



Emergency Planning and Community Right-to-Know Act The LEPC



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS
National Capital Chapter



Presented by
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Alliance of Hazardous Materials Professionals

National member organization of hazardous materials professionals who deal with all aspects of hazardous materials management including;

- ▶ Manufacturing
- ▶ Shipping
- ▶ Storage
- ▶ Use
- ▶ Reuse/Repurposing/Recycling
- ▶ Disposal

National Capital Chapter AHMP

- ▶ Affiliated with AHMP
- ▶ Serving the Maryland, DC, and Virginia geography
- ▶ Conducts
 - Regular technical seminars
 - Professional Develop Seminars (all -day)
 - Preparatory course (Certified Hazardous Materials Manager)
 - Facility tours

Cyber Chapter

- ▶ Affiliated with AHMP
- ▶ Serving areas without local chapters worldwide
- ▶ Conducts
 - Regular technical seminars
 - Professional Develop Seminars (all -day)
 - Preparatory course (Certified Hazardous Materials Manager)
- ▶ “Connecting Hazardous Materials Professionals Worldwide”

American Society of Safety Professionals (ASSP)

- ▶ For more than 100 years, we have supported occupational safety and health (OSH) professionals in their efforts to prevent workplace injuries, illnesses and fatalities. We provide education, advocacy, standards development and a professional community to our members in order to advance their careers and the OSH profession as a whole.

National Capital Chapter ASSP Norther Virginia Chapter ASSP

- ▶ Affiliated with
- ▶ Serving the Maryland, DC, and Virginia geography
- ▶ Conducts
 - Regular technical seminars (hybrid)
 - Preparatory course (CSP, CHMM, ASP)
 - Facility tours
 - Toys for Tots

TRAINING DISCLAIMER

These materials were developed by K & A First Aid, Inc. and Bay Associates Environmental, Inc. and are intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics, it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in a presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, regulators may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit regulatory web sites such as the Department of Transportation at www.dot.gov or OSHA's website at www.osha.gov.

Three Questions

- ▶ What do you think the LEPC is supposed to do?
- ▶ What do you want to get out of the LEPC?
- ▶ Why are you a member of the LEPC?

On-line – please respond in the chat or come off of mute.

The Emergency Planning and Community Right-to-Know Act (EPCRA)

- ▶ **Historical Perspective**
 - Bhopal, India, December 3, 1984
 - EPCRA
 - Enacted October 16, 1986
 - Effective in 1987
- ▶ **EPCRA**
 - Requires public disclosure by facilities
 - Information about **on-site** chemicals
 - Information to support local agencies in emergency response planning
 - Administered by the EPA and state and local authorities

What is Considered a Facility?

- ▶ Definitions of *facility* in **EPCRA** and **CERCLA** are not identical.
- ▶ Under EPCRA, a **facility** includes:
 - **All** buildings, equipment, structures, and other stationary items
 - Located on a single site or on contiguous or adjacent sites
 - Owned or operated by the same person
 - Includes motor vehicles, rolling stock, and aircraft
- ▶ Multiple releases of the same substance at various locations from contiguous plants or installations on contiguous property under common ownership or control must be added together to determine whether the releases must be reported.

Components of EPCRA

- ▶ Known as SARA Title III
 - Title III of the Superfund Amendments and Reauthorization Act
- ▶ Has **four** components:
 1. Emergency planning Notification (Section 302)
 2. Emergency Release Notification (Section 304)
 3. Hazardous Chemical Inventory Reporting (Sections 311–313)
 4. Toxic Chemical Release Reporting (Section 313)



Organization of EPCRA

EPCRA is divided into *three* subtitles

- ▶ Subtitle A: Emergency Planning and Notification (Sections 301–305)
- ▶ Subtitle B: Reporting Requirements (Sections 311–313)
 - ▶ Hazardous chemical inventory reporting
 - ▶ Toxic chemical release reporting
- ▶ Subtitle C: General Provisions (Sections 321–330)

Subtitle A Overview

- ▶ **Emergency Planning and Notification**
 - SERC
 - LEPC
 - EHS and TPQ
 - Local Emergency Plan
 - Emergency Planning Notification



State Emergency Response Commissions (SERCs)

- ▶ Appoint, supervise, and coordinate LEPCs
- ▶ Designate an official coordinator for:
 - Processing information from facilities
 - Responding to public requests
- ▶ Consist of members who:
 - Are appointed by the state governor
 - Have technical expertise in the emergency response field

Local Emergency Planning Committees (LEPCs)*

- ▶ Prepare and implement an effective emergency response plan for the local district
- ▶ Based on planning districts
 - On a county basis for most states
- ▶ Have a broad-based membership



* Section 301 of EPCRA

Extremely Hazardous Substances (EHSs)

- ▶ More than 350 substances are listed as EHS.
- ▶ The EHS list is revised periodically.
- ▶ 1% *de minimis* rule applies for most EHS in mixtures, solutions, or formulations.



Threshold Planning Quantities

- ▶ The *Threshold Planning Quantity* (or *TPQ*) is the quantity of an EHS that triggers emergency planning requirements.
- ▶ An EHS is assigned a TPQ based on perceived risk.
- ▶ TPQs can be 1, 10, 100, 500, 1,000, to 10,000 pounds depending on the relative risk.
- ▶ Each solid EHS has 2 TPQs, a low one if it is a fine powder and a larger one if it is an aggregate.
- ▶ The reasoning behind the TPQ is that limited state and local resources should be focused on those substances that could cause the greatest harm in an accidental release.

Reportable Quantities

Reportable Quantities (or **RQ**) are quantities that trigger EPCRA reporting requirements. The actual definition of RQ is the maximum amount, in pounds, that may be released into the environment without triggering the reporting requirements of Section 102 of CERCLA.

- ▶ EHS chemicals have differing amounts that trigger reporting requirements.
- ▶ Both the CERCLA RQs and the EPCRA TPQ are utilized in determining RQs under EPCRA.
- ▶ For most EHS, the lower of 500 pounds or the actual TPQ is the RQ.
- ▶ If a chemical is both an EHS and a CERCLA hazardous substance, then the CERCLA RQ must be used.



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TPQ and RQ Reporting

- ▶ Threshold planning quantities (TPQ) and reportable quantities (RQ) both apply to reporting requirements.
- ▶ EHS are assigned threshold planning quantities (TPQ) based on perceived risk.
- ▶ A **reportable quantity (RQ)** is the maximum amount, in pounds, that may be released into the environment without triggering the reporting requirements of Section 102 of CERCLA. (TPQ are in addition to CERCLA requirements.)
- ▶ EHS RQ apply **only** to the release of an EHS that is not also categorized as a CERCLA hazardous substance (HS).
- ▶ If a chemical is both an EHS and HS, then the CERCLA RQ must be used.



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Local Emergency Plan

- ▶ LEPC responsibilities
- ▶ Facility responsibilities
 - Emergency planning notification
 - Report storage, use, and release of certain hazardous chemicals



Emergency Planning Notification

- ▶ **Called Section 302 notification***
- ▶ **Applies if EHS is present**
 - Quantity equal to TPQ or 500 lbs., whichever is less
- ▶ **Requires SERC notification**
 - Within 60 days after a facility acquires an EHS in quantity equal to the TPQ or 500 lbs., whichever is less

** Implemented under 40 CFR 355*

Emergency Release Notification

- ▶ Implemented under 40 CFR 355
- ▶ Covers EHSs and hazardous substances
- ▶ Requires notification of SERC and LEPC if:
 - RQ or greater released
 - RQ released in 24 hours or less
 - Release results in exposure of persons outside the facilities boundary
- ▶ Certain releases are exempt if CERCLA definitions are met:
 - Federally permitted as defined by Section 101(10)
 - Continuous as defined by Section 103(f)

Subtitle B Overview

Three reporting requirements

1. Section 311 requires reporting of SDS information for all hazardous chemicals (HC).
2. Section 312 requires inventory reporting of HC and EHS site information.
3. Section 313 requires annual toxic chemical usage and release information.

Hazardous Chemical

▶ Defined under OSHA

- Requires a Safety Data Sheet (SDS)
- Presents a physical or health hazard
- Does not include chemicals:
 - Regulated in food or drugs
 - In manufactured items
 - For “household” uses
 - Used in a research laboratory or a hospital
 - Used in routine agriculture



Section 311: MSDS Reporting

Section 311 requires reporting of SDS information for all hazardous chemicals (HC) for which inventory is required.

- ▶ Present at one time in quantities in excess of minimum threshold levels
- ▶ Copies of SDS or list of HC
- ▶ Sent to SERC, LEPC, and local fire department

Section 312: Annual Inventory Reporting

Section 312 requires reporting of hazardous chemical and EHS on site:

- ▶ Present at one time in quantities in excess of the minimum threshold
 - For HC, 10,000 lbs
 - for EHS, TPQ or 500 lbs, whichever is *less*

Information required on the inventory reporting form includes:

- ▶ Locations and storage container types
- ▶ Quantity – by number of days and range in pounds
- ▶ Physical state

Total Annual Reportable Amount

The total annual reportable amount must include all toxic chemicals that are:

- ▶ Released, treated, recycled, or burned for energy recovery
- ▶ Transferred off-site for recycling, energy recovery, treatment and/or disposal

Section 313: Toxic Chemical Release Reporting*

- ▶ Sometimes referred to as "Section 313 Reporting"
- ▶ Use Toxic Chemical Release Inventory (TRI) Forms
- ▶ Submit annually to SERC and the EPA
- ▶ Covers all listed toxic chemicals **used** at or above threshold quantities
- ▶ Allows certain exemptions and exceptions

* 40 CFR 372

Persistent Bioaccumulative Toxic (PBTs)

- ▶ Toxic
- ▶ Remain in the environment for long periods of time
- ▶ Not readily destroyed
- ▶ Build up or accumulate in body tissue

Form R and Form A Reports

- Form R, or Toxic Release Inventory (TRI), reports:
 - Facility information
 - Chemical-specific information
 - Source **reduction** and recycling
- Form A reports
 - Shorter than Form R
 - Not for PBT chemicals
 - Quantity limitations (meets the **alternate threshold**, which is less than 1,000,000 pounds used and annual RQ of less than 500 pounds)

Exemptions

Exemptions for threshold amount determination include:

- ▶ *De minimis* concentrations
- ▶ Articles
- ▶ Certain uses
- ▶ Activities in laboratories
- ▶ Reported information that is publicly available.

Subtitle B: Reporting Requirements for Toxic Chemicals

Manufacturers of products containing toxic chemicals must provide *written* notice to users that the product contains a toxic chemical.



Subtitle C: General Provisions

- ▶ Trade secrets allowed
- ▶ Public access to local emergency planning information
- ▶ Penalties are on a per day per violation

Trade Secrets

A claim of trade secret or confidentiality must meet the criteria set forth in the EPCRA law as follows:

- ▶ The information cannot have already been disclosed publicly.
- ▶ The information cannot be information that is otherwise required to be disclosed by other federal or state laws.
- ▶ The disclosure of the information must be shown to likely cause substantial harm to a business' competitive position.
- ▶ The chemical identity cannot be readily discovered through reverse engineering.



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Disclosing Hazard Information

Even trade secrets must be disclosed to health professionals (doctors and nurses) if the information is requested. The health professionals may request the information if a patient's symptoms seem to indicate that the trade secret chemical was the cause or if the health professional determines that a medical emergency has occurred.

Also, the SERC is required to provide the information about the adverse health effects of any "trade secret" chemical to any person who requests this information. In other words, the potential adverse health effects of a "trade secret" chemical may not be withheld. In addition, any duly authorized committee of the U.S. Congress may request the specifics about any "trade secret" chemical.



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Public Access to Information

Section 324 directs the EPA, governors, SERCs, and LEPCs to make the following available to the general public:

- ▶ Emergency response plans
- ▶ MSDSs
- ▶ Lists of chemicals
- ▶ Inventory forms
- ▶ Toxic chemical release forms
- ▶ Follow-up emergency notices

Penalties and Enforcement

The Environmental Protection Agency may extract fines from anyone not in compliance with EPCRA. These penalties can be on a per day, per chemical, per violation. Each entity that is supposed to be provided with a Tier Two Report, List of Chemicals or SDS, or Emergency Notification is considered a separate point of compliance.

In addition, citizens have the right by federal law to bring a civil lawsuit against a company that refuses to come into compliance with EPCRA law.

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