

PROACT FACT SHEET

An Environmental Resource sponsored by HQ Air Force Center for Environmental Excellence



October 2001

Emergency Planning & Community Right-to-Know EPCRA

INTRODUCTION

Federal facilities are mandated to comply with the Emergency Planning and Community Right-to-Know Act (EPCRA) under Executive Order 13148, which specifies federal agencies to inform the public about possible sources of pollution resulting from operations through the planning and reporting provisions of EPCRA. The Act, promulgated as Title III of the Superfund Amendments and Reauthorization Act (SARA), is designed to aid federal, state, and local agencies in protecting the environment, as well as the health and safety of the public, from chemical hazards.

EPCRA effectively disseminates information on toxic and hazardous chemicals within a community for utilization in emergency planning and response to accidental releases, through multiple reporting requirements. The reporting requirements of EPCRA mandate facilities that use, store, and/or release specified chemicals in an amount equal to or greater than established thresholds to inform the state emergency response commission (SERC) and local emergency planning committee (LEPC).

Major Components

The Act has four major components which encourages and supports emergency planning and provides information regarding potential chemical hazards to the public:

- ↪ Sections 301-303, Emergency Planning;
- ↪ Section 304, Emergency Notification;
- ↪ Sections 311-312, Hazardous Chemical Reporting; and
- ↪ Section 313, Toxic Chemical Reporting.

Each component has different reporting provisions and requirements for chemicals and facilities. This first installment in a series of fact sheets discusses the chemicals subject to reporting and the thresholds that trigger reporting under EPCRA. Other installments review the four major components of EPCRA and discuss reporting of the chemical hazards present at a facility. The

chemical classes and reporting thresholds for the major components of EPCRA are discussed below and summarized in Table 1.0, EPCRA Reporting Requirements.

Chemical Classifications

There are four classes of chemicals subject to EPCRA emergency planning and reporting provisions, which apply to distinct hazards; however, many chemicals are listed under more than one classification.

- ▲ **Extremely Hazardous Substances (EHS)** - any chemical that has immediate health effects. Chemical class is specifically defined to mean any substance listed in Appendices A and B of Title 40 CFR Part 355, and are subject to EPCRA Sections 301 through 304.
- ▲ **CERCLA Hazardous Substance** - defined in Sections 101 and 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as any element, compound, mixture, solution, and substance which, when released into the environment may present substantial danger to the public health, public welfare, or the environment. A list of chemicals designated under this classification is published in Table 302.4, Title 40 CFR Part 302 and are subject to EPCRA Section 304.
- ▲ **Hazardous Chemicals** - designated as a physical or health hazard by the Occupational Safety and Health Administration (OSHA). Chemical class is defined at length in Title 29 Code of Federal Regulations (CFR) Part 1910.1200(c) and are subject to EPCRA Sections 311 and 312.
- ▲ **Toxic Chemicals** - any chemical that may cause severe illness, birth defects, disease, or death and poses an environmental hazard. Chemical class is specifically defined as any substance listed in Title 40 CFR Part 372.65 and are subject to EPCRA Section 313.

Reporting Thresholds

Reporting requirements of EPCRA are triggered when specified chemicals exceed established threshold levels. These threshold levels are the

minimum weights (in pounds), *not volume*, of a chemical manufactured, processed, used, stored, or released at a facility.

- ▲ **Threshold Planning Quantity (TPQ)** - is the maximum amount, in pounds, of an EHS present at any one time at a facility; this amount can range from a lower quantity of 1 to 1,000 pounds to an upper quantity of 10,000 pounds. If a facility has an EHS present in an amount greater than the established TPG, the facility must comply with reporting provisions of Sections 301, 302, and 303, Emergency Planning.
- ▲ **Reportable Quantity (RQ)** - establish the maximum amount, in pounds, of any chemical classified as a hazardous substance (either an EHS or CERCLA) that may be released into the environment. If a facility spills, leaks, pumps, pours, emits, empties, discharges, injects, dumps, disposes or allows the escape or leaching of a hazardous substance into the environment in an amount ranging from 1 to 5,000 pounds, the reporting requirements of Section 304, Emergency Notification apply.
- ▲ **Hazardous Chemical Threshold Level** - establishes the minimum amount, in pounds, of any hazardous chemical that can be present at a facility without triggering reporting requirements. If a hazardous chemical is present in an amount equal to or greater than 10,000 pounds, the reporting requirements of Sections 311 and 312, Hazardous Chemical Reporting.
- ▲ **Toxic Chemical Activity Threshold** - establishes the maximum amount of a toxic chemical that a facility can manufacture, process, or otherwise use. There are three activity thresholds and, if a facility exceeds any one of them, the reporting requirements of EPCRA Section 313, Toxic Chemical Reporting.
 - 1) For manufacturing activities - 25,000 pounds per year.
 - 2) For processing activities - 25,000 pounds per year.
 - 3) For activities deemed "otherwise use" - 10,000 pounds per year.

Component Synopsis

The owner/operator of covered facilities must report to state and local emergency planning committees on the chemical hazards present based on established threshold levels.

Covered Facility

EPCRA defines facility as all buildings, equipment, structure, and other stationary items that are located on a single site, contiguous or adjacent sites; and which are owned or operated by the same person. Facility shall also include manmade structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. For purposes of emergency release notification, the term facility includes motor vehicles, rolling stock, and aircraft. In addition, a person is defined as any individual, trust, firm, corporation, partnership, association, or commission.

- ↳ **Emergency Planning, Sections 301-303**, requires facilities producing, storing, or using any EHS in excess of the TPQ to notify, in writing, the SERC and participate in local emergency planning activities.
- ↳ **Emergency Notification, Section 304**, requires facilities to verbally notify the SERC and LEPC followed by a written report of a release of any hazardous substance (EHS or CERCLA hazardous substance) that exceeds the RQ.
- ↳ **Hazardous Chemical Reporting, Sections 311-312**, requires facilities with a hazardous chemicals present above the threshold level to submit material safety data sheets (MSDSs) or a list of chemicals to the SERC, LEPC, and local fire department. Facilities required to submit MSDSs must also submit an annual hazardous chemical inventory report.
- ↳ **Toxic Chemical Reporting, Section 313**, requires facilities with 10 or more full-time employees, which manufacture, process, or use a toxic chemical in excess of the specified threshold level to submit an annual toxic chemical release form.

Air Force Guidance

Air Force Instruction (AFI) 32-4002, *Hazardous Material Emergency Planning and Response Program*, December 1997, Chapter 2 outlines EPCRA roles and responsibilities for Air Force activities. Civil Engineering is tasked to coordinate with the EPA, SERCs, LEPCs, and state and local environmental regulatory agencies, while various HQ USAF Directorates oversee policy development and broad coordination matters. The inter-disciplinary nature of EPCRA requires the Headquarters Air Force Civil Engineer Support Agency (HQ AFCESA) and the Headquarters Air Force Center for Environmental Excellence (HQ AFCEE) to coordinate with one another to support implementation efforts including training, guidance, and execution. Specifically, HQ AFCEE provides technical consultation, contracting, training, and guidance support for EPCRA Sections 311, 312, and 313 reporting requirements, while HQ AFCESA provides similar support for EPCRA Sections 301, 302, 303, and 304 planning and notification requirements.

The AFI also designates the Headquarters Air Force Medical Operations Agency (HQ AFMOA/SGOE) to provide policy, procedures, and guidance for Bioenvironmental Engineering support of EPCRA. The implementation of the EPCRA program at installations is overseen by Major Commands (MAJCOMs). The Base Civil Engineer (BCE), supported by the CE Readiness and Environmental Flight, has overall responsibility for executing the EPCRA program. The Bioenvironmental Engineer is tasked to support the BCE by providing data, documentation, process analysis, and report completion/submittal. Finally, some hazardous material inventory responsibilities may be delegated to the base Hazardous Materials Management Process (HMMP) team.

In addition to AFI 32-4002, the Air Force and Department of Defense has issued several

additional guidance documents and memoranda regarding EPCRA and its application to federal facilities. To access supplemental guidance on EPCRA, search the Defense Environmental Network and Information Exchange (DENIX) website at <https://www.denix.osd.mil>.

Other EPCRA Components

EPCRA has several additional components, presented below, that are not specifically applicable to Department of Defense agencies:

- Section 305 provides for training and education programs.
- Section 322 addresses trade secrets.
- Section 323 provides for disclosure of chemical information to health professionals.
- Section 324 provides for public access to chemical information.
- Section 325 addresses enforcement and penalties for failure to comply.
- Section 326 addresses the right to bring civil action.

Additional Information

This is a first in a series of fact sheets discussing EPCRA reporting requirements, for additional information review our other fact sheets on the major components of the Act.

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Websites

- Environmental Quality Directorate, HQ AFCEE, <http://www.afcee.brooks.af.mil/eq/eqhome.asp>.
- Chemical Emergency Preparedness and Prevention Office, EPA, <http://www.epa.gov/ceppo/>.
- Office of Solid Waste, EPA, <http://www.epa.gov/epaoswer/hotline/epcra.htm>.

Table 1.0, EPCRA Reporting Requirements

Major Components	Emergency Planning	Emergency Notification	Hazardous Chemical Reporting		Toxic Chemical Reporting
EPCRA Section	§ 301, § 302 and § 303*	§ 304	§ 311	§ 312	§ 313
CFR Citation	40 CFR Part 355.30	40 CFR Part 355.40	40 CFR Part 370		40 CFR Part 372
Chemical Classification	Extremely Hazardous Substances (EHS)	EHS and CERCLA Hazardous Substances	Hazardous Chemicals		Toxic Chemicals
Reporting Threshold	Threshold Planning Quantity (TPQ)	Reportable Quantity (RQ) for EHS and CERCLA	Hazardous Chemical Threshold Level		Toxic Chemical Activity Threshold
Trigger of Reporting Requirements	Chemical is <u>present</u> at a facility in amounts equal to or greater than established TPQ [1 to 1000 lbs]	Chemical is <u>released</u> in amounts equal to or greater than established RQ [1 to 5000 lbs]	Chemical is <u>present</u> at a facility in amounts equal to or greater than established minimum threshold level [Greater than 10,000 lbs]		Chemical is <u>manufactured, processed or otherwise used</u> in amounts equal to or greater than established activity threshold level**
Report Required	Written Notification	Initial Verbal Notification with a follow-up Written Notification	Written Notification (Copies of MSDSs or a list of chemicals)	Tier I or Tier II Form	Form R also known as a Toxics Release Inventory (TRI) Form
Reporting Frequency	One-time Report Note: Re-notification is required within 60 days of any change in information	Within 24 hours of a release	One-time Report Note: Re-notification within 90 days of any significant change	Annual Report submitted on 1 March for the preceding calendar year	Annual Report submitted on 1 July for the preceding calendar year
Report To	SERC & LEPC	SERC, LEPC, & NRC***	SERC, LEPC, & local fire department		EPA & SERC

* Section 303 only requires the appointment and notification of a facility emergency coordinator to the LEPC.

** Manufacturing Activities-25,000 lbs per year; Processing Activities-25,000 lbs per year; and Otherwise Use-10,000 lbs per year.

*** Under Section 103(a) of CERCLA, the National Response Center (NRC) is required to be notified of any releases involving CERCLA Hazardous Substances above the established CERCLA RQ.

Fact sheets are a product of PRO-ACT, a service of the Environmental Quality Directorate, Headquarters Air Force Center for Environmental Excellence (HQ AFCEE/EQ), Brooks AFB. This fact sheet is intended as general guidance to inform Air Force personnel. It does not, nor is intended to, specify all federal, state, Department of Defense, or Air Force requirements. Any questions or suggestions are welcomed and should be directed to PRO-ACT at DSN 240-4240, (800) 233-4356, or pro-act@hqafcee.brooks.af.mil.



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