



COMPLIANCE SECTION

Form R Reporting – Common Mistakes

Reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as the Form R, is due July 1st. With this reporting deadline right around the corner, it is a good time to review some common mistakes made on these reports.

1. **Not reporting the solvent component of a coating as “otherwise used.”** The EPA has held in their interpretation that since the solvent is used only as a carrier and does not become part of the finished piece, that solvent is not considered “manufactured” or “processed.” Therefore, it is considered “otherwise used” and the reporting threshold would be 10,000 pounds. For example, if you used 7,500 gallons of coating in a year at 20% toluene and seven pounds per gallon density, toluene would be reportable as you would have used over 10,000 pounds in that year.
2. **Not reporting for components of metals used in manufacturing such as steel, aluminum, brass, etc.** Components of these metals such as nickel, chromium, and cobalt can be Form R reportable. The facility is burdened with the task of determining if the metal pieces are managed in such a way as to retain their “article” status and not be reportable. The guidance states, “The article must be 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; and (3) which does not release a toxic chemical under normal conditions of processing or otherwise use of the item at the facility or establishments. If an item retains its initial thickness or diameter in whole or in part, as a result of normal processing or otherwise use, then it meets the first part of the definition.” An example of an “article” item would be sheet metal that is punched into certain shapes. Because the thickness of the item is not changed, and there are no “releases” from the punching activity, it is considered an article. An example of a material that would not be an article is metal that is melted or forged. This causes a change in the physical structure of the metal and causes air releases and is therefore not eligible for the article status.
3. **Not understanding the difference between metal and metal compounds.** Form R has reporting thresholds for many elemental metals as well as their associated metal compounds (e.g. nickel and nickel compounds). These thresholds need to be considered individually. So, if you have a powder coating that is 2% elemental nickel and 100% nickel compounds, you would need to evaluate the pounds for each, and if either were above 25,000 pounds (assuming they are considered “processed”), you would need to report for those chemicals.
4. **Not knowing PBT chemicals (including lead) have lower reporting thresholds.** The reporting threshold for persistent, bioaccumulative and toxic (PBT) chemicals is 100 pounds or less depending on the chemical. The reporting threshold for lead is 100 pounds. This means if you use more than 100 pounds of lead or lead compounds in a year (in any form), you would be subject to Form R reporting for lead.

Form R reporting for 2004 is due July 1, 2005. It is important to carefully evaluate all materials used on-site to determine if any thresholds have been exceeded. If you need assistance completing this evaluation, or completing the Form R reports, please contact Emily Rynders or Jessica Jacobs at The Payne Firm at (513) 489-2255 or via e-mail at ear@paynefirm.com or jlj@paynefirm.com. This Edge and others can be found on our website at www.paynefirm.com.