

INTRODUCTION

HISTORY

The Emergency Planning and Community Right to Know Act (EPCRA) was passed in 1986 by the United States Congress after a series of incidents in the United States and abroad raised concerns about a lack of planning and preparation for accidental releases of hazardous materials.

There were two incidents in particular that heightened public awareness of chemical accidents and precipitated a new phase in chemical emergency preparedness, prevention and response planning. In 1984, a release of methyl isocyanate from a Union Carbide plant in Bhopal, India killed over 2,500 people. Some estimates are as high as 10,000. Then in 1985, there was a release of aldicarb oxime from another Union Carbide facility in Institute West Virginia, while short of the devastating results, closely mirrored the Bhopal incident.

Because of these and other incidents, the Environmental Protection Agency (EPA) established the Chemical Emergency Preparedness Program (CEPP). This program was a voluntary effort to improve planning and response capabilities at the state and local levels. EPA initiated CEPP to determine and develop appropriate prevention initiatives to aid communities trying to implement chemical awareness programs.

EPA prepared the Chemical Emergency Preparedness Program Interim Guidance manual (*also known as "The Blue Book"*) to assist communities in identifying acutely toxic chemicals and preparing for accidental releases of such chemicals. In addition to developing the list of acutely toxic chemicals, this document provided methods for gathering data and analyzing the extent of chemical usage in an area, encouraged facilities to make public, certain information about hazardous chemicals that they use and provided information on the development of contingency plans.

CEPP did not rely on any explicit statutory authority, but on EPA's general mandate to protect human health and the environment. This gave EPA no direct power to enforce the program. The organization structure within EPA has changed many times over the years and with that, the new name for the CEPP office is now the Office of Emergency Prevention Preparedness and Response (OEPPR).

Then, another large-scale incident in the US occurred in Roseville, Minnesota. There was a petroleum tank farm fed by a pipeline in a residential area of Roseville. In the middle of the night, a leak spilled a large amount of petroleum, which eventually ignited, burning some homes and killing citizens.

The Roseville Fire Department was not aware of the location and route of the pipeline. Nor were the firefighters trained in handling this type of large-scale incident involving chemicals. The Roseville Fire Department did not have enough equipment and manpower to handle the blaze, so other fire departments and police were called to assist.

There were problems with coordination of response efforts, as no one had planned or prepared for such a scenario, or practiced for such an incident. The fire burned for days before being completely extinguished. There were also casualties among the police who participated in the evacuation of citizens and performing other duties during the incident. There was uncertainty about the effects of exposure to the smoke and chemicals from this incident even among medical professionals.

There was still no law that required facilities to report their chemical inventories to fire departments, police and other government agencies that may be required to respond to an incident. Nor did anyone have the responsibility to inform the public or medical professionals about what the effects of exposure to the chemicals might be. With these incidents on the minds of citizens, the path was set and EPCRA was born.

WHAT EPCRA IS AND WHAT IT DOES

Although there are laws about air pollution, water pollution, wastes, etc., there was no law that mandated planning and preparing to respond to chemical spills or disasters involving chemicals. Common sense would dictate that there should be. But even as recently as the 1980's there was no law that said firefighters and other responders had the "right to know" what chemicals were stored, or otherwise present at facilities, even when they were expected to save the facility and/or its personnel and contents. Congress enacted EPCRA regulations to address this issue.

EPCRA, also known as SARA Title III, established a program with two goals:

- ✓ Provide a basis for each community to develop and tailor a chemical emergency planning and response program to suit the community's unique needs; and
- ✓ Provide the public, emergency planners and responders with ability to identify, quantify, locate and determine the physical and chemical properties of the hazardous substances and their associated risks to the community.

EPCRA has four major provisions:

- ✓ Emergency Planning (Sections 301-303)
- ✓ Emergency Release Notification (Section 304)
- ✓ Hazardous Chemical Storage Reporting Requirements (Sections 311-312)
- ✓ Toxic Chemical Release Inventory (Section 313)

The provisions of EPCRA are found at 40 CFR Parts 350 through 372. To review these statutes, see <http://wwwr.law.cornell.edu/uscode/42/ch116.html>.

These provisions should be studied in their entirety in order to gain a full understanding of the provisions requirements. When reading EPA documents, Federal Registers and your training materials, remember that SARA Title III and EPCRA are synonymous and may be used interchangeably.

Besides establishing requirements for Federal, State and local governments, Indian Tribes and industry, regarding emergency planning for hazardous chemicals reported through the “Community Right to Know” provision, which will be discussed in a later section, EPCRA also created a provision for states to establish State Emergency Response Commissions (SERC) and Local Emergency Planning Committees (LEPCs).

These provisions, that help increase the public’s knowledge and access to information on chemicals at facilities, also provide an organizational structure through SERCs and LEPCs so that government and communities can work with facilities to improve chemical release preparedness to help protect public health, the environment and emergency responders.

Under EPCRA, a facility is any of the following: all buildings, structures, equipment and other stationary items located at the same single place and controlled or operated by the same entity.

As stated earlier, EPCRA and SARA Title III are synonymous terms. EPCRA is Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, which makes it part of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) laws.

CERCLA was the first federal law designed to handle response to releases of hazardous chemicals into the environment, but there were many aspects of emergencies involving hazardous chemicals that CERCLA did not address, which is what caused the EPCRA law to be enacted. More information about CERCLA can be found at <http://www.epa.gov/superfund/action/law/cercla.htm>.

WHAT CERCLA DID NOT DO

- ✓ It did not identify what chemicals facilities had, or what the quantities were.
- ✓ It did not indicate what a facility would do to respond to an incident involving a spill or release of these chemicals, or what the role of the responder would be.
- ✓ It did not create or accommodate for any planning before an incident involving a release of chemicals, at the facility level or at the level of local or state government.
- ✓ It did not identify what chemicals were stored or used in large quantities in a community, or identify or mandate training for responders and medical personnel for a response to an incident involving exposure to the chemicals.

What CERCLA does do is requires facilities that accidentally spill or release certain dangerous chemicals into the environment to report this immediately to the federal government. It also requires a cleanup of chemical spills and sets forth who will pay for the cleanup. It also touches on public health issues and determining what effects such spills of chemicals into the environment may have had on citizens.