

	Waste Programs Division Substantive Policy Statement	Page 1 of 4
	Interpretation of “use” of toxic substances in excess of 10,000 pounds for the Pollution Prevention Program	Rev. 000
		Effective:

This Substantive Policy Statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

1.0 Purpose

This policy statement explains ADEQ’s current interpretation of *use* for determining when more than 10,000 pounds of a toxic substance is *used* in the previous calendar year under the Pollution Prevention (P2) Program thresholds.

2.0 Definitions

“Toxic Substance” or “toxics” means a toxic chemical listed pursuant to the pollution prevention act of 1990 (42 United States Code section 13102(3)) and on the EPCRA Section 313 toxic substance (or chemical) list.

“EPCRA” means the Emergency Planning and Community Right-to-Know Act.

“P2” means pollution prevention.

“P2 plan” means the required facility analysis and report for ADEQ on ways to reduce the use of toxic substances and the generation of hazardous waste as described in A.R.S. §49-961 et seq.

“Section 313” is a part of EPCRA that requires applicable facilities to submit a toxic chemical release form for any of the 600 chemicals that are manufactured, processed or otherwise used.

“TRI” means Toxic Release Inventory Program.

3.0 Directive Statement

A.R.S. § 49-963(D) requires a facility that used in excess of 10,000 pounds of a toxic substance in the previous calendar year, to prepare and implement a P2 plan that addresses a reduction of the use of the toxic substance.

ADEQ interprets *use* in A.R.S. § 49-963(D) to mean the manufacturing or processing of a toxic substance, as further described below.

Manufacturing means producing, preparing or compounding a toxic substance for sale, distribution into commerce, or on-site use or processing.

Processing means preparing a toxic substance for distribution into commerce after its manufacture where the same physical state and chemical form, as that received by the facility, of the chemical is maintained. This includes any toxic substance that is used as:

- As a reactant, such as using a toxic substance in chemical reactions for the manufacture of another chemical substance or product.
 - For example; feedstocks, raw materials intermediates and initiators
- As a formulation component which includes any toxic substance added to a product prior to further distribution of the product that acts as performance enhancer during use of the product.
 - For example; additives, dyes, solvents, inhibitors, emulsifiers and flame retardants
- As an article component that becomes an integral component of an article distributed for industrial, trade or consumer use.
 - For example; pigment components of paint applied to a chair that is sold

Exceptions: Toxic substances described in the following three categories do not count toward the 10,000 lb. “use” threshold:

1. Toxic substances that are:
 - Used for routine janitorial or facility grounds maintenance
 - Used to maintain motor vehicles operated by the facility
 - Used as a structural component of the facility
 - Contained in batteries (lead and sulfuric acid)
 - Contained in intake water (used for processing or non-contact cooling) or in intake air (used either as compressed air or for combustion)
2. The following activities:
 - Repackaging of a toxic substance
 - Storing a toxic substance
 - On-site recycling of a toxic substance
 - Personal use of a toxic substance by employees or other persons
 - Blending or burning a toxic substance for energy recovery
3. Any toxic substance use not described by a qualifier in Table II. EPCRA Section 313 Chemical List.
 - For example; aluminum oxide is only considered *used* if it is in a fume or dust form.

- Additionally, Persistent Bioaccumulative Toxic (PBT) chemicals, listed in Table II must be used in excess of 10,000 pounds to meet P2 program thresholds; even though the TRI program reporting threshold is lower. For example, the TRI program classifies lead and lead compounds as PBT chemicals which are subjected to the TRI program's lower use threshold of 100 pounds. However, if no TRI program thresholds are met, lead and lead compounds must be used in excess of 10,000 pounds to meet P2 program thresholds.

NOTE: Facilities that must file annual toxic release inventory forms (or TRI forms) for the toxic substance(s) used at the facility, and pursuant to Section 313 of EPCRA, are bound by the definition of *use* set forth by Section 313(a) and (b) of EPCRA.

A copy of Table II has been attached to this policy. Facilities must ensure to compare chemicals to the current list which can be found on the TRI web site.

4.0 Directive Owner (Person Responsible for Implementing & Maintaining the Directive – Title/Unit/Section/Division)

Waste Program's Permit Section Manager

5.0 Audience

Arizona facilities, as described above, that may have to file a pollution prevention plan and ADEQ employees who implement the Arizona Pollution Prevention Plan requirement.

6.0 Communication & Training

The Permits Section Manager and Sustainability Programs Unit Supervisor will review this statement annually to insure that relevant employees are aware of its content including procedures for compliance, audit and review.

7.0 Compliance & Audit Plan

Prior to each annual review, the Sustainability Programs Unit Supervisor will ensure that an inventory is conducted to determine number of potential filers that have been determined exempt under the policy. Each annual review shall evaluate whether applicable external stakeholders are aware of the policy and explore methods to increase awareness if needed.


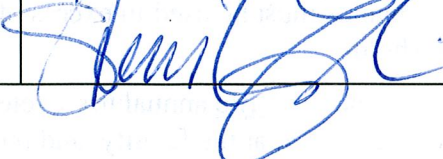
8.0 Review & Revision

This directive will be reviewed on an annual basis.

9.0 Additional Documentation

None

10.0 Approved by:

Title	Name	Signature	Date
Division Director	Laura Malone		5/26/16
Administrative Counsel	Sherri Zendri		5/31/14

11.0 Historical Note

[Describes the changes or updates to a directive, which serves as a reference for the reader to understand any past changes.]

Date	Change	Ref. Section

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Table II. EPCRA Section 313 Chemical List For Reporting Year 2015 (including Toxic Chemical Categories)

Where am I: TRI Forms & Instructions Document

[Table II. Chemical Qualifiers](#)

[Table II. a. Alphabetical List of TRI Chemicals](#)

[Table II. b. CAS Numbered List of TRI Chemicals](#)

[Table II. c. Chemical Categories](#)

Individually listed EPCRA Section 313 chemicals with CAS numbers are arranged alphabetically refer to [Table II. a. Alphabetical List of TRI Chemicals](#). Following the alphabetical list, the EPCRA Section 313 chemicals are arranged in CAS number order. Covered chemical categories follow.

Certain EPCRA Section 313 chemicals listed in Table II have parenthetical "qualifiers." These qualifiers indicate that these EPCRA Section 313 chemicals are subject to the section 313 reporting requirements if manufactured, processed, or otherwise used in a specific form or when a certain activity is performed. The following chemicals are reportable only if they are manufactured, processed, or otherwise used in the specific form(s) listed below:

Chemical/ Chemical Category	CAS Number	Qualifier
Aluminum (fume or dust)	7429-90-5	Only if it is a fume or dust form.
Aluminum oxide (fibrous forms)	1344-28-1	Only if it is a fibrous form.
Ammonia (includes anhydrous ammonia and aqueous ammonia from water dissociable ammonium salts and other sources; 10 percent of total aqueous ammonia is reportable under this listing)	7664-41-7	Only 10% of aqueous forms. 100% of anhydrous forms.
Asbestos (friable)	1332-21-4	Only if it is a friable form.
Hydrochloric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size)	7647-01-0	Only if it is an aerosol form as defined.
Nitrate compounds (water dissociable; reportable only when in aqueous solution)	NA	Only if in aqueous solution
Phosphorus (yellow or white)	7723-14-0	Only if it is a yellow or white form.
Sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size)	7664-93-9	Only if it is an aerosol form as defined.
Vanadium (except when contained in an alloy)	7440-62-2	Except if it is contained in an alloy.
Zinc (fume or dust)	7440-66-6	Only if it is in a fume or dust form.

The qualifier for the following three chemicals is based on the chemical activity rather than the form of the chemical. These chemicals are subject to EPCRA section 313 reporting requirements only when the indicated activity is performed.

Chemical/ Chemical Category	CAS Number	Qualifier
	NA	

Dioxin and dioxin-like compounds (manufacturing; and the processing or otherwise use of dioxin and dioxin-like compounds if the dioxin and dioxin-like compounds are present as contaminants in a chemical and if they were created during the manufacture of that chemical.)		Only if they are manufactured at the facility; or are processed or otherwise used when present as contaminants in a chemical but only if they were created during the manufacture of that chemical.
Isopropyl alcohol (only persons who manufacture by the strong acid process are subject, no supplier notification)	67-63-0	Only if it is being manufactured by the strong acid process. Facilities that process or otherwise use isopropyl alcohol are <u>not</u> covered and should <u>not</u> file a report.
Saccharin (only persons who manufacture are subject, no supplier notification)	81-07-2	Only if it is being manufactured.

There are no supplier notification requirements for isopropyl alcohol and saccharin since the processors and users of these chemicals are not required to report. Manufacturers of these chemicals do not need to notify their customers that these are reportable EPCRA section 313 chemicals.

Note: Chemicals may be added to or deleted from the list. The Emergency Planning and Community Right-to-Know Call Center will provide up-to-date information on the status of these changes. See section B.3.c of the instructions for more information on the *de minimis* % limits listed below. There are no *de minimis* levels for PBT chemicals since the *deminimis* exemption is not available for these chemicals (an asterisk appears where a *de minimis* limit would otherwise appear in Table II). However, for purposes of the supplier notification requirement only, such limits are provided in Appendix D.