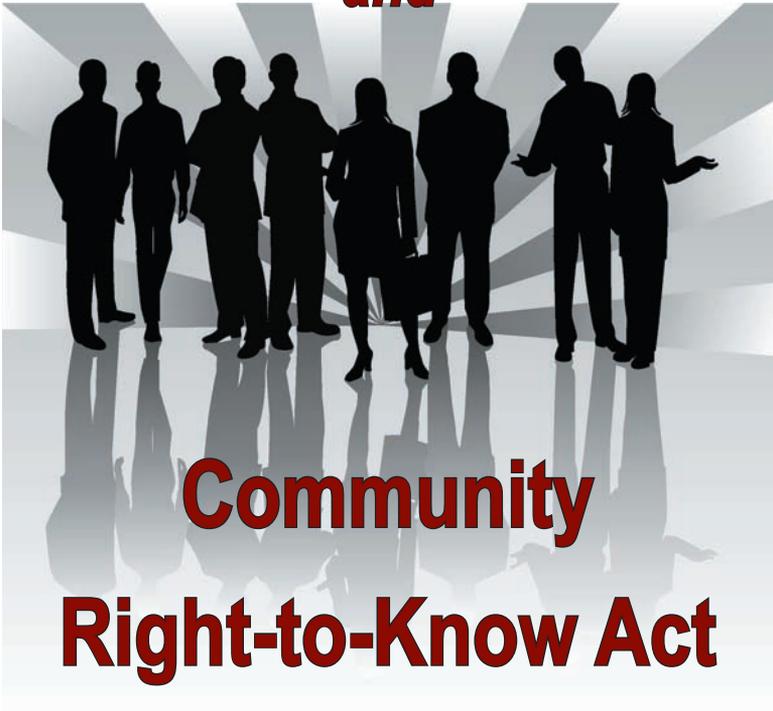




Do you know about the...

SARA Title III Emergency Planning

and



Community Right-to-Know Act

Introduction

The Emergency Planning and Community Right-to-Know Act

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) establishes requirements for federal, state and local governments, Indian tribes and industry regarding emergency planning and “Community Right-to-Know” reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public’s knowledge and access to information on chemicals at individual facilities, their uses and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.





What does EPCRA cover?

EPCRA has four major provisions:

1. Emergency Response Plans (Section 301-303)
2. Emergency Notification Requirements (Section 304)
3. Community Right-to-Know Requirements (Sections 311-312)
4. Toxic Chemical Release Inventory (Section 313)

Information gleaned from these four requirements will help states and communities develop a broad perspective of chemical hazards for the entire community as well as for individual facilities. Regulations implementing EPCRA are codified in Title 40 of the Code of Federal Regulations, parts 350 to 372. The chemicals covered by each of the sections are different, as are the quantities that trigger reporting. *Refer to the EPCRA Chemicals and Reporting Thresholds table on page 15 which summarizes the chemicals and thresholds.*

1. What are Emergency Response Plans (Sections 301-303)?

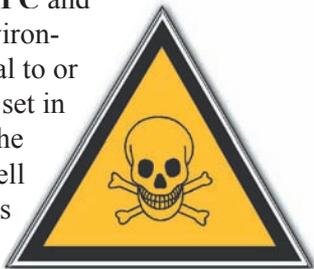
Emergency Response Plans contain information that community officials can use at the time of a chemical accident. Community emergency response plans for chemical accidents were developed under section 303. The plans must:

- Identify facilities and transportation routes of extreme hazardous substances
- Describe emergency response procedures, on and off site
- Designate a community coordinator and facility coordinator(s) to implement the plan
- Outline emergency notification procedures
- Describe how to determine the probable affected area and population by releases
- Describe local emergency equipment and facilities and the persons responsible for them
- Outline evacuation plans
- Provide a training program for emergency responders (including schedules)
- Provide methods and schedules for exercising emergency response plans

Planning activities of Local Emergency Planning Committees (LEPCs) and facilities initially focused on, but were not limited to, the 356 extremely hazardous substances listed by Environmental Protection Agency (EPA). The list includes the threshold planning quantities (minimum limits) for each substance. Any facility that has any of the listed chemicals at or above its threshold planning quantity must notify the State Emergency Response Commission (SERC) and LEPC within 60 days after they first receive a shipment or produce the substance on site.

2. What are the Emergency Notification requirements (Section 304)?

Facilities must immediately notify the **LEPC** and the **SERC** if there is a release into the environment of a hazardous substance that is equal to or exceeds the minimum reportable quantity set in the regulations. This requirement covers the 356 extremely hazardous substances as well as the more than 700 hazardous substances subject to the emergency notification requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 103(a)(40 CFR 302.4). Some chemicals are common to both lists. Initial notification can be made by telephone, radio, or in person. Emergency notification requirements involving transportation incidents can be met by dialing 911, or in the absence of a 911 emergency number, calling the operator. This emergency notification needs to include:



- The chemical name
- An indication of whether the substance is extremely hazardous
- An estimate of the quantity released into the environment
- The time and duration of the release
- Whether the release occurred into air, water, and/or land
- Any known or anticipated acute or chronic health risks associated with the emergency, and where necessary, advice regarding medical attention for exposed individuals
- Proper precautions, such as evacuation or sheltering in place
- Name and telephone number of contact person

A written follow-up notice must be submitted to the SERC and LEPC as soon as practicable after the release. The follow-up notice must update information included in the initial notice. It must also provide information on actual response actions taken and advice regarding medical attention necessary for citizens exposed.

What are SERCs?

The governor of each state has designated a State Emergency Response Commission (SERC). The SERCs, in turn, have designated about 3,500 local emergency planning districts and appointed Local Emergency Planning Committees (LEPCs) for each district. The SERC supervises and coordinates the activities of the LEPC, establishes procedures for receiving and processing public requests for information collected under EPCRA and reviews local emergency response plans.

What are LEPCs?

The Local Emergency Planning Committee (LEPC) membership must include, at a minimum, local officials including police, fire, civil defense, public health, transportation and environmental professionals, as well as representatives of facilities subject to the emergency planning requirements, community groups and the media. The LEPCs must develop an emergency response plan, review it at least annually and provide information about chemicals in the community to citizens.

3. What are the Community Right-to-Know requirements (Sections 311/312)?

Under Occupational Safety and Health Administration (OSHA) regulations, employers must maintain a material safety data sheet (MSDS) for any hazardous chemicals stored or used in the work place. Approximately 500,000 products have MSDSs.

Section 311 requires facilities that have MSDSs for chemicals held above certain quantities to submit either copies of their MSDSs or a list of MSDS chemicals to the SERC, LEPC and local fire department. If the facility owner or operator chooses to submit a list of MSDS chemicals, the list must include the chemical or common name of each substance and must identify the applicable hazard categories. These hazard categories are:

- Immediate (acute) health hazard
- Delayed (chronic) health hazard
- Fire hazard
- Sudden release of pressure hazard
- Reactive hazard

If a list is submitted, the facility must submit a copy of the MSDSs for any chemical on the list upon the request of the LEPC or SERC.

Facilities that start using a chemical or begin to exceed the thresholds must submit MSDSs or a list of MSDSs chemicals within three months after they become active. Facilities must provide a revised MSDS to update the original MSDS if significant new information is discovered about the hazardous chemical.

Facilities covered by Section 311 must, under Section 312, submit annually an emergency and hazardous chemical inventory form to the LEPC, the SERC and the local fire department. Facilities provide either a Tier I or Tier II form. Tier I forms include the following aggregate information for each applicable hazard category:

- An estimate (in ranges) of the maximum amount of chemicals for each category present at the facility at any time during the preceding calendar year
- An estimate (in ranges) of the average daily amount of chemicals in each category
- The general location of hazardous chemicals in each category

The Tier II report contains basically the same information as the Tier I, but it must name the specific chemicals. Many states require Tier II information under state law. Tier II forms provide the following information for each substance:

- The chemical name or the common name as indicated on the MSDS
- An estimate (in ranges) of the maximum amount of the chemical present at any time during the preceding calendar year and the average daily amount
- A brief description of the manner of storage of the chemical
- The location of the chemical at the facility
- An indication of whether the owner elects to withhold location information from public disclosure

Because many SERCs have added requirements or incorporated the federal contents in their own forms, Tier I/II forms should be obtained from the SERC. Section 312 information must be submitted on or before March 1st each year. The information submitted under Sections 311 and 312 is available to the public from LEPCs and SERCs.

In 1999, EPA excluded gasoline held at most retail gas stations from EPCRA 311/312 reporting. EPA estimates that about 550,000 facilities are now covered by EPCRA 311/312 requirements.

See Reporting Schedules on page 11.

4. What is the Toxics Release Inventory (Section 313)?

EPCRA Section 313 (commonly referred to as the Toxics Release Inventory or TRI) requires certain facilities (see box below) to complete a Toxic Chemical Release inventory form annually for specified chemicals. The form must be submitted to EPA and the state on July 1st and cover releases and other waste management of toxic chemicals that occurred during the preceding calendar year. One purpose of this reporting requirement is to inform the public and government officials about releases and other waste management of toxic chemicals.

Who's Covered by TRI?

The TRI reporting requirement applies to facilities that have 10 or more full-time employees, that manufacture (including importing), process or otherwise use a listed toxic chemical above threshold quantities, and that are in one of the following sectors:

- Manufacturing (SIC Codes 20 through 39)
 - Metal mining (SIC Code 10, except for codes 1011, 1081, and 1094)
 - Coal mining (SIC Code 12, except for code 1241 and extraction activities)
 - Electrical utilities that combust coal and/or oil (SIC Codes 4911, 4931 and 4939)
 - Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste treatment and disposal facilities (SIC Code 4953)
 - Chemicals and allied products wholesale sale distributors (SIC Code 5169)
 - Petroleum bulk plants and terminals (SIC Code 5171)
 - Solvent recovery services (SIC Code 7389)
- * Standard Industrial Classification (SIC) Codes

The following information is required on the form:

- The name, location and type of business
- Whether the chemical is manufactured (including importation), processed or otherwise used and the general categories of use of the chemical
- An estimate (in ranges) of the maximum amounts of the toxic chemical present at the facility at any time during the preceding year
- Quantity of the chemical entering the air, land and water annually
- Off-site locations to which the facility transfers toxic chemicals in waste for recycling, energy recovery, treatment or disposal
- Waste treatment/disposal methods and efficiency of methods for each waste stream

In addition, the Pollution Prevention Act of 1990 requires the collection of information on source reduction, recycling and treatment. EPA maintains a national TRI database, available on the Internet. See the *Where Can I Find EPCRA Information* section on page 14 for further details.

Reporting Schedule below refers to information on page 9.

Reporting Schedules

Section

- | | |
|------------|---|
| 302 | One time notification to SERC |
| 304 | Each time a release above a reportable quantity occurs; to LEPC and SERC |
| 311 | One time submission; update only for new chemicals or information; to SERC, LEPC, fire department |
| 312 | Annually, by March 1 to SERC, LEPC, fire department |
| 313 | Annually, by July 1, to EPA and State |

What else does EPCRA require?

Trade Secrets. EPCRA Section 322 addresses trade secrets as they apply EPCRA Sections 303, 311, 312, and 313 reporting; a facility cannot claim trade secrets under Section 304 of the statute. Only chemical identity may be claimed as a trade secret, though a generic class for the chemical must be provided. The criteria a facility must meet to claim a chemical identity as a trade secret are in 40 Code of Federal Regulation (CFR) part 350. In practice, less than one percent of facilities have filed such claims.

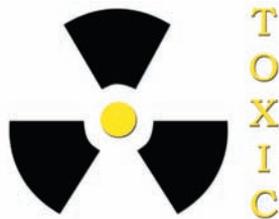


Even if chemical identity information can be legally withheld from the public, EPCRA section 323 allows the information to be disclosed to health professionals who need the information for diagnostic and treatment purposes or local health officials who need the information for prevention and treatment activities. In non-emergency cases, the health professional must sign

a confidentiality agreement with the facility and provide a written statement of need. In medical emergencies, the health professional, if requested by the facility, provides these documents as soon as circumstances permit.

Any person may challenge trade secret claims by petitioning EPA. The agency must then review the claim and rule on its validity.

EPCRA Penalties. EPCRA Section 325 allows civil and administrative penalties ranging from \$10,000 to \$75,000 per violation or per day per violation when facilities fail to comply with the reporting requirements. Criminal penalties up to \$50,000 or five years in prison apply to any person who knowingly and willfully fails to provide emergency release notification. Penalties of not more than \$20,000 and/or up to one year in prison apply to any person who knowingly and willfully discloses any information entitled to protection as a trade secret.



Citizens Suits. EPCRA Section 326 allows citizens to initiate civil actions against EPA, SERCs, and the owner or operator of a facility for failure to meet the EPCRA requirements. A SERC, LEPC, and state or local government may institute actions against facility owners/operators for failure to comply with EPCRA requirements. In addition, states may sue EPA for failure to provide trade secret information.

Where can you find EPCRA information?

MSDSs, hazardous chemical inventory forms, follow-up emergency notices and the emergency response plan are available from the SERC and LEPC.

MSDSs on hazardous chemicals are maintained by a number of universities and can be accessed at www.hazard.com.

EPA also provides fact sheets and other information on chemical properties through its website www.epa.gov. EPA has compiled a list of all chemicals covered under these regulations into a single list and published them as the Title III List of Lists available at www.epa.gov/swercepp/ds-epds.htm#title3.

Profiles of extremely hazardous substances are available at www.epa.gov/ceppo/ep_chda.htm#ehs.

Each year, EPA publishes a report summarizing the TRI information that was submitted to EPA and States during the previous year. In addition, TRI data are available through EPA's envirofacts database at www.epa.gov/enviro. TRI data are also available at www.epa.gov/tri, www.rtk.net and www.scorecard.org.

All of these sites can be searched by facility, city, county and state and provide access to basic TRI emissions data. The RTK-Net site, maintained by the public advocacy group OMB Watch, provides copies of the full TRI form for each facility. The Scorecard site, maintained by the Environmental Defense public advocacy group, ranks facilities, States, and counties on a number of parameters (e.g., total quantities of carcinogens released) as well as maps that show the locations of facilities in a county or city.

Initial emergency release notifications made to the National Response Center or EPA are available on line at www.epa.gov/ernsacct/pdf/index.html.

A list of LEPCs and SERCs is available at <http://www.RTK.NET:80/lepc/>.

Many of these sites can also be accessed through www.epa.gov/ceppo/.



EPCRA Chemicals and Reporting Thresholds

	<u>Chemicals Covered</u>	<u>Thresholds</u>
Section 302	356 extremely hazardous substances	Threshold Planning Quantity 1-10,000 pounds on site at any one time
Section 304	> 1,000 substances	Reportable quantity, 1-5,000 pounds, released in a 24-hour period
Sections 311/312	500,000 products	TPQ or 500 pounds for Section 302 chemicals; 10,000 pounds on site at any one time for other chemicals
Sections 313	650 toxic chemicals and categories	25,000 pounds per year manufactured or processed; 10,000 pounds a year used; certain persistent bioaccumulative toxics have lower thresholds

Are there other laws that provide similar information?

The Oil Pollution Act (OPA) of 1990 includes national planning and preparedness provisions for oil spills that are similar to EPCRA provisions for extremely hazardous substances. Plans are developed at the local, state and federal levels. The OPA plans offer an opportunity for LEPCs to coordinate their plans with area and facility oil spill plans covering the same geographical area.



The 1990 Clean Air Act Amendments require the EPA and OSHA to issue regulations for chemical accident prevention. Facilities that have certain chemicals above specified threshold quantities are required to develop a risk manage-

ment program to identify and evaluate hazards and manage those hazards safely. Facilities subject to EPA's risk management program rules must submit a risk management plan (RMP) summarizing its program. Most RMP information is available through RMP Info, which can be accessed through www.epa.gov/enviro.

Lists of Chemicals

There are four groups of chemicals subject to reporting under the Emergency Planning and Community Right-to-Know Act. Some chemicals appear in several groups.

Extremely Hazardous Substances (Sections 301-304)

This list currently contains more than 300 chemicals. Because of their extremely toxic properties, these chemicals were chosen to provide an initial focus for chemical emergency planning. If these chemicals are released in certain amounts, they may be of immediate concern to the community. Releases must be reported immediately.

Hazardous Substances (Section 304)

These are hazardous substances listed under previous Superfund hazardous waste cleanup regulations (Section 103(a) of the Comprehensive Environmental Resource and Conservation Liability Act—Superfund). The current list contains about 720 substances. Releases of these chemicals above certain amounts must be reported immediately because they may represent an immediate hazard to the community.

Hazardous Chemicals (Sections 311-312)

These chemicals are not on a list at all, but are defined by Occupational Safety and Health Administration regulations as chemicals which represent a physical or health hazard. Under this definition many thousands of chemicals can be subject to reporting requirements if a facility manufactures, processes or stores them in certain amounts. Inventories of these chemicals and material safety data sheets for each of them must be submitted.

Toxic Chemicals (Section 313)

There are now more than 320 chemicals or chemical categories on this list, which were selected by Congress primarily because of their chronic or long-term toxicity. Estimates of releases of these chemicals into all media—air, land and water—must be reported annually and entered into a national data base.

Local Emergency Planning Committee Chairs



LEPC DISTRICT 1

Steve A. Preston

5 Cumberland Hill Road

Woonsocket RI 02895

Phone: (401) 597-6667

E-mail: spreston@woonsocketri.org

LEPC DISTRICT 4

Kevin D. Quinn

Union Fire District of South Kingstown

131 Asa Pond Road

Wakefield, RI 02879

Phone: (401) 789-8354

E-mail: chief5@unionfiredistrict.com

LEPC DISTRICT 2

Mike Dillon

325 Washington Street

Providence, RI 02903

Phone: (401) 243-6075

E-mail: mdillon@providenceri.com

LEPC DISTRICT 5

Mike Carey

913 Broadway

East Providence, RI 02914

Phone: (401) 435-7770

E-mail: mcarey@eastprovfire.com

LEPC DISTRICT 3

Dave Dimaio

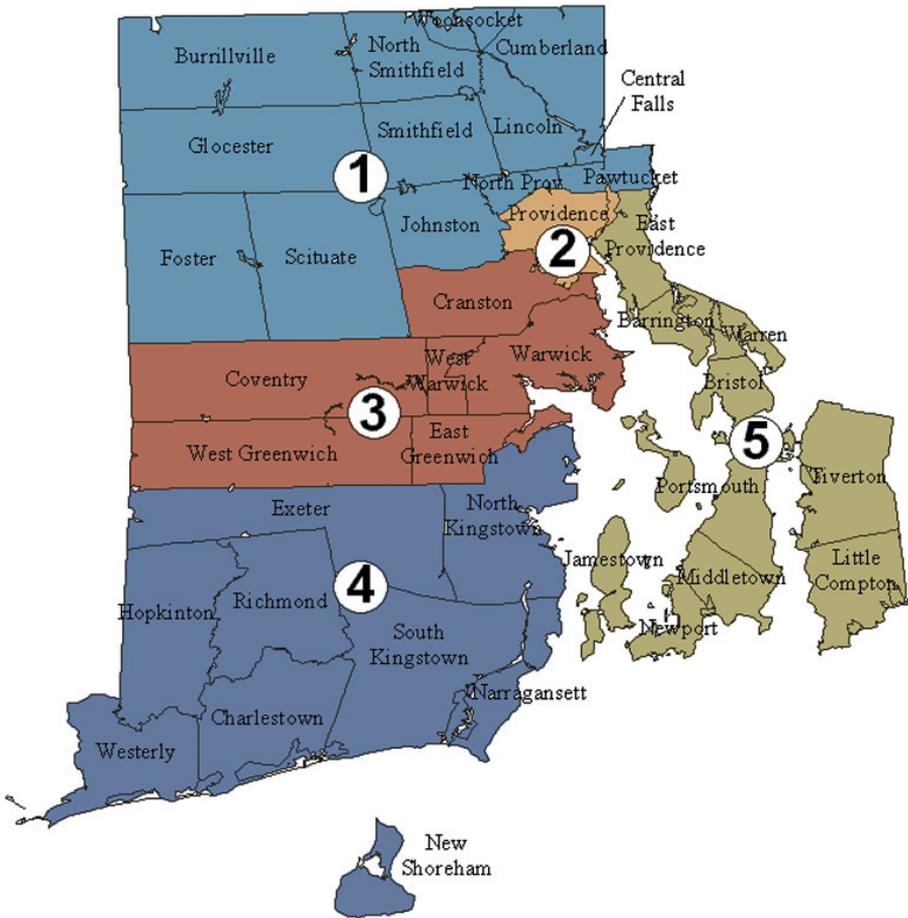
301 Pontiac Avenue

Cranston, RI 02910

Phone: (401) 780-4042

E-mail: firehazmat@cranstonri.org

Local Emergency Planning Committee Districts 1-9



Glossary of Terms

CERCLA — The Comprehensive Environmental Response, Compensation and Liability Act

CFR — Code of Federal Regulation

EPA — Environmental Protection Agency

EPCRA — Emergency Planning and Community Right-to-Know

LEPC — Local Emergency Planning Committees

MSDS — Material Safety Data Sheet

OPA — Oil Pollution Act of 1990

OSHA — Occupational Safety and Health Administration

RMP — Risk Management Plan

SARA — Superfund Amendments and Reauthorization Act

SERC — State Emergency Response Commission

SIC Code — Standard Industrial Classification Code

Tier I — Sites where the EPA has taken cleanup actions under the federal Superfund program

Tier II — Computer software developed by the EPA and National Oceanic and Atmospheric Administration for use by facilities in submitting Tier II annual reports

TRI — Toxics Release Inventory

**For more information,
contact the EPCRA hotline at:
(800) 424-9346 or (703) 412-9810
TDD (800) 553-7672
Monday - Friday 9:00 AM to 6:00 PM**



**For EPA EPCRA contacts, visit the
CEPPO home page at:
www.epa.gov/ceppo/**

**For TRI program officials and EPA TRI
regional contacts,
visit: www.epa.gov/tri/statecon.htm.**

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**For more information, contact the
RI Department of Labor and Training
Division of Workforce Regulation and Safety
Right-to-Know Unit
1511 Pontiac Avenue, Cranston, RI 02920
Tel: (401) 462-8559 • Fax: (401) 462-8576
www.dlt.ri.gov/occusafe**



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