

INTRODUCTION

EPCRA: SECTIONS 302, 311, 312

The reports and facility emergency plans required by EPCRA are the cornerstones for much of the planning and work that LEPCs undertake. The facility reporting requirements for EPCRA chemical inventories are found generally in Sections 302, 311, and 312 of the statute. *Reporting requirements for accidental releases of chemicals are found in Section 304.*

The SARA Title III List of Lists, which is available at the EPA web page at <http://web-services.gov/lol/> is the most important reference materials for EPCRA. It provides what weights of Extremely Hazardous Substance (EHS) require the different reporting and/or planning activities, notifications, and what amounts trigger the requirements of EPCRA Sections 302, 311, and 312.

EPCRA SECTION 302

Section 302 deals with which chemicals are deemed an Extremely Hazardous Substance (EHS) and not just a hazardous substance. A sufficient weight of an EHS on-site at any one time triggers a requirement for the facility to report the presence of the EHS to the state, the LEPC, and the fire department of jurisdiction.

In Oregon, this information is reported to the Office of State Fire Marshal, Emergency Planning and Response Section, Community Right to Know Unit, and can be obtained by contacting our office. If enough of an EHS is present, it will also trigger a requirement to develop and update a facility emergency plan in accordance with EPCRA requirements. Sometimes the same amount of an EHS triggers both the reporting and planning, but not always.

The list of Extremely Hazardous Substances (EHS) is in the SARA Title III **List of Lists**, which is available at the EPA web page at <http://web-services.gov/lol/>

The accidental release of a sufficient quantity (Reportable Quantity [RQ]) of an EHS or CERCLA hazardous substance, during a 24-hour period, triggers emergency notification requirements. The release of a sufficient quantity of an EHS or Hazardous Substance requires an immediate notification to the National Response Center at 1-800-424-8802.

These notification requirements are found under Section 304 of EPCRA, explained in more detail in another module. Facility emergency plans promulgated under Section 302 requirements are the raw material for the LEPC's own regional emergency response plan required by EPCRA Section 303.

A facility does have enough of an EHS on-site to trigger planning requirements, if the amount of the EHS on-site reaches the Threshold Planning Quantity (TPQ) and must report this to the LEPC, SERC, and their local fire department.

In Oregon, notification requirements are satisfied when the facility fills out the Hazardous Substance Information Survey (HSIS) and identifies themselves as subject to EHS requirements. This information is made available to LEPCs and fire departments through annual distribution of HSIS information to these entities.

At that point, the facility must also promulgate and update a facility emergency plan. This facility emergency plan, under EPCRA, must be prepared whenever the facility has an EHS at, or above the TPQ. *(This would include a hazardous waste with a sufficient weight of an EHS in the waste to trigger planning requirements.)*

It is important to note that for reporting and planning requirements, chemicals on-site are examined in terms of weight and not quantity. So it is not how many gallons of a chemical are on-site, it is how much does the amount on-site weigh in totality.

A careful review of the SARA Title III List of Lists is necessary to determine if a facility needs to report its and whether the facility has enough of the EHS to trigger the emergency planning requirements.

For example, a facility with 500 pounds of ammonia on-site must identify themselves as subject to the EHS requirements, as ammonia has a 500-pound reportable minimum reporting threshold. Additionally, this facility if it “releases” 100 pounds of ammonia must make appropriate notifications regarding that Reportable Quantity (RQ) release.

Because 500 pounds is the Threshold Planning Quantity (TPQ) for ammonia, the facility must also prepare an emergency plan in accordance with EPCRA.

NOTE: In Oregon, facilities meeting the reporting requirements for EHS are required to notify the Office of State Fire Marshal, (OSFM) through the Hazardous Substance Information System (HSIS) Survey. LEPCs should utilize information and assistance from the Office of State Fire Marshal, Emergency Planning & Response Section, when identifying EHS facilities within their planning district.

EPCRA requires the EPA to determine the RQs and TPQs for the EHS chemicals, and sets one pound as a default weight for EHS until the EPA has set a different standard. Periodically, the SARA Title III List of Lists will be updated, and some of the one-pound RQs will change. If the EPA places a new chemical on the EHS list, there may be a one-pound RQ as a default for the new EHS chemical.

If a facility has sufficient quantities of an EHS to require reporting itself as an EHS facility, to the OSFM, it must do so within thirty days. A new facility owner and operator may discover that the previous owner/operator was remiss in these duties, and should immediately report to the OSFM. There are also provisions within EPA for self-audits.

The history of this self-audit program is that a facility that identifies its own discrepancies will not be subject to fines. If the facility owner/operator waits for EPA or the OSFM to discover the oversight, the facility is quite vulnerable to significant fines and penalties.

The OSFM, Emergency Planning and Response Section, provides a list of EHS facilities in Oregon, to the EPA. Facilities may also have other inventories of hazardous materials that are not EHS, and for these, they must review the reporting requirements exclusively for Oregon, to identify if they have a reportable quantity of these substances that should be included on their annual Hazardous Substance Information Survey.

These non-EHS chemicals are called OSHA chemicals. The presence of reportable quantities of these non-EHS chemicals do not trigger mandatory facility emergency planning requirements; however, they may require planning and/or reporting under Oregon Law, other environmental laws and/or local fire codes.

UNDERSTANDING OSHA CHEMICALS IN RELATIONSHIP TO EPCRA

The requirements of EPCRA Section 311 and 312, material safety data sheets (MSDS) as required by OSHA, must be understood, as well as the role they play in EPCRA.

Understanding EPCRA requires understanding the relationship between EPCRA and the Occupational Safety and Health Administration (OSHA) because OSHA created the Material Safety Data Sheet, known as the MSDS. EPCRA is an unusual approach to law in that it "weds" an environmental law to the Occupational Safety and Health Act, which created the Occupational Safety and Health Administration (OSHA).

These OSHA worker protection laws require employers to train and inform workers about chemical hazards present at the work site. The principle is that, through proper training about chemical hazards at the work site, employers can protect workers.

Rather than "reinvent the wheel," EPCRA uses the information in the MSDS to inform responders and planners that there are hazardous chemicals at a facility.

EPCRA also "weds" worker health and safety to concerns about community safety. If a chemical present at the work site can potentially harm workers, then it stands to reason that if large enough quantities of these chemicals or mixtures are somehow released into the environment, there could be harm to those responding, and those nearby, including businesses, communities, and the public.

EPCRA takes the MSDS data presented to workers about chemical hazards at the worksite and uses it as a foundation for the information that will be provided to the public and communities about chemicals present in or adjacent to their neighborhoods.

EPCRA also uses the MSDS data for the foundation of a report that must be prepared and provided in the event of a release of these chemicals.

The data about a chemical or mixture of chemicals used at a facility is presented on a Material Safety Data Sheet, or MSDS. While there is not a specific format required by OSHA for MSDS sheets, many follow a common format. OSHA provides guidance for the subjects that must be covered. Specific information about EPCRA (SARA Title III) requirements is not covered at all by OSHA. There is no single mandatory form for the MSDS, so workers and the public will see many different types. What is consistent about an MSDS is the type of information included on each form.

OSHA developed the MSDS form as part of the Hazard Communication Standard (HCS), or [Worker Right-To-Know](#) regulation. OSHA wanted to make sure workers had one basic reference for most of the information on a hazardous substance.

An MSDS contains:

- ✓ What it is.
- ✓ The identity of the chemical--what is it called on its label.
- ✓ Who makes or sells it.
- ✓ Name and address of the company that made the chemical, plus the telephone numbers to call for information, or in an emergency.
- ✓ Why it is hazardous.
- ✓ Substance's hazardous components, chemical identification number (CAS#), worker exposure limits.
- ✓ Physical properties: boiling point, melting point, vapor pressure, vapor density, evaporation rate, solubility in water, specific gravity, normal appearance, odor
- ✓ How workers can be exposed to the hazard.
- ✓ Can it be absorbed through the skin, is it inhaled, does it have to be ingested (drinking, eating)?
- ✓ What are the health hazards?
- ✓ Some effects can show up right away, like skin burns. These are acute effects. Other effects may show up hours after exposure. Chronic exposure can cause other effects, like lung cancer. The MSDS will indicate some of the early warning signs of exposure, symptoms like headache, nausea, dizziness, rashes, and/or dermatitis.
- ✓ What conditions would increase the hazard.
- ✓ Keeping incompatible chemicals apart. If they are accidentally combined, they could ignite or explode. Temperature, flammability limit at some concentrations, vapors will ignite. At lower or higher concentrations, they won't.
- ✓ How to handle the substance safely.
- ✓ Special safety and handling precautions
- ✓ What protection to use while working with the substance.
- ✓ Need to wear protective gear? Gloves, eye protection, type of respirator.
- ✓ Need to wear a mask? What level of protective gear is needed?
- ✓ What to do if a worker is exposed.
- ✓ First aid, medical procedures.

- ✓ What to do if there is a spill or an emergency.
- ✓ Special cleanup procedures, special instructions, special precautions.

EPCRA SECTION 311

In most states, EPCRA Section 311 requires a facility to provide the MSDS, or a list of chemicals to the LEPC, local fire department, and SERC when sufficient quantities of an EHS (500 pounds or the Threshold Planning Quantity) or other OSHA hazardous substance (10,000 pounds) are onsite at any one time to trigger reporting requirements. More information on this requirement can be found in 29 CFR Section 1910.120.

Under Oregon law, facilities are required to submit information on hazardous substances, annually, including those substances to be reported under Section 311. Additionally, there are requirements for Oregon facilities to submit to the OSFM “Substantive Changes” within 30 days.

A Substantive Change is defined as any of the following:

- ✓ Introduction of a new substance in reportable quantities, which were not previously reported
- ✓ Increase in the maximum amount of a reported substance to a higher quantity range than previously reported
- ✓ A change in site or mailing address
- ✓ Designation of a different emergency contact person
- ✓ A change to any of the listed phone numbers
- ✓ A change of ownership or business name
- ✓ Movement of a reported substance to another building, floor level or 300 feet or more from its reported location
- ✓ Facility ceases operation for any reason

Because Oregon businesses submit this information to the OSFM and keep it current under the Substantive Change requirement, any LEPC requesting Section 311 information should contact the Office of State Fire Marshal, Emergency Planning & Response Section for that information and not the facility.

EPCRA SECTION 312

In most other states, this section would include information on how to fill out the Tier Two (*federal*) report for possession of hazardous substances. Because Oregon's reporting requirements are stricter and the survey requires facilities to answer questions pertaining to Tier Two reporting, Oregon facilities can fulfill all the following requirements.

- ✓ EPCRA Sections 311 and 312 notification and reporting requirements
- ✓ Identify themselves as subject to the Clean Air Act (CCA) 112(r) as regulated by EPA
- ✓ Identify themselves as subject to the Process Safety Management (PSM) requirements as regulated by the Oregon Department of Consumer and Business Services, Occupational Safety and Health Division.