

Appendix F. Questions and Answers Regarding Facility Identification Information

F.1 Categories

This document provides additional information about TRI reporting procedures based on some frequently asked questions. The questions and their answers are organized into three groups:

- Section I.2 Identifying the parent company.
- Section I.3 Reporting after a change in name or ownership.
- Section I.4 Reporting for multiple sites and/or owners.

F.2 Identifying the Parent Company

A. Question

When a facility changes ownership after a Form R has been submitted, who is required to respond to a Notice of Noncompliance (NON) related to the Form R? Is the current or prior owner/operator required to respond to the NON?

A. Answer

The current owner/operator has the primary responsibility for responding to a NON. However, all prior owners/operators back to January 1 of the reporting year may also be held responsible if the current owner/operator does not respond to the NON in an accurate, complete, and timely manner.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #52 (EPA 745-B-98-004)).

B. Question

Who is the parent company for a 50/50 joint venture?

B. Answer

The 50/50 joint venture is its own parent company. (Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #54 (EPA 745-B-98-004)).

C. Question

Mom and Pop Plastics is a wholly owned subsidiary of a major chemical company which is a wholly owned subsidiary of Big Oil Corporation, located in St. Paul, Minnesota. Which is the parent company?

C. Answer

Big Oil Corporation is the parent company. (Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #56 (EPA 745-B-98-004)).

F.3 Reporting After a Change in Name or Ownership

A. Question

The owner/operator of a covered facility is preparing Form Rs for a facility. The facility and its parent company both changed their names after the reporting year. What names should be reported by the owner/operator (for both the facility and the parent company) on the Form Rs covering the reporting year?

A. Answer

The facility should report the names used by the facility and parent company during that reporting year. When the owner/operator submits Form Rs for the next reporting year, these reports should reflect the names used by the facility and parent company during the new reporting year. Note that the TRI facility identification number will not change.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #614 (EPA 745-B-98-004)).

B. Question

If a covered facility does not have a Dun & Bradstreet (D&B) number but the parent corporation does, should this number be reported?

B. Answer

Report the D&B number for the facility. If a facility does not have a D&B number, enter "NA" in Part I, Section 4.7. The corporate D&B number should be entered in Part I, Section 5.2 relating to parent company information.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #621 (EPA 745-B-98-004)).

C. Question

In October 2015, Facility X changes ownership and is purchased by Company Y. For the 2015 reporting year, which facility is obligated to submit the Form R or Form A, and whose name and what TRI identification number should be on the form?

C. Answer

The owner or operator of the facility on the annual July 1 reporting deadline (i.e., Company Y) is primarily responsible for reporting the data for the entire previous year's operations at that facility. Any other owner or operator of the facility before the reporting deadline may also be held liable. The form submitted for a given reporting year must reflect the names used by the facility and its parent company on December 31 of that reporting year, even if the facility changed its name or ownership at any time during the reporting year. In this scenario, because Facility X changed ownership before December 31 of the reporting year, Company Y's name should appear on the form. The TRI identification number is location-specific; thus, the identification number will stay the same even if the facility changes names, production processes, or NAICS codes.

(Source: Monthly Call Center Report Question EPA530-R-98--5j; October 1998).

F.4 Reporting for Multiple Sites and/or Owners

A. Question

If two plants are separate establishments under the same site management, must they have separate D&B numbers?

A. Answer

They may have separate D&B numbers, especially if they are distinctly separate business units. However, different divisions of a company located at the same facility usually do not have separate D&B numbers.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #622 (EPA 745-B-98-004)).

B. Question

An electricity generating facility (EGF) is comprised of multiple independent owners. Each individual owner runs his/her own separate operation, but each has a financial interest in the operation of the entire facility. What name should be entered as the parent company in Part I, Section 5.1 of the Form R? Should the facility report under one holding company name?

B. Answer

The EGF should enter in Part I, Section 5.1 of the Form R the name of the holding or parent company, consortium, joint venture, or other entity that owns, operates, or controls the facility.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #625 (EPA 745-B-98-004)).

C. Question

A covered facility sells one of its establishments to a new owner. The operator of the newly sold establishment, however, does not change. The same operator operates the newly sold establishment and the rest of the facility. Although the facility makes its threshold determinations based on the activities at the entire facility (including the newly sold establishment), the facility chooses to report separately for the different establishments. What parent name should the newly sold establishment use, the parent name of the owner or the parent name of the operator (i.e., the same as the rest of the facility)?

C. Answer

All establishments of a covered facility must report the parent name of the facility. Therefore, in the instance described above, the newly sold establishment should use the parent name of the facility operator (i.e., the same parent name the rest of the facility is using).

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #626 (EPA 745-B-98-004)).

D. Question

Two distinct NAICS code operations that are covered under EPCRA Section 313 (e.g., an electricity generating unit and a cement plant) are located on adjacent properties and are owned by the same parent company. The two operations are operated completely independently of one another (e.g., separate accounting procedures, employees, etc.). Are these two operations considered one facility under EPCRA Section 313?

D. Answer

Yes. Under EPCRA Section 313, a facility is defined as, "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." Because these two operations are located on adjacent properties and are owned by the same person they are considered one facility for EPCRA Section 313 reporting purposes. Additional information can be found in the 2015 Toxic Release Inventory Reporting Forms and Instructions.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #9 (EPA 745-B-98-004)).

E. Question

Company A purchases a facility from Company B between January 1, 2015 and June 30, 2015. For the 2015 reporting year, which company's name and identification number should appear on the Form R or Form A submission?

E. Answer

In the case that a facility is purchased between January 1 and June 30, the form submitted for the previous year must reflect the name used by the facility on December 31 of that reporting year. In this example, company B's name should appear on the form because it owned the facility for the duration of the reporting year. The TRI identification number is location-specific; thus, the identification number will stay the same even if the facility changes names, production processes, or NAICS codes.

With regard to reporting, the owner or operator of the facility on the annual July 1 reporting deadline (Company A) is primarily responsible for reporting the data for the previous year's operations at that facility. However, all prior owners and operators back to January 1 of the year covered in the report may also be held responsible if the current owner or operator does not submit a report.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #52 (EPA 745-B-98-004)).

F. Question

A piece of contiguous property consists of three covered sites with various buildings, structures and equipment. The three sites are owned by two different companies – Company A and Company B. All three sites operate completely independently of each other and have separate personnel, finances, and environmental reporting systems. Site 1 and its buildings and structures are owned and operated by Company A and site 3 and its buildings and

structures are owned and operated by Company B. The middle site, site 2 and its surrounding buildings and structures, are owned by Company A and operated by Company B. Are all three sites and their buildings and structures considered separate facilities under EPCRA Section 313? Who is responsible for reporting for each?

F. Answer

Under 40 CFR Section 372.3 a facility is defined as "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." Because all buildings and structures located on sites 1 and 2 are located on contiguous property and are owned by the same person, they are considered one facility. Because all buildings and structures located on sites 2 and 3 are located on contiguous property and are operated by the same person, they are also considered one facility. Therefore, for purposes of determining thresholds, the toxic chemicals manufactured, processed, and otherwise used at site 2 must be counted toward both Facility A's and Facility B's threshold determinations. Because the operator is primarily responsible for reporting, estimating and reporting releases and other waste management calculations for sites 2 and 3 are the primary responsibility of Company B, and the release and other waste management reporting for site 1 is the primary responsibility of Company A. EPA allows the release and other waste management reporting to be done in this manner to avoid "double counting" releases and waste management activities at site 2. However, provided thresholds have been exceeded, if no reports are received from a covered facility, determinations can be found in the 2015 Toxic Release Inventory Reporting Forms and Instructions.

(Source: 1998 EPCRA Section 313 Questions and Answers Document, Question #59 (EPA 745-B-98-004)).