Section 313 reporting requirements. Demilitarization includes disassembly and dismantling of munition end items, recycling and recovery of the chemicals contained in munition related items, and the reclamation and reuse of propellant, energetics, and pyrotechnics.

Scrap metal from DoD installations, including scrap metal generated from munitions use and demilitarization, may contain metals listed as toxic chemicals. Scrap metal is processed when sold into commerce for recycling or reuse. However, any scrap metal remaining in its original form or design that has not released from a facility more than 0.5 pounds of a toxic chemical when combined with all other releases of the same toxic chemical from similar processed scrap metal at the same or other facilities on a DoD installation during the calendar year is not subject to EPCRA Section 313 reporting requirements for the toxic chemical.

DoD installations shall report on each toxic chemical and toxic chemical category that exceeds the processing threshold quantity of 25,000 pounds per calendar year, or the lower threshold quantity that applies to each toxic chemical that is a persistent, bioaccumulative, and toxic (PBT) chemical.

7.4.5.3 Otherwise Use

“Otherwise use” means activities at a facility on a DoD installation involving a toxic chemical after the chemical has been created that do not incorporate the toxic chemical into a product distributed in commerce. “Otherwise use” does not include toxic chemical storage. “Otherwise use” also does not include activities generating a release of a toxic chemical from an existing item. For example, when de-painting a military vehicle, the cadmium, chromium, or lead compounds released from the operation are not being otherwise used. “Otherwise use” also does not include toxic chemical remediation. “Otherwise use” includes toxic chemicals received in waste received from off a DoD installation when the toxic chemicals in the waste are treated for destruction, stabilized for transfer, or disposed.

DoD considers certain military munitions treatment activities to be “otherwise use” of toxic chemicals in facilities, regardless of whether the treated military munitions were exclusively used on the DoD installation or were brought to the DoD installation from another area. Therefore, toxic chemicals and chemical category members destroyed in the following activities shall be subject to EPCRA Section 313 threshold quantity requirements:

- Open burning and open detonation (OB/OD);
- Incineration;
- Chemical neutralization or stabilization; and
- Other methods of final treatment that alter the chemical composition of the military munitions and/or their components.

DoD installations shall report on each toxic chemical and toxic chemical category that exceeds the otherwise use threshold quantity of 10,000 pounds per calendar year, or the lower threshold quantity that applies to each toxic chemical that is a persistent, bioaccumulative, and toxic (PBT) chemical.

7.4.6 Persistent Bioaccumulative and Toxic (PBT) Chemicals – Thresholds and Applicability

The EPA created a list of PBT chemicals with EPCRA Section 313 threshold quantities lower than the current EPCRA Section 313 toxic chemical threshold quantity of 25,000 or 10,000 pounds per year. DoD installations should review EPA’s toxic chemical list to find the toxic chemicals listed as PBTs and identify their corresponding threshold quantities (See 40 CFR §372.28). Common PBT chemicals found at DoD installations include listed pesticides, metals (e.g., mercury, mercury compounds, lead, lead compounds), and products of incineration and combustion activities (e.g., polycyclic aromatic compounds, benzo(g,h,i)perylene). Threshold

quantities from PBT chemicals range from 0.1 gram to 100 pounds, and these threshold quantities apply to each category of facility operations (i.e., manufacture, process, or otherwise use).

7.4.7 Toxics Release Inventory-Data Delivery System (TRI-DDS) Calculation Tool

The TRI-DDS calculation tool was developed to assist DoD installations in calculating EPCRA Section 313 toxic chemical threshold quantities and releases for military munitions and operational range activities. DoD installations should use the TRI-DDS to promote consistent DoD EPCRA Section 313 reporting.

7.4.8 Exemptions for DoD Facilities from EPCRA Section 313

Exemptions provided by EPCRA Section 313 regulations include the following.

7.4.8.1 Laboratory Activity Exemption [40 CFR §372.38(d)]

The laboratory activity exemption applies to toxic chemicals manufactured, processed, or otherwise used in a laboratory at a covered facility for quality control, research and development, and other laboratory activities. It is not a blanket exemption for any facility that has the title “laboratory” in its name. To qualify, the toxic chemical(s) must be used directly in, or produced as a result of, a laboratory activity at a facility on a DoD installation, and the manufacture, processing, or otherwise use must occur under the supervision of a technically qualified individual. Generally, bench-scale activities are exempt, and activities at a laboratory that do not directly support research and development, sampling and analysis, or quality assurance and control are not exempt. Specialty chemical production and pilot plant scale activities do not qualify for the laboratory activities exemption. DoD specifically applies the laboratory exemption to the cleaning of equipment within a laboratory, as well as the standards and test samples that are necessary to calibrate and set up laboratory equipment. DoD range activities related to RDT&E of new or existing munitions, weapon systems, and platforms are exempt as laboratory activities from threshold determinations and release reporting.

7.4.8.2 Property Owners of Leased Property [40 CFR §372.38(e)]

The owner of a facility is not subject to reporting under 40 CFR §372.30 (Toxic Chemical Release Reporting) if such owner's only interest in the facility is ownership of the real estate upon which the facility is operated. Therefore, a host DoD installation is not generally responsible for EPCRA reporting of tenant non-DoD Federal agency facilities because tenant non-DoD Federal agency facilities are independently responsible for their EPCRA reporting. See Section 6.2 of this policy for more information.

7.4.8.3 Structural Component Exemption [40 CFR §372.38(c)(1)]

A DoD installation may exempt from threshold quantity determinations and release reporting toxic chemicals that are structural components of a facility or that are used to ensure or improve a facility's structural or functional integrity. This exemption applies to listed toxic chemicals

and chemical category members in materials that are part of a facility's structure (e.g., copper in piping in the facility).

DoD installations are not responsible for estimating or reporting releases from passive degradation and natural weathering from facility's structural components. This also applies to small amounts of material passively abraded or corroded from pipes, tanks, and other stationary equipment.

Maintenance and repair on the DoD installation's infrastructure are also exempt. For example, painting to maintain the physical integrity and function of a facility are exempt, and this exemption applies to the pigment components of the paint that adhere to the facility structure, the solvent components of the paint, and the solvents and cleaners used to clean painting equipment following the painting process. The installation infrastructure includes, but is not limited to: buildings, roads, runways, fence lines, and utilities.

7.4.8.4 Routine Janitorial/Grounds Maintenance Exemption [40 CFR §372.38(c)(2)]

A DoD installation, in maintaining its facilities, may exempt from threshold quantity determinations and release reporting toxic chemicals used for routine janitorial or facility grounds maintenance. This exemption applies to routine use of cleaning supplies, fertilizers, pesticides, fungicides, herbicides, rodenticides, and insecticides similar in type and concentration to consumer products.

7.4.8.5 Personal Use Exemption [40 CFR §372.38(c)(3)]

A DoD installation may exempt from threshold quantity determinations and release reporting personal use by employees or other persons of foods, drugs, cosmetics, or other personal items containing toxic chemicals, including supplies of such products within a facility such as in a facility operated cafeteria, store, or infirmary. This exemption extends to DoD installation commissaries, medical facilities, and housing. The personal use exemption also applies to hazardous chemicals contained in fuel and any other toxic chemicals related to personal automobiles.

The personal use exemption applies to toxic chemicals used strictly for personal comfort and necessity. Therefore, toxic chemicals required for maintaining the heating, cooling, and comfort of DoD installation housing, office buildings, and other facilities may also be exempt from threshold quantity determinations and release reporting. This exemption includes, but is not limited to, toxic chemicals in drinking water supplied to housing and office buildings (e.g., chlorine), boiler fuels producing building heat, air conditioning units, and human waste in sewage. It does not, however, extend to coincidentally-manufactured toxic chemicals, like mercury compounds or hydrochloric acid manufactured during the burning of boiler fuels for heating. Similarly, the coincidental manufacture of water dissociable nitrate compounds in DoD wastewater treatment facilities is also not exempt.

The personal use exemption applies to non-military weapons training and other non-military munitions use on operational ranges and recreational ranges (e.g., local law enforcement qualification testing, Rod and Gun Club events).

7.4.8.6 Motor Vehicle Maintenance Exemption [40 CFR §372.38(c)(4)]

A DoD installation may exempt from threshold quantity determinations and release reporting the use of products containing toxic chemicals for the purpose of maintaining motor vehicles (e.g., ships, aircraft, cars) operated by the DoD installation. For example, toxic chemicals in fuels and other materials at facilities used to maintain or operate staff cars, base maintenance and support vehicles, and privately owned vehicles are exempt.

DoD installations are not exempt from threshold quantity determinations and release reporting for toxic chemicals used at the Intermediate and Depot Level (as defined by DoD Directive 4151.18) for maintaining and repairing tactical vehicles, aircraft (including missiles), and ships. Shore installations are not exempt from reporting toxic chemicals used in repairing and painting of ships that are in port or in dry-dock.

Motor vehicle maintenance below Intermediate and Depot Level (i.e. Organizational Level) is exempt. For example, organizational level units are exempt from threshold quantity determinations and release reporting of toxic chemicals used in the maintenance of motor pool vehicles.

DoD installation motor vehicle refueling, the refueling of motor vehicles owned or under the operational or custodial control of a DoD installation, is exempt under the motor vehicle maintenance exemption. Similarly, releases from the transfer of fuel and fueling activities from both mobile (e.g., tanker trucks or movable bulk storage tanks) and stationary sources (e.g., fixed storage tanks) are exempt when the fuel is used for DoD installation motor vehicle refueling.

DoD installations cannot claim the motor vehicle maintenance exemption for refueling motor vehicles that are not owned or under the operational or custodial control of a DoD installation (i.e., transient motor vehicles). Transient motor vehicles are motor vehicles, including aircraft and ships, that only stop at a DoD installation for fuel or rest and have no mission at the DoD installation. Fuel and other products containing toxic chemicals, like antifreeze and motor oil, provided to transient motor vehicles are not exempt from threshold quantity determinations and release reporting. Toxic chemicals in products provided to transient motor vehicles are considered an “otherwise use” of the toxic chemicals. Also, releases associated with the storage and transfer of fuel and other products containing toxic chemicals provided to transient motor vehicles are also subject to threshold quantity determinations and release reporting.

All emissions from motor vehicle exhaust are exempt from threshold quantity determinations and release reporting. This exemption includes vehicle exhaust from installation motor vehicles, personally-owned motor vehicles, and transient motor vehicles.

7.4.8.7 Intake Water/Air Exemption [40 CFR §372.38(c)(5)]

A DoD installation may exempt from threshold quantity determinations and release reporting toxic chemicals present in process water or non-contact cooling water as drawn from the environment or from municipal sources. The exemption also covers toxic chemicals present in the air used either as compressed air or as part of combustion.

7.4.8.8 De Minimis Exemption [40 CFR §372.38(a)]

In general, when a mixture contains a non-PBT toxic chemical at a concentration of less than one percent by weight, or less than 0.1 percent by weight if the toxic chemical is an OSHA-defined carcinogen, the DoD installation is not required to consider the quantity of the toxic chemical when making a threshold quantity determination or calculating the amount of a release to be reported. This *de minimis* exemption only applies to mixtures as received and cannot be applied to a concentration of chemicals in diluted waste streams or to toxic chemicals that are manufactured. Note: the *de minimis* exemption does not apply to PBT toxic chemicals, and any concentration of a PBT chemical must be considered in threshold quantity calculations and release reports.

7.4.8.9 Article Exemption [40 CFR §372.38(b)]

A DoD installation may exempt from threshold quantity determinations and release reporting toxic chemicals present in an article when the article is present at a facility. An “article” is a manufactured item that is formed to a specific shape or design during manufacture, that has end-use function dependent in whole or in part upon its shape or design during end-use, and that does not release a toxic chemical under normal conditions of the processing or otherwise use of that item at the facility. The article exemption does not apply to article manufacture, and toxic chemicals processed into articles produced at a facility must also be considered in threshold quantity calculations and release reports. If a release of a toxic chemical occurs as a result of the processing or use of a manufactured item at a facility, that item does not meet the definition of article.

Some components of military munitions items that are expended at the point of fire and do not travel down range can be considered articles. Items such as casings, clips, and pins are examples of articles and the toxic chemicals (e.g., copper) contained in them are exempt from threshold quantity determinations and release reporting. However, if the installation shreds or crushes an article and changes its shape and design, then the resulting scrap metal can no longer be considered an article, and the toxic chemicals contained in the metal must be considered in threshold quantity calculations and release reports.

7.4.9 Toxic Chemical Release Reduction Goals

DoD installations meeting or exceeding EPCRA Section 313 toxic chemical threshold quantity reporting levels shall develop goals contributing to DoD’s goal of reducing toxic chemical releases and off-site transfers by 40 percent. In general, DoD’s toxic chemical release reduction goal permits variation in achievement at each DoD installation. However, each DoD

installation shall contribute to DoD's toxic chemical release reduction goal to the fullest extent practicable. Calendar Year (CY) 2001 is the baseline for measuring DoD's progress in achieving the 40 percent reduction goal by the end of CY2006. The DoD will evaluate DoD installation progress towards meeting this goal by using DoD installation information reported on EPA Form R.

DoD does not consider facility releases from military munitions, operational range activities, and conventional and chemical military munitions demilitarization in measuring progress towards DoD's goal of reducing toxic chemical releases and off-site transfers by 40 percent. Although DoD has reduced the use of toxic chemicals in some military munitions, further significant reductions of toxic chemicals may not be possible without adversely affecting military training and readiness. Thus, for any EPCRA Section 313 toxic chemical release reduction goals (or other metrics), DoD will only include activities in facilities associated with the manufacture of military munitions. DoD will continue its efforts to identify and reduce the use of toxic chemicals in military munitions through the acquisition process.

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APPENDIX 1

TIMELINE

Date:	Event:
3 August 1993	President Clinton signs E.O. 12856, "Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements."
1 January 1994	EPCRA Section 304 Emergency Release Reporting Requirements become effective for DoD installations.
3 March 1994	Original EPCRA Section 302 emergency planning notification is due.
3 August 1994	Additional information in support of emergency response plan is due upon LEPC request. Original EPCRA Section 311 MSDS or list submission due to SERC, LEPC, and local fire department.
March 1995	DoD Joint Services EPCRA – TRI Working Group issues "Guidance for Implementation of Executive Order 12856: Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements."
1 March 1995	First EPCRA Section 312 reports for reporting year (i.e., calendar year) 1994 are due to SERC, LEPC, and local fire department.
1 July 1995	First EPCRA Section 313 TRI reports for reporting year (i.e., calendar year) 1994 are due to EPA and SERC.
30 December 1995	Calendar year 1994 TRI reports for installations that close before 1997 are due.
31 December 1995	Written pollution prevention plans for DoD installations are due.
June 1996	DoD Joint Services EPCRA-TRI Working Group issues "Supplemental Guidance on EPCRA Requirements for E.O. 12856."
March 1998	DoD Joint Services EPCRA-TRI Working Group issues "Updated Guidance: EPCRA Compliance for Munitions Related Issues."
1 July 1998	Military Service headquarters complete TRI reports for installations closed before 31 December 1997.
1 March 1999	Hazardous chemicals within military munitions are included in EPCRA Section 312 reports for first time for reporting year 1998.
March 2000	DoD Joint Services EPCRA-TRI Working Group issues "Updated Guidance: EPCRA Compliance for Ranges."
22 April 2000	President Clinton signs E.O. 13148, "Greening the Government Through Leadership in Environmental Management."
21 June 2000	Sherri W. Goodman, DUSD-ES, signs memorandum, "EPCRA Toxic Release Inventory (TRI) Reporting for Calendar Year 1999."
1 July 2000	Munitions activity "releases" are included in EPCRA Section 313 reports for first time for reporting year 1999.
1 July 2001	Persistent, bioaccumulative, and toxic (PBT) chemicals and their lower thresholds are included in EPCRA Section 313 reports for the first time for reporting year 2000.
9 November 2001	John Paul Woodley, Jr., ADUSD-E, signs memorandum establishing transient fuels policy and clarifying the definition of "facility" as it is applied to operational ranges.
19 February 2002	John Paul Woodley, Jr., ADUSD-E, signs memorandum transmitting coincidental manufacture policy, affirming applicability of EPCRA Section 313 to hospitals, and restating five-year record retention period.
1 July 2002	"Releases" from range activities are included in EPCRA Section 313 TRI reports for the first

Date:	Event:
	<p>time for reporting year 2001.</p> <p>Lead and lead compounds, as PBTs, are included in EPCRA Section 313 TRI reports for the first time for reporting year 2001.</p>
1 July 2003	<p>Coincidental manufacturing from exempt activities and transient fueling activities are included in EPCRA Section 313 TRI reports for the first time for reporting year 2002.</p>
TBD	<p>DoD Joint Services EPCRA/TRI Working Group issues "Consolidated EPCRA Policy for DoD Installations, Munitions Activities, and Ranges."</p>

APPENDIX 2
DEFINITIONS

Article: A manufactured item: (1) which is formed to a specific shape or design during manufacture; (2) which has end use functions dependent in whole or in part upon its shape or design during end use; and (3) which does not release a toxic chemical under normal conditions of use at the facility or establishments(40 CFR §372.3).

Coincidental manufacture: The creation of a regulated toxic chemical as a byproduct or impurity when some action is performed on another chemical or mixture of chemicals.

Covered facilities: All DoD installations, regardless of Standard Industrial Classification (SIC) code or North American Industry Classification System (NAICS) code, meeting one or more EPCRA reporting requirements, including:

- EPCRA Sections 302 and 303: Any Extremely Hazardous Substance (EHS) at or above its Threshold Planning Quantity (TPQ) (40 CFR §355.20).
- EPCRA Sections 311 and 312: Hazardous chemicals at or above 10,000 pounds and EHSs at or above 500 pounds or the TPQ, whichever is less (40 CFR §§370.20, 370.21, and 370.40).
- EPCRA Section 313: For toxic chemicals listed in 40 CFR §372.65: (1) 25,000 lbs/yr manufacturing and/or importing; (2) 25,000 lbs/yr processing; (3) 10,000 lbs/yr otherwise using; or (4) the persistent bioaccumulative toxic (PBT) chemical-specific threshold for one or more listed toxic chemicals (40 CFR §372.25).

Facility: 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 which controls, is controlled by, or under common control with, such person). For purposes of Section 304 of EPCRA, the term includes motor vehicles, rolling stock, and aircraft (42 U.S.C. §11049(f)).

Military Munitions: All ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard. Military munitions include: (1) confined gaseous, liquid, and solid propellants; (2) explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives, and chemical warfare agents; (3) chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, and demolition charges; and (4) devices and components of any item listed in clauses (1) through (3), above. Military munitions do not include: (1) wholly inert items; (2) improvised explosive devices; and (3) nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. §2011 et seq.) have been completed (10 U.S.C. §101).

Munitions activity: The manufacture and demilitarization of military munitions and munitions-related items.

Operational Range: A range that is under the jurisdiction, custody, or control of the Secretary of a military department and that is used for range activities, or although not currently being used for range activities, that is still considered by the Secretary to be a range and has not been put to a new use that is incompatible with range activities (10 U.S.C. §101).

Range: When used in a geographic sense, a designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. A range includes: (1) firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas; and (2) airspace areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration (10 U.S.C. §101).

Range Activities: Research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and the training of members of the armed forces in the use and handling of military munitions, other ordnance, and weapons systems (10 U.S.C. § 101).