

Emergency Planning and Community Right-To-Know Act*

42 U.S.C. §§11001-11050

Emergency planning and notification

The governor of each state shall appoint a **state emergency response commission**, which shall designate emergency planning districts and appoint members of a **local emergency planning committee** for each district. [EPCRA §301]

Each local emergency planning committee shall prepare an **emergency response plan** and review it annually. [EPCRA §303(a)] The statute sets forth the requirements for the plan. [EPCRA §303(c)] The state emergency response commission shall **review** the plan and recommend revisions. [EPCRA §303(e)]

The **owner or operator** of each facility at which extremely hazardous substances are present in excess of the established **threshold planning quantity** shall **notify** the state emergency planning commission of the presence of such substances. [EPCRA §302(c)] The statute sets forth the circumstances under which a facility owner or operator shall immediately notify the local emergency planning committee and state emergency planning commission of the release of a substance. [EPCRA §304(a), (b)] The statute specifies **procedures** for emergency notification and the information that the owner or operator must provide. [EPCRA §304]

EPA list of extremely hazardous substances

The EPA Administrator shall publish a list of **extremely hazardous substances**, and **threshold planning quantities** for each substance on the list. The Administrator may revise the list from time to time, taking into account the toxicity, reactivity, dispersability, combustibility, or flammability of the substance. [EPCRA §302(a)]

Material safety data sheets (MSDSs)

Facilities required by the Occupational Safety and Health Act to prepare or possess an MSDS for a hazardous chemical shall submit an MSDS for each such chemical, or a list of such chemicals, to the local emergency planning committee, the state emergency response commission, and the fire department with jurisdiction over the facility. [EPCRA §311(a)] The local emergency planning committee shall make MSDSs available to the public. [EPCRA §311(c)]

Hazardous chemical inventory forms

Facilities required to prepare or maintain an MSDS for a hazardous chemical shall prepare and submit an emergency and **hazardous chemical inventory form** to the appropriate local emergency planning committee, state emergency response commission, and fire department with jurisdiction over the facility. [EPCRA §312(a)]

Inventory forms shall include the following **tier I information** for each category of hazardous chemicals at the facility: an estimate of the yearly maximum amount present, the average daily amount present, and the general location of hazardous chemicals in each category. [EPCRA §312(d)(1)]

A facility owner or operator shall provide **tier II information** if so requested by a state emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility. [EPCRA §312(e)] Tier II information includes the common name of the chemical, an estimate of the yearly maximum amount and average daily amount of the chemical present, a brief description of the manner of storage of the chemical, and an indication of whether the owner elects to withhold location information from disclosure to the public. [EPCRA §312(d)(2)]

Toxic chemical release forms

Facilities that have 10 or more employees and are in certain Standard Industrial Classification categories shall complete **toxic chemical release forms** for certain toxic chemicals manufactured, processed, or used in quantities exceeding the toxic chemical threshold quantity during the preceding calendar year. [EPCRA §313(a), (c)]

Trade secrets

Facilities may, under certain circumstances, withhold information otherwise subject to reporting requirements on showing that the information constitutes a **trade secret**. Any person may **petition** the EPA Administrator for the **disclosure** of the specific chemical identity of any chemical claimed as a trade secret. [EPCRA §322]

In a **medical emergency** or on a **written statement of need, health professionals** may obtain the **specific chemical identity** of chemicals claimed as trade secrets. [EPCRA §323(a), (b)] Health professionals obtaining information in this way must agree not to use the information for any purpose other than the health needs asserted in the statement of need. [EPCRA §323(d)]

Enforcement

The statute provides for **civil, administrative, and criminal penalties** for violations of various provisions. [EPCRA §325]

The statute authorizes **any person** to commence a **civil action** against facility owners and operators, the EPA Administrator, a state governor, or a state emergency response commission for specific types of violations. [EPCRA §326(a)(1)] State and local governments may also initiate civil actions against facility owners and operators for failures to comply with various requirements of the statute. [EPCRA §326(a)(2)]