



Emergency Planning and Community Right-to-Know Act

*EPCRA Sections 302 – 312 &
CERCLA Section 103 Presentation
United States Environmental Protection Agency
Region III,
Oil & Prevention Branch*




Presentation Overview

- Regulatory Overview
- Facility Reporting Requirements
- Violations and Penalties



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What is EPCRA?

EPCRA is the Emergency Planning and Community Right-to-Know Act of 1986.

Also known as Title III of the Superfund Amendments and Reauthorization Act (SARA)


It is a mandated program that enables Federal, State and local authorities to effectively prepare for and respond to chemical accidents.

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The Regulatory Structure


- The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USC 9601 et seq.]
- Superfund Amendments and Reauthorization Act of 1986 (SARA) Title III = Emergency Planning and Community Right-To-Know Act (EPCRA) [42 USC 11001 et seq.]



What Does EPCRA Require?

- Creation of state and local emergency planning entities.
 - EPCRA §301(a) – The State Emergency Response Commission "SERC".
 - EPCRA §301(b) – SERC establish Planning Districts
 - EPCRA §301(c) – The Local Emergency Planning Committee "LEPC".
- Emergency planning efforts.
 - EPCRA §303(a) – Emergency Plan
 - EPCRA §303(b) – Resources
 - EPCRA §301(c) – Plan provisions
- Facility involvement and requirements for notification and reporting.

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SERC

- Make information collected under EPCRA publicly available.
- Formulating guidelines for receiving and processing public requests for information.
- Designation of an information coordinator for each SERC.

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LEPC

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- Develops and maintains a local emergency plan.
- Make information and submitted reports publicly available during normal business hours.
- Notify the public of the availability of Title III information, such as the emergency plan, activities, meetings, and provide opportunities for public comment.

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Who makes up the LEPC?

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At a minimum the LEPC membership must include representatives from the following:

- ◆ Elected state and local officials
- ◆ Law enforcement agencies
- ◆ Civil defense agencies
- ◆ Firefighting personnel
- ◆ First aid personnel
- ◆ Health care personnel
- ◆ Local environmental groups
- ◆ Hospital staff
- ◆ Transportation personnel
- ◆ Broadcast and print media
- ◆ Community groups
- ◆ Owners and operators of facilities subject to emergency planning

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What does EPCRA Require? Cont....

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3. Facilities, **subject to emergency planning**, to provide information on the presence of hazardous chemicals and on the releases, both accidental and routine, of such chemicals.

EPCRA §302(b)(1) – Facilities covered
 EPCRA §302(a)(2) – List of extremely hazardous substances "EHS"
 EPCRA §355 Appendices A and B – List of EHSs
 EPCRA §302(a)(3) – Threshold Planning Quantities "TPQ"
 EPCRA §302(c) – Emergency Planning notification
 EPCRA §303(d)(1) – Facility Emergency Coordinator "FEC"

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Regulations for Facilities - Emergency Planning and Release Notification

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- Emergency Planning is covered under §§302 & 303
 - ◆ [40 CFR Part 355.30]
- Emergency Notification is covered under §304 & CERCLA §103
 - ◆ [40 CFR Part 355.40 and 40 CFR Part 302]
- Hazardous Chemical Reporting is covered under §§311 & 312
 - ◆ [40 CFR Part 370]

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Important Definitions

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- Extremely Hazardous Substance (EHS)
- Hazardous Substance
- Toxic Chemical
- Hazardous Chemical
- Release
- Environment
- Facility
- Reportable Quantity
- Threshold Planning Quantity (TPQ)
- Minimum Threshold Level

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Universe of Chemicals

Sections 311 & 312 - OSHA-defined hazardous chemicals >500,000

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Threshold Planning Quantity (TPQ)

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- ...means, for an EHS listed in Appendices A and B of Title 40 of the Code of Federal Regulations (CFR) Part 355, the quantity established by EPA as the planning quantity, the presence of such quantity or more requires notification.

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Minimum Threshold Quantity

EPCRA * CERCLA

- The minimum threshold quantity (MTL) is the quantity which subjects a facility to the reporting requirements of Section 311 and Section 312 of EPCRA.
 - For hazardous chemicals = 10,000 pounds
 - For EHSs = TPQ or 500 pounds (whichever is less)

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Reportable Quantity (RQ)

EPCRA * CERCLA

- ...means that quantity which if released requires notification pursuant to CERCLA Section 103 or EPCRA Section 304.
- ...means, for any CERCLA hazardous substance, the RQ established in Table 302.4 of Title 40 of the Code of Federal Regulations (CFR) for such substance; for any other substance, the quantity is one pound.
- ...means, for any EHS, the quantity determined by EPA regulations as requiring notice and as published in Appendices A and B of Title 40 of the Code of Federal Regulations (CFR) Part 355 for such EHS; for any other EHS, the quantity is one pound.

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Important Definitions

EPCRA * CERCLA

EPCRA Section 304 EHS RQ

Reportable Quantity

CERCLA RQ (Hazardous Substance)

Convert to **Lbs.**

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Sections 302 & 303 Emergency Planning

EPCRA * CERCLA

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    graph TD
      A[REPORTING CRITERIA] --> B[Have on hand one or more EHSs in quantity = or > TPQ]
      C[REPORT TYPE] --> D[Notify that "Emergency Planning Facility" and designate "Facility Emergency Coordinator"]
      E[AGENCIES] --> F[SERC and LEPC]
      B --> D
      D --> F
      G[May 17, 1987 or within 60 days] --> D
    
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EPCRA Section 304 and CERCLA Section 103 Requirements

EPCRA * CERCLA

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    graph TD
      A[REPORTING CRITERIA] --> B[Release the RQ or more of an EHS or CERCLA- defined hazardous substance]
      C[REPORT TYPE] --> D["IMMEDIATE verbal notifications. WRITTEN follow-ups. As soon as practicable"]
      E[AGENCIES] --> F[SERC LEPC NRC (if CERCLA)]
      B --> D
      D --> F
    
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Immediate Notification

The Legislative History of the Superfund Amendments and Reauthorization Act of 1986 (Volume 2, Oct. 1999, pps. 600-01) states that delays in making the required notifications should not exceed **15 minutes**.

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EPCRA Section 304/CERCLA Section 103 - Emergency Release Notification

- Reporting Requirement CERCLA Section 103
 - CERCLA Hazardous Substance
 - Immediately notify the NRC:

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EPCRA Section 304/CERCLA Section 103 - Emergency Release Notification

- Reporting Requirements
 - Transportation: EPCRA Section 304 also applies to releases which occur from transportation incidents

911 or OPERATOR

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EPCRA Section 304/CERCLA Section 103 - Emergency Release Notification

- Exemptions
 - Facilities – with no hazardous chemicals
 - Exposure
 - Federally Permitted Releases
 - Continuous Releases
 - Pesticide Application
 - Engine Exhaust
 - Nuclear Incidents
 - Fertilizer Application
 - Metal Forms

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EPCRA Section 304/CERCLA Section 103 Emergency Release Notification

- Written Follow-Up
 - Actions Taken to Respond to and Contain the Release
 - Any Known or Anticipated Acute or Chronic Health Effects
 - Where Appropriate, Advice Regarding Medical Attention Necessary for Exposed Individuals

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Sections 311 & 312 - Hazardous Chemical Reporting


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Sections 311 & 312 - Hazardous Chemical Reporting

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- Mixtures - How are they reported?
 - ◆ Option 1: Calculate the quantity of the hazardous chemical components (greater than 1%, or 0.1% if a carcinogen, by weight) and sum the quantities from all mixtures with the quantity of any pure substance on hand.
 - ◆ Option 2: Report the total quantity of each mixture.

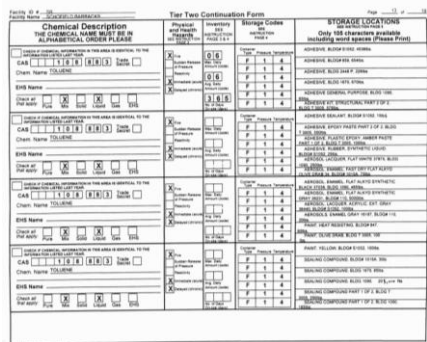


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Sections 311 & 312 - Hazardous Chemical Reporting

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Sections 311 & 312 - Hazardous Chemical Reporting

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- Exemptions – HAZCOM Applicability
 - ◆ 1) Any hazardous waste...
 - ◆ 2) Any hazardous substance which is the focus of CERCLA remedial or removal actions.
 - ◆ 3) Tobacco or tobacco products.
 - ◆ 4) Wood or wood products.
 - ◆ 5) Articles.
 - ◆ 6) Food or alcoholic beverages

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Sections 311 & 312 - Hazardous Chemical Reporting

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- Exemptions - HAZCOM Applicability (continued)
 - ◆ 7) Drugs...
 - ◆ 8) Cosmetics...
 - ◆ 9) Consumer products...
 - ◆ 10) Nuisance particulates.
 - ◆ 11) Ionizing and nonionizing radiation.
 - ◆ 12) Biological hazards.

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Maximum Penalties for Violations

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- EPCRA Sections 302 & 303
 - ◆ Up to \$ 27,500 per violation per day
- EPCRA Section 304 & CERCLA Section 103
 - ◆ Up to \$32,500 per violation
 - ◆ For second or subsequent violations, up to \$97,500 for each day
- EPCRA Section 311
 - ◆ Up to \$ 11,000 per violation
- EPCRA Section 312
 - ◆ Up to \$ 32,500 per violation

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Penalty Calculation Factors

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- CERCLA § 109/ EPCRA § 325:
 - ◆ nature
 - ◆ circumstances
 - ◆ extent
 - ◆ gravity
 - ◆ ability to pay (burden on Respondent to show inability to pay)
 - ◆ prior history of violations
 - ◆ degree of culpability
 - ◆ economic benefit resulting from violation
 - ◆ other matters as justice may require

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Enforcement Response Policy

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- September 30, 1999
- <http://www.epa.gov/compliance/resources/policies/civil/epcra/epcra304.pdf>
- Provided with every administrative complaint and show cause letter
- Guidance on how EPA may apply statutory penalty factors in its enforcement discretion

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Supplemental Environmental Projects (SEPs)

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A SEP is an environmentally beneficial project that a violator voluntarily agrees to undertake in settlement of a civil penalty action.

Additional SEP information is available at:
<http://www.epa.gov/compliance/civil/seps/>

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Self Disclosure

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- "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations", 65 FR 19,618 (04/11/00) has been in effect since 1995.

Website Information:
<http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html>

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Additional EPA Resources

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Superfund, TRI, EPCRA, RMP & Oil Information Center

(800) 424-9346 or TDD (800) 553-7672
(703) 412-9810 or TDD (703) 412-3323 in the Washington, D.C. area

Normal Hours of Operation:
Monday - Thursday 10:00 a.m. - 3:00 p.m. Eastern Time


Extended Hours of Operation (May, June, and July):
Monday - Friday 9:00 a.m. - 5:00 p.m. Eastern Time

Closed Federal Holidays

US EPA Region 3
EPCRA Sections 302 - 312

Michelle Price-Fay
(215) 814-3397

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Additional EPCRA information

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- * Website Information***

http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/epcra_law.htm

- Includes useful tips and information
- Questions and Answers
- Fact Sheets
- An EPCRA Overview
- Updates and Information
- Links for publications and regulations

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