

FAQ for SARA Title III & Hazardous Chemical Reporting - TNEMA

Q: Does Tennessee charge a processing fee?

No, Tennessee charges no fees for the submission of forms required under the SARA legislation. Additionally, the state is not equipped to process electronic submissions, so it will be necessary to submit hard copy only (although electronic versions may accompany any hard copy submissions).

Q: What does SARA Title III stand for?

SARA is the Superfund Amendments and Reauthorization Act. Title III of SARA is specifically named the Emergency Planning and Community Right to Know Act (so, it is also referred to as EPCRA).

Q: What do the various sections mean in the SARA law, that is Sections (§§) 302, 303, 304, 311, 312, & 313?

§§ 302 and 303 are emergency planning and notification requirements; § 304 is emergency release notification requirements (spill reporting); §§ 311 and 312 are chemical inventory reporting requirements with a list of reportable chemicals submitted under § 311 and the Tier II report submitted under § 312; § 313 is the Toxic Release Inventory (TRI or Form R)

Q: How does one determine if a facility should be reporting?

If the facility is subject to OSHA's (the Occupational Safety and Health Administration) MSDS (Material Safety Data Sheet) requirements for their employees, under OSHA's Hazard Communication Standard (29 CFR 1910.1200) they are potentially subject to reporting their chemicals under SARA Title III if they meet or exceed applicable reporting thresholds.

Q: Where do I find a list of chemicals?

There are three separate lists used for SARA Title III reporting, see the "List of Lists" publication, as well as a fourth "group" of chemicals which includes materials that meet OSHA's definition of a hazardous chemical under 29 CFR 1910.1200(c).

Q: What is the difference between a TPQ and an RQ?

The Threshold Planning Quantity (TPQ) is used in SARA Title III Sections 302, 303, 311, and 312 which deal with notification and chemical inventory reporting. The Reportable Quantity (RQ) is used only for Section 304, spill reporting.

Q: Should my LEPC be concerned with Section 313?

The LEPCs do not receive submissions of the Form Rs (also called Toxic Release Inventory or TRI) from reporting facilities. The LEPCs are not required to be involved with any aspect of the Form Rs, other than having to make the Form Rs that an LEPC may receive available to the public in the same manner as other reports they receive.

Q: Who properly appoints LEPC members, the SERC or the local County Commissioners?

The SERC (State Emergency Response Commission) appoints (or "approves") the LEPC membership in accordance with §301(c).

Q: Does SERC or the LEPC appoint a local LEPC Chairperson?

Individual LEPCs appoint their own Chairperson.

Q: Does the Local Emergency Management Director have to be the Chairperson?

No. As a matter of fact, LEPCs are encouraged to periodically rotate the chairmanship.

Q: How often does an LEPC have to meet?

§303(a) requires that LEPCs meet at least annually to review and revise the Emergency Plan (or more often if necessary).

Q: Who gets Tier II reports, how often are they required, and what is the deadline?

Reporting facilities must submit copies of their Tier II reports to the SERC, their LEPC, and the local Fire Department with jurisdiction over the facility on an annual basis with the Tier II reports due March 1st of each year based upon the chemicals on-site during "any one time" during the previous calendar year.

Q: Do I have to submit an MSDS each year for the same chemical?

No. MSDS copies are generally not required, although any of the entities that receive the Tier II submissions

may require that an MSDS be provided. Rather than MSDS copies, facilities may submit a "list" of chemicals to meet their §311 requirements.

Q: Is gasoline and diesel fuel a "SARA chemical" and if so, how does a facility properly report it?

Yes, gasoline and diesel fuel are subject to SARA reporting because they would be subject to OSHA's MSDS requirements under 29 CFR 1910.1200. Therefore, for the purposes of Tier II reporting, a retail gasoline outlet must have had 75,000 gallons of gasoline or 100,000 gallons of diesel fuel (in compliant underground storage tanks), or 10,000 pounds of either (in an above-ground storage tank) or more on-site at any one time in the previous calendar year. Bulk facilities must continue to report using the 10,000 pound threshold.

Q: Do federal facilities have to report to my LEPC?

Yes, federal facilities are subject to all of the SARA Title III requirements. Federal Facilities became subject to the SARA program after program was already in place. They became subject to §§ 311 and 312 in 1990 and were added to the Form R reporting requirements for the 1994 reporting year.

Q: Do railroads and truckers have to submit Tier IIs?

An entity must meet the definition of "facility" found at 40 CFR 370 in order to be subject to the § 312 (Tier II) requirements. Hint: think of "fixed facilities" being subject to Tier II reporting rather than chemicals that are in "transportation." If a facility uses a railcar of a hazardous chemical for chemical storage at their site, then the facility would definitely have to report this chemical on their Tier II form.

Q: What do I do if I have a facility which refuses to report to my LEPC?

Because the SERC does not have enforcement authority in Tennessee, civil action may be brought against the facility in accordance with §326, or the LEPC should refer the matter to the SERC for action. The SERC's action will typically involve writing a "warning letter" to the facility establishing a timeframe in which the facility must come into compliance. If the facility does not achieve compliance within this timeframe, the SERC refers the issue to the EPCRA Enforcement Branch of Region 4 EPA (Environmental Protection Agency).

Q: What is the SERC primarily supposed to do?

The SERC oversees the administration of the SARA Title III program in the state. The SERC approves the LEPC memberships and supports the function of the LEPCs. The SERC communicates changes in the SARA-related regulations to the LEPCs and serves as a point of contact for the regulated community. The SERC ensures that there is public availability of the documents submitted to the SERC under all Sections of SARA Title III (with the exception of trade secret protection for registered facilities and confidential location information which may be submitted on the Tier II form).

Q: Many of the items called for in a "plan" appear to be standard procedures, not plan items; how do we address this?

Emergency Plans must be developed to address preparedness for hazardous materials incidents in accordance with §303 of SARA Title III. This does not preclude incorporating the §303 required elements into an overall multi-hazard plan. This may be accomplished by adding a hazard specific annex for responding to a hazardous chemical incident (with additional supporting documentation) or by adding a hazard specific chapter to the overall plan.

Q: Can SERC help me find funding for local cleanup of spills from unknown sources?

The SERC does not do this directly, however, the agencies represented on the SERC can help to find funding for these situations. Primarily, these agencies include the Division of Water Quality and the Solid Waste Management Division, both within the Department of Environment and Conservation (TDEC).

Q: How did the strong LEPCs become strong when so many do not even exist in NC?

Some factors that tend to produce strong LEPCs include: industry participation, leadership, administrative support, whether the Emergency Management Director views the LEPC as a tool to help accomplish his/her job, etc.