

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(ENVIRONMENT, SAFETY & OCCUPATIONAL HEALTH)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ENVIRONMENT AND SAFETY)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(ENVIRONMENT, SAFETY & OCCUPATIONAL HEALTH)  
DIRECTOR, DEFENSE LOGISTIC AGENCY (CAAE)

SUBJECT: EPA Inspections for Compliance with EPCRA

The Environmental Protection Agency (EPA) Federal Facilities Enforcement Office tasked EPA regional personnel to conduct Emergency Planning and Community Right-To-Know Act (EPCRA) inspections of federal facilities. Executive Order 12856 authorizes EPA to conduct reviews and inspections of federal facilities to ascertain compliance with EPCRA and Pollution Prevention Act requirements (see section 5-5 "Compliance."). EPA cannot take enforcement actions (fines, civil or criminal penalties) as provided in EPCRA against federal agencies that fail to comply with applicable EPCRA sections. However, in accordance with section 5-507 of EO 12856, EPA has outlined procedures to be followed if a facility is found to be out of compliance with EPCRA (see attachment). The Federal Facilities Enforcement Office is particularly interested in the extent to which exemptions provided in EPA and DoD guidance documents affected Toxic Release Inventory (TRI) reporting. EPA will share information found with DoD to improve TRI reporting.

DoD Component personnel shall cooperate fully with EPA regional personnel conducting the inspection. DoD Component personnel shall notify their chain of command, their Regional Environmental Coordinator and their respective POC listed in attachment 2 upon receiving notice of EPA's intent to inspect an installation for EPCRA compliance. DoD Component personnel should be prepared to provide EPA staff, in a timely manner, any information related to the preparation of all EPCRA reports (sections 302, 311-313) and all information that documents toxic chemical use, justifies reporting or non-reporting decisions, and documents release and transfer estimates or calculations. If the requested information is not available, installation personnel should explain in writing why the information is not available.

EPA personnel will ask DoD installation personnel why they took an exemption to TRI reporting. DoD Component personnel shall have available and shall provide to EPA prior to inspections all relevant DoD guidance for implementing the Executive Order (March 1995 Implementing Guidance and July 1996 Supplemental Guidance).

If EPA personnel question the validity of the exemption claim, DoD Component personnel shall:

- Explain in writing why the exemption was taken and should cite the applicable section of DoD Guidance.
- Refer EPA personnel to the appropriate individuals in their chain of command and their respective POC listed in attachment 2.

DoD Component personnel should not have to amend TRI Form Rs to satisfy EPA personnel if a legitimate exemption was taken based on DoD guidance. Installations should not negotiate with EPA personnel over the applicability of exemption provided in DoD policy. Negotiations of this kind may risk setting precedent and lead to inconsistency in EPCRA reporting. If an exemption was not taken in accordance with DoD guidance or if the inspection reveals activities that should have been reported, TRI Form Rs may be amended. If DoD Component personnel plan to amend Form Rs, they shall notify individuals in their chain of command and their respective POCs.

Special note about munitions: Current DoD guidance exempts TRI reporting for munitions activities through Calendar Year 1998. If requested by EPA personnel, DoD Component personnel shall provide EPA all readily available information on munitions activities. Information provided should include numbers of rounds and types of munitions fired. DoD Component personnel should refer EPA to individuals within their chain of command and their respective POCs if EPA requests information that is not readily available.

EPA's inspections are a necessary component of complying with EO 12856. The findings of these inspections should be welcomed by DoD and will be used to improve existing policies and programs. Inspections conducted to date have been friendly and have led to improvements in facility programs. My point of

contact on this issue is Mr. Andrew Porth (703-604-1820, DSN 664-1820).

Curtis Bowling  
Acting Assistant Deputy Under Secretary of Defense  
(Environmental Quality)

#### Attachments

cc: HQDA(DAIM-ED)  
CNO (N45)  
HQMC (CMC-LFL)  
HQAF/ILEVQ

#### COPY OF EPA's Guidance

EPA Federal Facilities Guidance to EPA Regional Offices

Guidance on Process for Resolving EO 12856 and EPCRA Compliance  
Problems at Federal Facilities

#### Background

Section 1-101 of Executive Order (EO) 12856 requires the head of each federal agency (as defined in 5 U.S.C. 105 (5 U.S.C. 102 for military departments/Department of Defense)) to ensure that all necessary actions are taken for the prevention of pollution with respect to that agency's activities and facilities, and to ensure that agency's compliance with pollution prevention and emergency planning and community right-to-know provisions established pursuant to all implementing regulations pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001-11050) (EPCRA) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101-13109) (PPA). Section 3-304 of EO 12856 requires that federal agencies comply with the provisions set forth in section 313 of EPCRA, section 6607 of

PPA, all implementing regulations, and future amendments to these authorities, in light of applicable guidance as provided by EPA (See April, 1995 Guidance for Implementing Executive Order 12856). Section 3-305 of EO 12856 requires that federal agencies comply with the provisions set forth in sections 301 through 312 of EPCRA, all implementing regulations, and future amendments to these authorities in light of applicable guidance as provided by EPA (See April, 1995 Guidance for Implementing Executive Order 12856).

Section 5-502 of EO 12856 requires the head of each federal agency to ensure that such agency take all necessary actions to prevent pollution in accordance with the EO, and to comply with the provisions of EPCRA and PPA. Compliance with EPCRA and PPA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person. Section 5-502 of EO 12856 also states that nothing in the EO is to be construed as making the provisions of sections 325 and 326 of EPCRA (the enforcement and penalty provisions) applicable to any federal agency or facility, except to the extent that such federal agency or facility would independently be subject to such provisions.

Section 5-504 of EO 12856 authorizes the EPA Administrator to conduct such reviews and inspections as may be necessary to monitor compliance with sections 3-304 and 3-305 of the EO, and all federal agencies are encouraged to cooperate fully with the efforts of the EPA Administrator to ensure compliance with sections 3-304 and 3-305 of the EO. Section 5-506 of the EO requires a federal agency to achieve compliance as promptly as practicable when the EPA Administrator notifies such federal agency that it is not in compliance with an applicable provision of the EO.

## Process

Taken together, the above-cited provisions of EO 12856 require that federal agencies comply with EPCRA 301 through 313 requirements, and authorize EPA to conduct such reviews and inspections as are necessary to monitor compliance. Federal agencies are encouraged to cooperate fully with EPA's efforts to ensure compliance, and are required to achieve compliance as promptly as practicable when notified of noncompliance. However,

pursuant to section 5-502 of EO 12856, EPA and the States may not take enforcement actions as provided by EPCRA against federal facilities for failure to comply with the applicable EPCRA sections. Given the EO's limitation on EPA's enforcement and penalty authority vis-a-vis federal facilities, the following guidance on a process involving both the Regional EPCRA and Federal Facility Coordinators has been developed for bringing federal facilities into compliance with EPCRA sections 301 through 313.

(a) Initial Compliance Screening: An initial compliance screening should be undertaken by Regional EPCRA staff and/or Regional Federal Facility Coordinators. For EPCRA 313 purposes, this initial determination could include comparison of TRIS reporters against various lists of federal facilities potentially subject to the EO and 313, as well as any other information or reason to believe a facility is likely to meet the reporting threshold and thus be a covered facility for purposes of EO 12856 (e.g., permits, major source status, etc.). The initial determination should also include any other pertinent information relative to the applicability of compliance with EPCRA sections 301 through 312. For EPCRA 312 purposes, the determination could include checking with the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC) to determine if Tier II reports were submitted by the facility. If an inspection has already been conducted which indicates noncompliance, then the Region should proceed to step (d) below in the process.

(b) Informal Facility Notification and Response: If, based upon the initial compliance screening, noncompliance is apparent or the Region still has reason to believe any of the requirements of the EO or EPCRA apply to the federal facility, informal contact with the facility (i.e., telephone call) should be made to more definitively ascertain the compliance status of the facility. If the federal facility is in compliance, no further action is required on the part of EPA. However, the facility must understand that "compliance" in this instance includes submission to Regional staff of a copy of the appropriate EPCRA report that was submitted to EPA and/or the SERC/LEPC, etc., or submission of documentation supporting any facility claim that the facility is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable. Regions may also request other appropriate

information to document the compliance status of the federal facility, and facilities should generally be given 20-30 days to comply with the regional request.

(c) Inspection: If the compliance status of the federal facility is not definitively ascertained, an inspection as authorized section 5-504 of EO 12856 may be warranted. An inspection may also occur independently of the initial compliance screening and telephone contact process described in step (b) above. Once an inspection confirms noncompliance, a show-cause letter should be issued by the region requiring the Federal facility to show-cause (i.e., demonstrate) why EPA should not report to the President the facility's noncompliance and/or place the facility on a schedule to return to compliance (e.g., via a Federal Facility Compliance Agreement). The show-cause letter, a boilerplate example of which has been drafted, is described in step (d) below.

Basic EPCRA inspector credentials are all that is required to conduct EPCRA inspections at the vast majority of Federal facilities. Special clearance and/or credentials are not required. While there may be certain areas of the facility or national security information that the inspector has limited or no access to, this should not prevent an EPCRA inspection from being conducted. With some advance notice of the inspection, which is encouraged, most facilities will work with the inspector to minimize even these limitations. In those rare instances where a clearance issue is raised by the facility, the inspector should proceed to conduct a review of available records and inspect those areas of the facility that are open to the inspector. If a facility attempts to deny entry to an inspector for clearance issues or any other reason, the Office of Regional Counsel in the particular region should be consulted to help the inspector gain access to the facility for purposes of conducting the inspection.

(d) Show-Cause Letter: Once noncompliance is confirmed using some combination of steps (a)-(c) above, a show-cause letter should be issued by the region requiring the federal facility to show-cause (i.e., demonstrate) why EPA should not report to the President the facility's noncompliance and/or place the facility on a schedule to return to compliance (e.g., via a Federal Facility Compliance Agreement). The show-cause letter should

require compliance, including submittal of applicable EPCRA information, within 45 days of receipt of the show-cause letter by the facility, and should include a "cc" to the facility's HQ and EPA HQ. The show-cause letter should inform the facility that the facility response to the show-cause letter must include: 1) submission to regional staff of a copy of the appropriate EPCRA report that was submitted to EPA and/or the SERC/LEPC, etc.; 2) submission of documentation supporting any facility claim that the facility is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable; or 3) an indication that compliance cannot be achieved within the 45-day period and a commitment to negotiate a Federal Facility Compliance Agreement.

The show-cause letter should also indicate that the federal facility's return to compliance within 45 days of receipt of the show-cause letter by the facility will nullify EPA's obligation to report to the President the facility's noncompliance and/or place the facility on a schedule to return to compliance. Upon receipt by EPA of adequate information demonstrating compliance with EPCRA and the EO, regional staff should send a letter back to the facility acknowledging receipt of the information, and, as appropriate, reminding the facility of the annual nature of certain EPCRA reporting requirements.

(e) Follow-up to Show-Cause Letter - HQ Contact: If, within the 45-day time period specified in the initial show-cause letter, 1) compliance is not achieved, 2) the facility fails to demonstrate that it is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable, or 3) the facility fails to indicate that it is willing to negotiate a Federal Facility Compliance Agreement, the Region should notify EPA HQ in writing. EPA HQ will then contact the Federal facility's HQ to require, within that time period not to exceed 90 days from receipt by the federal facility of EPA's initial show-cause letter, 1) compliance by the facility, 2) a demonstration that the facility is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable, or 3) conclusion of/good faith negotiation of a Federal Facility Compliance Agreement.

Once the Regional notification to EPA HQ has occurred, Regional staff should send a letter to the noncompliant federal facility and its HQ which references the requirements set forth in the show-cause letter and the fact that the region never

received a response. The letter should reiterate that the region wishes to negotiate a Federal Facility Compliance Agreement to place the facility on a schedule for returning to compliance with EPCRA and the EO. The letter should also indicate that the federal facility's demonstration of compliance (or conclusion of/good faith negotiation of a Federal Facility Compliance Agreement) within 90 days of receipt of the initial show-cause letter by the facility is the only way to prevent the facility from being listed in EPA's Annual report to the President as being in noncompliance with EPCRA and the EO 12856. Upon receipt by EPA of adequate information demonstrating compliance with EPCRA and the EO, regional staff should send a letter back to the facility (with a "cc" to the facility's HQ and EPA HQ) acknowledging receipt of the information, and, as appropriate, reminding the facility of the annual nature of certain EPCRA reporting requirements.

(f) Facility Listing: If, within the 90-day time period described in step (e) above, 1) compliance is not achieved, 2) the facility fails to demonstrate that it is not a covered facility under compliance EO 12856 or that EPCRA is not otherwise applicable, or 3) the facility fails to conclude/enter good faith negotiation of a Federal Facility Compliance Agreement, the facility will be listed in EPA's annual report to the President and entered into EPA's IDEA data base and Quarterly Compliance Status Reports as being in noncompliance with EPCRA and EO 12856. Compliance and a commitment to future compliance with the EO and EPCRA will be required in order for the facility not to be listed in EPA's subsequent annual report to the President.

## Attachment 2 DoD Component POCs

### Policy Points of Contact

#### Army

George Carlisle  
HQDA-ACSIM  
DAIM-E-EQ  
600 Army Pentagon

1E682  
Washington DC 20301  
Tel# DSN 223-0551  
Fax# DSN 223-2808  
Email: carlisle@pentagon-acsim1.army.mil

#### Navy

Tammy Schirf  
2211 S. Clark Place  
Crystal Plaza 5  
Room 780  
Arlington, VA 22244-5108  
Tel# DSN 332-4497  
Fax# DSN 332-2676  
Email: schirft@n4.opnav.navy.mil

#### Marine Corps

James Wozniak  
Commandant of Marine Corps  
Headquarters Marine Corps (LFL)  
2 Navy Annex  
Washington DC 20380-1775  
Tel# DSN 426-2138  
Fax # DSN 426-1020  
Internet: wozniakj@mqg-smpt3@usmc.mil

#### Air Force

Captain Sharon Spradling  
HQ USAF/ILEVQ  
1260 Air Force Pentagon  
Washington, DC 20330-1260  
Tel # DSN 225-6118  
Fax # DSN 227-3378  
Email: Sharon.Spradling@af.pentagon.mil

#### DLA

Jim Blain  
Defense Logistics Agency  
Environmental and Safety Policy Office

Attn: CAAE  
8725 John J. Kingman Rd. (STE 2533)  
Ft. Belvoir 22060-6219  
Tel# DSN 427-6249 (Commercial 703-767-6249)  
Fax# DSN 427-6248 or 6243  
Email: James\_blain@hq.dla.mil

OSD

Andy Porth  
Office of the Deputy Under Secretary of Defense  
(Environmental Security)  
3400 Defense Pentagon  
Washington DC 20301-3400  
Tel # DSN 664-1820  
Fax # DSN 664-3124  
Email: portham@acq.osd.mil

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(ENVIRONMENT, SAFETY & OCCUPATIONAL HEALTH)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ENVIRONMENT AND SAFETY)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(ENVIRONMENT, SAFETY & OCCUPATIONAL HEALTH)  
DIRECTOR, DEFENSE LOGISTIC AGENCY (CAAE)

SUBJECT: EPA Inspections for Compliance with EPCRA

The Environmental Protection Agency (EPA) Federal Facilities Enforcement Office tasked EPA regional personnel to conduct Emergency Planning and Community Right-To -Know Act (EPCRA) inspections of federal facilities. Executive Order 12856 authorizes EPA to conduct reviews and inspections of federal facilities to ascertain compliance with EPCRA and Pollution Prevention Act requirements (see section 5-5 "Compliance."). EPA cannot take enforcement actions (fines, civil or criminal penalties) as provided in EPCRA against federal agencies that fail to comply with applicable EPCRA sections. However, in accordance with section 5-507 of EO 12856, EPA has outlined procedures to be followed if a facility is found to be out of

compliance with EPCRA (see attachment). The Federal Facilities Enforcement Office is particularly interested in the extent to which exemptions provided in EPA and DoD guidance documents affected Toxic Release Inventory (TRI) reporting. EPA will share information found with DoD to improve TRI reporting.

DoD Component personnel shall cooperate fully with EPA regional personnel conducting the inspection. DoD Component personnel shall notify their chain of command, their Regional Environmental Coordinator and their respective POC listed in attachment 2 upon receiving notice of EPA's intent to inspect an installation for EPCRA compliance. DoD Component personnel should be prepared to provide EPA staff, in a timely manner, any information related to the preparation of all EPCRA reports (sections 302, 311-313) and all information that documents toxic chemical use, justifies reporting or non-reporting decisions, and documents release and transfer estimates or calculations. If the requested information is not available, installation personnel should explain in writing why the information is not available.

EPA personnel will ask DoD installation personnel why they took an exemption to TRI reporting. DoD Component personnel shall have available and shall provide to EPA prior to inspections all relevant DoD guidance for implementing the Executive Order (March 1995 Implementing Guidance and July 1996 Supplemental Guidance).

If EPA personnel question the validity of the exemption claim, DoD Component personnel shall:

- Explain in writing why the exemption was taken and should cite the applicable section of DoD Guidance.
- Refer EPA personnel to the appropriate individuals in their chain of command and their respective POC listed in attachment 2.

DoD Component personnel should not have to amend TRI Form Rs to satisfy EPA personnel if a legitimate exemption was taken based on DoD guidance. Installations should not negotiate with EPA personnel over the applicability of exemption provided in DoD policy. Negotiations of this kind may risk setting precedent and lead to inconsistency in EPCRA reporting. If an exemption was not taken in accordance with DoD guidance or if the inspection

reveals activities that should have been reported, TRI Form Rs may be amended. If DoD Component personnel plan to amend Form Rs, they shall notify individuals in their chain of command and their respective POCs.

Special note about munitions: Current DoD guidance exempts TRI reporting for munitions activities through Calendar Year 1998. If requested by EPA personnel, DoD Component personnel shall provide EPA all readily available information on munitions activities. Information provided should include numbers of rounds and types of munitions fired. DoD Component personnel should refer EPA to individuals within their chain of command and their respective POCs if EPA requests information that is not readily available.

EPA's inspections are a necessary component of complying with EO 12856. The findings of these inspections should be welcomed by DoD and will be used to improve existing policies and programs. Inspections conducted to date have been friendly and have lead to improvements in facility programs. My point of contact on this issue is Mr. Andrew Porth (703-604-1820, DSN 664-1820).

Curtis Bowling  
Acting Assistant Deputy Under Secretary of Defense  
(Environmental Quality)

#### Attachments

cc: HQDA(DAIM-ED)  
CNO (N45)  
HQMC (CMC-LFL)  
HQAF/ILEVQ

COPY OF EPA's Guidance

EPA Federal Facilities Guidance to EPA Regional Offices

## Guidance on Process for Resolving EO 12856 and EPCRA Compliance Problems at Federal Facilities

### Background

Section 1-101 of Executive Order (EO) 12856 requires the head of each federal agency (as defined in 5 U.S.C. 105 (5 U.S.C. 102 for military departments/Department of Defense)) to ensure that all necessary actions are taken for the prevention of pollution with respect to that agency's activities and facilities, and to ensure that agency's compliance with pollution prevention and emergency planning and community right-to-know provisions established pursuant to all implementing regulations pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001-11050) (EPCRA) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101-13109) (PPA). Section 3-304 of EO 12856 requires that federal agencies comply with the provisions set forth in section 313 of EPCRA, section 6607 of PPA, all implementing regulations, and future amendments to these authorities, in light of applicable guidance as provided by EPA (See April, 1995 Guidance for Implementing Executive Order 12856). Section 3-305 of EO 12856 requires that federal agencies comply with the provisions set forth in sections 301 through 312 of EPCRA, all implementing regulations, and future amendments to these authorities in light of applicable guidance as provided by EPA (See April, 1995 Guidance for Implementing Executive Order 12856).

Section 5-502 of EO 12856 requires the head of each federal agency to ensure that such agency take all necessary actions to prevent pollution in accordance with the EO, and to comply with the provisions of EPCRA and PPA. Compliance with EPCRA and PPA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person. Section 5-502 of EO 12856 also states that nothing in the EO is to be construed as making the provisions of sections 325 and 326 of EPCRA (the enforcement and penalty provisions) applicable to any federal agency or facility, except to the extent that such federal agency or facility would independently be subject to such provisions.

Section 5-504 of EO 12856 authorizes the EPA Administrator to conduct such reviews and inspections as may be necessary to monitor compliance with sections 3-304 and 3-305 of the EO, and all federal agencies are encouraged to cooperate fully with the efforts of the EPA Administrator to ensure compliance with sections 3-304 and 3-305 of the EO. Section 5-506 of the EO requires a federal agency to achieve compliance as promptly as practicable when the EPA Administrator notifies such federal agency that it is not in compliance with an applicable provision of the EO.

## Process

Taken together, the above-cited provisions of EO 12856 require that federal agencies comply with EPCRA 301 through 313 requirements, and authorize EPA to conduct such reviews and inspections as are necessary to monitor compliance. Federal agencies are encouraged to cooperate fully with EPA's efforts to ensure compliance, and are required to achieve compliance as promptly as practicable when notified of noncompliance. However, pursuant to section 5-502 of EO 12856, EPA and the States may not take enforcement actions as provided by EPCRA against federal facilities for failure to comply with the applicable EPCRA sections. Given the EO's limitation on EPA's enforcement and penalty authority vis-a-vis federal facilities, the following guidance on a process involving both the Regional EPCRA and Federal Facility Coordinators has been developed for bringing federal facilities into compliance with EPCRA sections 301 through 313.

(a) Initial Compliance Screening: An initial compliance screening should be undertaken by Regional EPCRA staff and/or Regional Federal Facility Coordinators. For EPCRA 313 purposes, this initial determination could include comparison of TRIS reporters against various lists of federal facilities potentially subject to the EO and 313, as well as any other information or reason to believe a facility is likely to meet the reporting threshold and thus be a covered facility for purposes of EO 12856 (e.g., permits, major source status, etc.). The initial determination should also include any other pertinent information relative to the applicability of compliance with EPCRA sections 301 through 312. For EPCRA 312 purposes, the determination could include checking with the State Emergency Response Commission

(SERC) and the Local Emergency Planning Committee (LEPC) to determine if Tier II reports were submitted by the facility. If an inspection has already been conducted which indicates noncompliance, then the Region should proceed to step (d) below in the process.

(b) Informal Facility Notification and Response: If, based upon the initial compliance screening, noncompliance is apparent or the Region still has reason to believe any of the requirements of the EO or EPCRA apply to the federal facility, informal contact with the facility (i.e., telephone call) should be made to more definitively ascertain the compliance status of the facility. If the federal facility is in compliance, no further action is required on the part of EPA. However, the facility must understand that "compliance" in this instance includes submission to Regional staff of a copy of the appropriate EPCRA report that was submitted to EPA and/or the SERC/LEPC, etc., or submission of documentation supporting any facility claim that the facility is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable. Regions may also request other appropriate information to document the compliance status of the federal facility, and facilities should generally be given 20-30 days to comply with the regional request.

(c) Inspection: If the compliance status of the federal facility is not definitively ascertained, an inspection as authorized section 5-504 of EO 12856 may be warranted. An inspection may also occur independently of the initial compliance screening and telephone contact process described in step (b) above. Once an inspection confirms noncompliance, a show-cause letter should be issued by the region requiring the Federal facility to show-cause (i.e., demonstrate) why EPA should not report to the President the facility's noncompliance and/or place the facility on a schedule to return to compliance (e.g., via a Federal Facility Compliance Agreement). The show-cause letter, a boilerplate example of which has been drafted, is described in step (d) below.

Basic EPCRA inspector credentials are all that is required to conduct EPCRA inspections at the vast majority of Federal facilities. Special clearance and/or credentials are not required. While there may be certain areas of the facility or national security information that the inspector has limited or

no access to, this should not prevent an EPCRA inspection from being conducted. With some advance notice of the inspection, which is encouraged, most facilities will work with the inspector to minimize even these limitations. In those rare instances where a clearance issue is raised by the facility, the inspector should proceed to conduct a review of available records and inspect those areas of the facility that are open to the inspector. If a facility attempts to deny entry to an inspector for clearance issues or any other reason, the Office of Regional Counsel in the particular region should be consulted to help the inspector gain access to the facility for purposes of conducting the inspection.

(d) Show-Cause Letter: Once noncompliance is confirmed using some combination of steps (a)-(c) above, a show-cause letter should be issued by the region requiring the federal facility to show-cause (i.e., demonstrate) why EPA should not report to the President the facility's noncompliance and/or place the facility on a schedule to return to compliance (e.g., via a Federal Facility Compliance Agreement). The show-cause letter should require compliance, including submittal of applicable EPCRA information, within 45 days of receipt of the show-cause letter by the facility, and should include a "cc" to the facility's HQ and EPA HQ. The show-cause letter should inform the facility that the facility response to the show-cause letter must include: 1) submission to regional staff of a copy of the appropriate EPCRA report that was submitted to EPA and/or the SERC/LEPC, etc.; 2) submission of documentation supporting any facility claim that the facility is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable; or 3) an indication that compliance cannot be achieved within the 45-day period and a commitment to negotiate a Federal Facility Compliance Agreement.

The show-cause letter should also indicate that the federal facility's return to compliance within 45 days of receipt of the show-cause letter by the facility will nullify EPA's obligation to report to the President the facility's noncompliance and/or place the facility on a schedule to return to compliance. Upon receipt by EPA of adequate information demonstrating compliance with EPCRA and the EO, regional staff should send a letter back to the facility acknowledging receipt of the information, and, as appropriate, reminding the facility of the annual nature of certain EPCRA reporting requirements.

(e) Follow-up to Show-Cause Letter - HQ Contact: If, within the 45-day time period specified in the initial show-cause letter, 1) compliance is not achieved, 2) the facility fails to demonstrate that it is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable, or 3) the facility fails to indicate that it is willing to negotiate a Federal Facility Compliance Agreement, the Region should notify EPA HQ in writing. EPA HQ will then contact the Federal facility's HQ to require, within that time period not to exceed 90 days from receipt by the federal facility of EPA's initial show-cause letter, 1) compliance by the facility, 2) a demonstration that the facility is not a covered facility under EO 12856 or that EPCRA is not otherwise applicable, or 3) conclusion of/good faith negotiation of a Federal Facility Compliance Agreement.

Once the Regional notification to EPA HQ has occurred, Regional staff should send a letter to the noncompliant federal facility and its HQ which references the requirements set forth in the show-cause letter and the fact that the region never received a response. The letter should reiterate that the region wishes to negotiate a Federal Facility Compliance Agreement to place the facility on a schedule for returning to compliance with EPCRA and the EO. The letter should also indicate that the federal facility's demonstration of compliance (or conclusion of/good faith negotiation of a Federal Facility Compliance Agreement) within 90 days of receipt of the initial show-cause letter by the facility is the only way to prevent the facility from being listed in EPA's Annual report to the President as being in noncompliance with EPCRA and the EO 12856. Upon receipt by EPA of adequate information demonstrating compliance with EPCRA and the EO, regional staff should send a letter back to the facility (with a "cc" to the facility's HQ and EPA HQ) acknowledging receipt of the information, and, as appropriate, reminding the facility of the annual nature of certain EPCRA reporting requirements.

(f) Facility Listing: If, within the 90-day time period described in step (e) above, 1) compliance is not achieved, 2) the facility fails to demonstrate that it is not a covered facility under compliance EO 12856 or that EPCRA is not otherwise applicable, or 3) the facility fails to conclude/enter good faith negotiation of a Federal Facility Compliance Agreement, the

facility will be listed in EPA's annual report to the President and entered into EPA's IDEA data base and Quarterly Compliance Status Reports as being in noncompliance with EPCRA and EO 12856. Compliance and a commitment to future compliance with the EO and EPCRA will be required in order for the facility not to be listed in EPA's subsequent annual report to the President.

## Attachment 2 DoD Component POCs

### Policy Points of Contact

#### Army

George Carlisle  
HQDA-ACSIM  
DAIM-E-EQ  
600 Army Pentagon  
1E682  
Washington DC 20301  
Tel# DSN 223-0551  
Fax# DSN 223-2808  
Email: [carlisle@pentagon-acsim1.army.mil](mailto:carlisle@pentagon-acsim1.army.mil)

#### Navy

Tammy Schirf  
2211 S. Clark Place  
Crystal Plaza 5  
Room 780  
Arlington, VA 22244-5108  
Tel# DSN 332-4497  
Fax# DSN 332-2676  
Email: [schirft@n4.opnav.navy.mil](mailto:schirft@n4.opnav.navy.mil)

#### Marine Corps

James Wozniak  
Commandant of Marine Corps  
Headquarters Marine Corps (LFL)  
2 Navy Annex

Washington DC 20380-1775  
Tel# DSN 426-2138  
Fax # DSN 426-1020  
Internet: wozniakj@mqg-smpt3@usmc.mil

Air Force

Captain Sharon Spradling  
HQ USAF/ILEVQ  
1260 Air Force Pentagon  
Washington, DC 20330-1260  
Tel # DSN 225-6118  
Fax # DSN 227-3378  
Email: Sharon.Spradling@af.pentagon.mil

DLA

Jim Blain  
Defense Logistics Agency  
Environmental and Safety Policy Office  
Attn: CAAE  
8725 John J. Kingman Rd. (STE 2533)  
Ft. Belvoir 22060-6219  
Tel# DSN 427-6249 (Commercial 703-767-6249)  
Fax# DSN 427-6248 or 6243  
Email: James\_blain@hq.dla.mil

OSD

Andy Porth  
Office of the Deputy Under Secretary of Defense  
(Environmental Security)  
3400 Defense Pentagon  
Washington DC 20301-3400  
Tel # DSN 664-1820  
Fax # DSN 664-3124  
Email: portham@acq.osd.mil