



EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Emergency Planning and Notification; Emergency Planning and List of Extremely Hazardous Substances and Threshold Planning Quantities

Introduction

EPA has proposed amendments to revise the way in which regulated facilities apply the threshold planning quantities (TPQs) for Extremely Hazardous Substances (EHS) that are non-reactive solid chemicals in solution form. Facilities with a solid EHS in solution are subject to the Emergency Planning requirements of section 302 of the Emergency Planning and Community Right-to-Know Act (EPCRA) if the amount of solid chemical on site, when multiplied by 0.2, equals or exceeds the lower published TPQ. With these amendments, EPA modified the TPQs for solid EHS chemicals in solution based on currently available data that show less potential for the solid chemical in solution to remain airborne in the event of an accidental release.

Who is Affected by This Rule?

Organizations and facilities subject to section 302 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and its implementing regulations found in 40 CFR 355 subpart B may be affected by this rule. To determine whether your facility is affected by this action, you should carefully examine the applicability provisions of 40 CFR part 355. The proposed action will neither increase nor decrease requirements for State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs).

There are 157 EHS chemicals that are solids at ambient temperature, which could potentially be affected by this change, if they are handled by facilities in a solution form (the affected chemicals are identified in Appendix C of the Technical Support Document, which is in the docket to this rule). These 157 chemicals also appear with two TPQs (the higher TPQ is 10,000 pounds) in Appendices A and B of 40 CFR part 355. Additionally, this rule will not apply for the 12 solid EHS chemicals that are reactive solids (noted as footnote "a" in Appendices A and B of 40 CFR part 355).

Why is EPA Proposing These Changes?

On October 11, 2000, Syngenta (formerly Zeneca, formerly ICI Americas) filed a lawsuit requesting EPA to either delete Paraquat Dichloride from the Extremely Hazardous Substances (EHS) list or raise its Threshold Planning Quantity (TPQ). In 1994, EPA had previously denied their petition to delete the chemical. Syngenta claimed:

- The inhalation toxicity tests using very small particles are not relevant data to use for listing the chemical as an EHS.
- It is highly unlikely that inhalable particles or vapors of Paraquat Dichloride could become airborne during an accidental release. Paraquat Dichloride is only manufactured, processed, and used in solution form and it has a very low vapor pressure.
- EPA did not explain why a greater potential for airborne dispersion for solids in solution

exists as opposed to liquid chemicals when setting the TPQs.

On January 31, 2003, the court granted EPA's motion for voluntary remand to reconsider the petition and dismissed Syngenta's complaint. In a letter to Syngenta on November 21, 2003, EPA reaffirmed its denial to delete Paraquat Dichloride from the EHS list based on its inhalation toxicity. However, the Agency agreed to consider a revision to the TPQ for Paraquat Dichloride in the context of a proposed rule to amend the TPQ for all EHS chemicals handled as solids in solution.

What is EPA's Rationale for the TPQ Changes?

While compiling the new TPQ changes, EPA took several factors into account. Such factors included:

- Development of existing TPQs;
- Syngenta's petition for changing paraquat Dichloride's TPQ and the claims against EPA;
- The basis for existing solids in solutions in TPQ; and
- Airborne dispersion of solids in solution.

What Are the Economic Impacts of the TPQ Changes?

For facilities with an EHS that exists as a solid in solution, the emergency planning notification is currently required if the amount of solid by weight meets or exceeds the lower published TPQ for that chemical. Solid EHSs have another higher TPQ of 10,000 pounds that applies only if the EHS is not in solution, has a particle size equal to or greater than 100 microns, is not molten, and does not have a National Fire Protection Association (NFPA) reactivity rating of 2, 3, or 4.

The proposed rule would subject facilities with a solid EHS in solution to the emergency planning requirements if the amount of solid chemical on site, when multiplied by 0.2, equals or exceeds the lower published TPQ. The effect would be to allow facilities to have up to five times larger amounts of EHS solids in solution on site than before without being subject to the above emergency planning requirements.

Facilities that have already complied with emergency planning notification are required to notify their LEPC if the amount of solid Extremely Hazardous Substances in solutions no longer equals or exceeds the TPQ when using the new application. We expect that this proposed rule will neither increase nor decrease the burden for facilities who have already complied.

Where Do I Go For More Information?

For more information on EPCRA: <http://www.epa.gov/emergencies/content/lawsregs/epcraover.htm>.
