


[Home Page](#) > [Executive Branch](#) > [Code of Federal Regulations](#) > [Electronic Code of Federal Regulations](#)

## Electronic Code of Federal Regulations (e-CFR)

BETA TEST SITE

e-CFR Data is current as of January 31, 2006

 [Return to search results](#)

---

### Title 40: Protection of Environment

[Browse Previous](#) | [Browse Next](#)

#### PART 355—EMERGENCY PLANNING AND NOTIFICATION

---

##### Section Contents

[§ 355.10 Purpose.](#)

[§ 355.20 Definitions.](#)

[§ 355.30 Emergency planning.](#)

[§ 355.40 Emergency release notification.](#)

[§ 355.50 Penalties.](#)

[Appendix A to Part 355—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities](#)

[Appendix B to Part 355—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities](#)

---

**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 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.



[top](#)

(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 coordinator. The owner or operator shall notify the local emergency planning committee (or the Governor if there is no committee) of the facility representative on or before September 17, 1987 or 30 days after establishment of a local emergency planning committee, whichever is earlier.

(d) *Provision of information.* (1) The owner or operator of a facility subject to this section shall inform the local emergency planning committee of any changes occurring at the facility which may be relevant to emergency planning.

(2) Upon request of the local emergency planning committee, the owner or operator of a facility subject to this section shall promptly provide to the committee any information necessary for development or implementation of the local emergency plan.

(e) *Calculation of TPQs for solids and mixtures.* (1) If a container or storage vessel holds a mixture or solution of an extremely hazardous substance, then the concentration of extremely hazardous substance, in weight percent (greater than 1 percent sign), shall be multiplied by the mass (in pounds) in the vessel to determine the actual quantity of extremely hazardous substance therein.

(2)(i) Extremely hazardous substances that are solids are subject to either of two threshold planning quantities as shown on appendices A and B (i.e., 500/10,000 pounds). The lower quantity applies only if the solid exists in powdered form and has a particle size less than 100 microns; or is handled in solution or in molten form; or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3 or 4 for reactivity. If the solid does not meet any of these criteria, it is subject to the upper (10,000 pound) threshold planning quantity as shown in appendices A and B.

(ii) The 100 micron level may be determined by multiplying the weight percent of solid with a particle size less than 100 microns in a particular container by the quantity of solid in the container.

(iii) The amount of solid in solution may be determined by multiplying the weight percent of solid in the solution in a particular container by the quantity of solution in the container.

(iv) The amount of solid in molten form must be multiplied by 0.3 to determine whether the lower threshold planning quantity is met.

#### § 355.40 Emergency release notification.



(a) *Applicability.* (1) The requirements of this section apply to any facility: (i) at which a hazardous chemical is produced, used or stored and (ii) at which there is release of a reportable quantity of any extremely hazardous substance or CERCLA hazardous substance.

(2) This section does not apply to:

(i) Any release which results in exposure to persons solely within the boundaries of the facility;

(ii) Any release which is a *federally permitted release* as defined in section 101 (10) of CERCLA;

(iii) Any release that is continuous and stable in quantity and rate under the definitions in 40 CFR 302.8  
(b). Exemption from notification under this subsection does not include exemption from:

(A) Initial notifications as defined in 40 CFR 302.8 (d) and (e);

(B) Notification of a "statistically significant increase," defined in 40 CFR 302.8(b) as any increase above the upper bound of the reported normal range, which is to be submitted to the community emergency coordinator for the local emergency planning committee for any area likely to be affected by the release and to the State emergency response commission of any State likely to be affected by the release;

(C) Notification of a "new release" as defined in 40 CFR 302.8(g)(1); or

(D) Notification of a change in the normal range of the release as required under 40 CFR 302.8(g)(2).

(iv) Any release of a pesticide product exempt from CERCLA section 103(a) reporting under section 103 (e) of CERCLA;

(v) Any release not meeting the definition of release under Section 101(22) of CERCLA, and therefore exempt from Section 103(a) reporting; and

(vi) Any radionuclide release which occurs:

(A) Naturally in soil from land holdings such as parks, golf courses, or other large tracts of land.

(B) Naturally from land disturbance activities, including farming, construction, and land disturbance incidental to extraction during mining activities, except that which occurs at uranium, phosphate, tin, zircon, hafnium, vanadium, monazite, and rare earth mines. Land disturbance incidental to extraction includes: land clearing; overburden removal and stockpiling; excavating, handling, transporting, and storing ores and other raw (not beneficiated or processed) materials; and replacing in mined-out areas coal ash, earthen materials from farming or construction, or overburden or other raw materials generated from the exempted mining activities.

(C) From the dumping and transportation of coal and coal ash (including fly ash, bottom ash, and boiler slags), including the dumping and land spreading operations that occur during coal ash uses.

(D) From piles of coal and coal ash, including fly ash, bottom ash, and boiler slags.

Note to paragraph (a): Releases of CERCLA hazardous substances are subject to the release reporting requirements of CERCLA section 103, codified at 40 CFR part 302, in addition to the requirements of this part.

(b) *Notice requirements.* (1) The owner or operator of a facility subject to this section shall immediately notify the community emergency coordinator for the local emergency planning committee of any area likely to be affected by the release and the State emergency response commission of any State likely to be affected by the release. If there is no local emergency planning committee, notification shall be provided under this section to relevant local emergency response personnel.

(2) The notice required under this section shall include the following to the extent known at the time of notice and so long as no delay in notice or emergency response results:

(i) The chemical name or identity of any substance involved in the release.

(ii) An indication of whether the substance is an extremely hazardous substance.

(iii) An estimate of the quantity of any such substance that was released into the environment.

(iv) The time and duration of the release.

(v) The medium or media into which the release occurred.

(vi) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(vii) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordination pursuant to the emergency plan).

(viii) The names and telephone number of the person or persons to be contacted for further information.

(3) As soon as practicable after a release which requires notice under (b)(1) of this section, such owner or operator shall provide a written follow-up emergency notice (or notices, as more information becomes available) setting forth and updating the information required under paragraph (b)(2) of this section, and including additional information with respect to:

(i) Actions taken to respond to and contain the release,

(ii) Any known or anticipated acute or chronic health risks associated with the release, and,

(iii) Where appropriate, advice regarding medical attention necessary for exposed individuals.

(4) *Exceptions.* (i) Until April 30, 1988, in lieu of the notice specified in paragraph (b)(2) of this section, any owner or operator of a facility subject to this section from which there is a release of a CERCLA hazardous substance which is not an extremely hazardous substance and has a statutory reportable quantity may provide the same notice required under CERCLA section 103(a) to the local emergency

planning committee.

(ii) An owner or operator of a facility from which there is a transportation-related release may meet the requirements of this section by providing the information indicated in paragraph (b)(2) to the 911 operator, or in the absence of a 911 emergency telephone number, to the operator. For purposes of this paragraph, a *transportation-related release* means a release during transportation, or storage incident to transportation if the stored substance is moving under active shipping papers and has not reached the ultimate consignee.

[52 FR 13395, Apr. 22, 1987, as amended at 54 FR 22543, May 24, 1989; 55 FR 30188, July 24, 1990; 63 FR 13475, Mar. 19, 1998; 64 FR 13115, Mar. 17, 1999]

### § 355.50 Penalties.



[top](#)

(a) *Civil penalties.* Any person who fails to comply with the requirements of §355.40 shall be subject to civil penalties of up to \$25,000 for each violation in accordance with section 325(b)(1) of the Act.

(b) *Civil penalties for continuing violations.* Any person who fails to comply with the requirements of §355.40 shall be subject to civil penalties of up to \$25,000 for each day during which the violation continues, in accordance with section 325(b)(2) of the Act. In the case of a second or subsequent violation, any such person may be subject to civil penalties of up to \$75,000 for each day the violation continues, in accordance with section 325(b)(2) of the Act.

(c) *Criminal penalties.* Any person who knowingly and willfully fails to provide notice in accordance with §355.40 shall, upon conviction, be fined not more than \$25,000 or imprisoned for not more than two (2) years, or both (or, in the case of a second or subsequent conviction, shall be fined not more than \$50,000 or imprisoned for not more than five (5) years, or both) in accordance with section 325(b)(4) of the Act.

### Appendix A to Part 355—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities



[top](#)

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity * (pounds)	Threshold planning quantity (pounds)
75-86-5	Acetone	.....	10	1,000
	Cyanohydrin.			
1752-30-3	Acetone	.....	1,000	1,000/10,000
	Thiosemicarbazide.			
107-02-8	Acrolein.....	.....	1	500
79-06-1	Acrylamide.....	l	5,000	1,000/10,000
107-13-1	Acrylonitrile.....	l	100	10,000
814-68-6	Acrylyl Chloride..	h	100	100
111-69-3	Adiponitrile.....	l	1,000	1,000
116-06-3	Aldicarb.....	c	1	100/10,000
309-00-2	Aldrin.....	.....	1	500/10,000
107-18-6	Allyl Alcohol.....	.....	100	1,000
107-11-9	Allylamine.....	.....	500	500
20859-73-8	Aluminum Phosphide	b	100	500
54-62-6	Aminopterin.....	.....	500	500/10,000

4301-50-2	Fluenetil.....	.....	100	100/10,000
7782-41-4	Fluorine.....	k	10	500
640-19-7	Fluoroacetamide...	j	100	100/10,000
144-49-0	Fluoroacetic Acid.	.....	10	10/10,000
359-06-8	Fluoroacetyl Chloride.	c	10	10
51-21-8	Fluorouracil.....	.....	500	500/10,000
944-22-9	Fonofos.....	.....	500	500
50-00-0	Formaldehyde.....	l	100	500
107-16-4	Formaldehyde Cyanohydrin.	h	1,000	1,000
23422-53-9	Formetanate Hydrochloride.	d, h	1	500/10,000
2540-82-1	Formothion.....	.....	100	100
17702-57-7	Formparanate.....	d	1	100/10,000
21548-32-3	Fosthietan.....	.....	500	500
3878-19-1	Fuberidazole.....	.....	100	100/10,000
110-00-9	Furan.....	.....	100	500
13450-90-3	Gallium Trichloride.	.....	500	500/10,000
77-47-4	Hexachlorocyclopentadiene.	h	10	100
4835-11-4	Hexamethylenediamine, N,N[prime]-Dibutyl-.	.....	500	500
302-01-2	Hydrazine.....	.....	1	1,000
74-90-8	Hydrocyanic Acid..	.....	10	100
7647-01-0	Hydrogen Chloride (gas only).	l	5,000	500
7664-39-3	Hydrogen Fluoride.	.....	100	100
7722-84-1	Hydrogen Peroxide (Conc > 52%).	l	1,000	1,000
7783-07-5	Hydrogen Selenide.	.....	10	10
7783-06-4	Hydrogen Sulfide..	l	100	500 ✓
123-31-9	Hydroquinone.....	l	100	500/10,000
13463-40-6	Iron, Pentacarbonyl-.	.....	100	100
297-78-9	Isobenzan.....	.....	100	100/10,000
78-82-0	Isobutyronitrile..	h	1,000	1,000
102-36-3	Isocyanic Acid, 3,4-Dichlorophenyl Ester.	.....	500	500/10,000
465-73-6	Isodrin.....	.....	1	100/10,000
55-91-4	Isofluorophate.....	c	100	100
4098-71-9	Isophorone Diisocyanate..	.....	100	500
108-23-6	Isopropyl Chloroformate.	.....	1,000	1,000
119-38-0	Isopropylmethylpyrazolyl Dimethylcarbamate.	d	1	500
78-97-7	Lactonitrile.....	.....	1,000	1,000
21609-90-5	Leptophos.....	.....	500	500/10,000
541-25-3	Lewisite.....	c, h	10	10
58-89-9	Lindane.....	.....	1	1,000/10,000
7580-67-8	Lithium Hydride...	b	100	100
109-77-3	Malononitrile.....	.....	1,000	500/10,000
12108-13-3	Manganese, Tricarbonyl	h	100	100

115-21-9	Trichloroethylsilane.	h	500	500
327-98-0	Trichloronate.....	k	500	500
98-13-5	Trichlorophenylsilane.	h	500	500
1558-25-4	Trichloro(Chloromethyl)Silane.	.....	100	100
27137-85-5	Trichloro(Dichlorophenyl) Silane.	.....	500	500
998-30-1	Triethoxysilane...	.....	500	500
75-77-4	Trimethylchlorosilane.	.....	1,000	1,000
824-11-3	Trimethylolpropane Phosphite.	h	100	100/10,000
1066-45-1	Trimethyltin Chloride.	.....	500	500/10,000
639-58-7	Triphenyltin Chloride.	.....	500	500/10,000
555-77-1	Tris(2-Chloroethyl)Amine.	h	100	100
2001-95-8	Valinomycin.....	c	1,000	1,000/10,000
1314-62-1	Vanadium Pentoxide	.....	1,000	100/10,000
108-05-4	Vinyl Acetate Monomer.	1	5,000	1,000
81-81-2	Warfarin.....	.....	100	500/10,000
129-06-6	Warfarin Sodium...	h	100	100/10,000
28347-13-9	Xylylene Dichloride.	.....	100	100/10,000
58270-08-9	Zinc, Dichloro(4,4-Dimethyl-5(((Methylamino) Carbonyl) Oxy) Imino) Pentane nitrile)-, (T-4)-.	.....	100	100/10,000
1314-84-7	Zinc Phosphide....	b	100	500

\* Only the statutory or final RQ is shown. For more information, see 40 CFR table 302.4.

Notes:

- a This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.
- b This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, nonsolution form.
- c The calculated TPQ changed after technical review as described in the technical support document.
- d Indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or other toxicity is completed.
- e Statutory reportable quantity for purposes of notification under SARA sect 304(a)(2).
- f [Reserved]
- g New chemicals added that were not part of the original list of 402 substances.
- h Revised TPQ based on new or re-evaluated toxicity data.
- j TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.
- k The TPQ was revised after proposal due to calculation error.
- l Chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ('Other chemicals').



((2,2[prime]-(1,2-Ethanediybis  
(Nitrilomethylidy  
ne)) Bis(6-  
Fluorophenolato))  
(2-)-  
N,N[prime],O,O[pr  
ime))-.

---

\*Only the statutory or final RQ is shown. For more information, see 40 CFR table 302.4.

Notes:

- a. This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.
- b. This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, non-solution form.
- c. The calculated TPQ changed after technical review as described in the technical support document.
- d. Indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or other toxicity is completed.
- e. Statutory reportable quantity for purposes of notification under SARA sect 304(a)(2).
- f. [Reserved]
- g. New chemicals added that were not part of the original list of 402 substances.
- h. Revised TPQ based on new or re-evaluated toxicity data.
- j. TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.
- k. The TPQ was revised after proposal due to calculation error.
- l. Chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ('`Other chemicals'').

[61 FR 20484, May 7, 1996, as amended at 68 FR 52984, Sept. 8, 2003; 69 FR 68815, Nov. 26, 2004]

[Browse Previous](#) | [Browse Next](#)

---

For questions or comments regarding e-CFR editorial content, features, or design, email [ecfr@nara.gov](mailto:ecfr@nara.gov).

For questions concerning e-CFR programming and delivery issues, email [webteam@gpo.gov](mailto:webteam@gpo.gov).

Last updated: July 27, 2005