

Emergency Planning and Community Right-to-Know Act

The **Emergency Planning and Community Right-to-Know Act of 1986** is a [United States federal law](#) locate at Title 42, Chapter 116 of the [U.S. Code](#), concerned with emergency response preparedness.

On October 17, 1986, President [Ronald Reagan](#) signed into law the Superfund Amendments and Reauthorization Act of 1986 (SARA). This act amended the [Comprehensive Environmental Response, Compensation, and Liability Act](#) of 1980 (CERCLA), commonly known as "[Superfund](#)."

A free-standing law, the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) was commonly known as SARA Title III. Its purpose is to encourage and support emergency planning efforts at the state and local levels and to provide the public and local governments with information concerning potential chemical hazards present in their communities.

EPCRA Reporting Requirements

EPCRA does not place limits on which chemicals can be stored, used, released, disposed, or transferred at a facility. It only requires a facility to document, notify, and report information. Each section of the law, however, applies different requirements, has different deadlines and covers a different group of chemicals.

Emergency Planning (Sections 301-303)

These sections are to ensure that state and local communities are prepared to respond to potential chemical accidents. As a first step, each state had to establish a State Emergency Response Commission (SERC). In turn, the SERC designated local emergency planning districts. For each district, the SERC appoints, supervises and coordinates the activities of a Local Emergency Planning Committee (LEPC). The LEPC must, in turn, develop an emergency response plan for its district and review it annually. The membership of the LEPC includes representatives of public and private organizations as well as a representative from every facility subject to EPCRA emergency planning requirements.

The plan developed by the LEPC must:

- identify affected facilities and transportation routes;
- describe emergency notification and response procedures;
- designate community and facility emergency coordinators;
- describe methods to determine the occurrence and extent of a release;
- identify available response equipment and personnel;
- outline evacuation plans;
- describe training and practice programs and schedules; and
- contain methods and schedules for exercising the plan.

Determining if a facility is subject to the EPCRA emergency planning requirements is straightforward. The [Environmental Protection Agency](#) (EPA) has published a list of "extremely hazardous substances (EHS)." For each EHS, the list includes the name, the chemical abstract service number of the substance, and a number called a threshold planning quantity (TPQ). The TPQ, expressed in pounds, is the critical number. If a facility has within its boundaries an amount of an extremely hazardous substance equal to or in excess of its threshold planning quantity, the facility is subject to the EPCRA emergency planning requirements and must notify both the SERC and the LEPC of this fact. The facility must also appoint an emergency response coordinator who will work with the LEPC on developing and implementing the local emergency plan at the facility.

Emergency Release Notification (Section 304)

A facility may be subject to these reporting requirements even if it is not subject to the provisions of Sections 301-303. This section applies to any facility which stores, produces or uses a "hazardous chemical" (any chemical which is a physical hazard or a health hazard) and releases a reportable quantity (RQ) of a substance contained in either of the following two tables published by the EPA in the Code of Federal Regulations:

- - list of extremely hazardous substances; and
 - list of CERCLA hazardous substances.

The RQ is the critical number that determines if a release must be reported. This is a number expressed in pounds that is assigned to each chemical in the above-mentioned tables. If the amount of a chemical released to the environment exceeds the reportable quantity, the facility must immediately report the release to the appropriate LEPC and SERC and provide a written follow-up as soon as practicable.

Of course there are exceptions. A release which results in exposure to persons solely within the facility boundary or is a federally permitted release does not have to be reported. Also, continuous pesticide and radionuclide releases meeting specified conditions are exempt.

Community Right-to-Know Reporting Requirements (Sections 311-312)

The purpose of these requirements is to increase community awareness of chemical hazards and to facilitate emergency planning. This section applies to any facility that is required by the [Occupational Safety and Health Administration](#) (OSHA) under its Hazard Communication Standard to prepare or have available a [Material Safety Data Sheet](#) (MSDS) for a hazardous chemical (See II above for definition) or that has on-site, for any one day in a calendar year, an amount of a hazardous chemical equal to or greater than the following threshold limits established by the EPA:

- - 10,000 pounds for hazardous chemicals; or
 - lesser of 500 pounds or the TPQ for extremely hazardous substances.

If a facility is subject to reporting under these sections, it must submit information to the SERC, the LEPC and the local fire department with jurisdiction over the facility under two categories: MSDS reporting and inventory reporting.

MSDS Reporting:

MSDS reporting requirements specifically provide information to the local community about mixtures and chemicals present at a facility and their associated hazards. For all substances whose on-site quantities exceed the above threshold limits, the facility must submit the following:

- initially a copy of the MSDS for each above-threshold chemical on-site or a list of the chemicals grouped into categories; and
- within three months of any change, an MSDS or list for additional chemicals which meet the reporting criteria.

Inventory Reporting:

Inventory reporting is designed to provide information on the amounts, location and storage conditions of hazardous chemicals and mixtures containing hazardous chemicals present at facilities. The inventory report has two forms. The Tier One form, the simpler of the two, contains aggregate information for applicable hazard categories and must be submitted yearly by March 1st. The Tier Two form contains more detailed information, including the specific names of each chemical. This form is submitted upon request of any of the agencies authorized to receive the Tier One form. It can also be submitted yearly in lieu of the Tier One Form.

Toxic Chemical Release Inventory Reporting (Section 313)

The data gathered will assist in research and development of regulations, guidelines, and standards. Under this section, The EPA is required to establish the [Toxics Release Inventory](#) (TRI), an inventory of routine toxic chemical emissions from certain facilities. The original data requirements for the TRI, specified in SARA Title III, have been greatly expanded by the Pollution Prevention Act of 1990. The TRI must now also include information on source reduction, recycling and treatment.

To obtain this data, EPCRA requires each affected facility to submit a Toxic Chemical Release Inventory Form (Form R) to the EPA and designated state officials each year on July 1. A facility must file a Form R if it:

- has 10 or more full-time employees;
- is in a specified Standard Industrial Classification Code; and
- manufactures more than 25,000 lb/year of a listed toxic chemical; or
- processes more than 25,000 lb/year of a listed toxic chemical; or
- otherwise uses more than 10,000 lb/year of a listed toxic chemical.

In December 2006, the EPA finalized a new TRI Rule which expands eligibility for use of the Form A Certification Statement in lieu of the more detailed Form R. Details about this final rule can be found on the EPA website under TRI Reporting.

The list of toxic chemicals and chemical categories subject to reporting under this section differs from the ones mentioned previously. It initially consisted of listings of over 300 chemicals prepared by the states of Maryland and New Jersey. However, the list is routinely updated. EPA has recently proposed adding 313 chemicals to the original list.

Air Force Responsibilities Under EPCRA

Since April 30, 1993, the [United States Air Force](#), in accordance with AFR 355-1, "Disaster Preparedness, Planning and Operations," has voluntarily complied with Sections 303 and 304 of EPCRA in spite of the fact that federal facilities were initially exempt from its requirements. On August 3, 1993, that all changed. [President Clinton](#) signed Executive Order 12856, "Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements." This Executive Order requires federal agencies, including the [Department of Defense](#), to fully comply with all provisions of EPCRA and the Pollution Prevention Act with one notable exception: the reporting requirements under Section 313. Currently, a non-federal facility must file a Form R only if it is in a specified [Standard Industrial Classification](#) (SIC) Code. This exclusion does not apply to federal agencies. Federal agencies will comply with the provisions of Section 313 regardless of the SIC code that applies to their facilities.