

Emergency Planning and Community Right-to-Know Act (EPCRA) Regulations Fact Sheet

REGULATORY SUMMARY

The Emergency Planning and Community Right-to-Know Act (EPCRA) governs proper procedures for hazardous chemicals. Under the Act, businesses are required to have emergency plans, report chemical inventories, and notify authorities in the event of a toxic release. The goals of EPCRA are:

- To ensure that states and communities, working with facilities, have chemical emergency plans in place where they are needed; and
- To increase the public's access to information about the use and storage of chemicals at certain individual facilities.

EPCRA has four major provisions: emergency planning, emergency release notification, community right-to-know (hazardous chemical inventory) reporting, and toxic chemical release inventory reporting. For each provision, there are thresholds, based on chemical quantities, that trigger applicability. **Any small business that uses hazardous chemicals for which the supplier provides a Material Safety Data Sheet (MSDS) should be concerned with EPCRA regulations.**

WHERE TO FIND EPCRA REGULATIONS

Statutory Authority: The Emergency Planning and Community Right-to-Know Act (EPCRA).

Regulations: EPCRA regulations are found as a subset of Subchapter J – “Superfund, Emergency Planning, and Community Right-To-Know Programs,” at 40 CFR:

- [Part 355](#) – Emergency Planning and Notification;
- [Part 370](#) – Hazardous Chemical Reporting: Community Right-to-Know;
- [Part 372](#) – Toxic Release Reporting.

The EPCRA regulations also reference lists and reportable quantities found under Subchapter J at 40 CFR:

- [Part 302](#) – Designation, Reportable Quantities, and Notification.

LEARNING THE LINGO

Extremely Hazardous Substance (EHS) is a substance listed in the appendices to 40 CFR 355, Emergency Planning and Notification.

Facility means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person. Under this regulation, “person” is very broadly defined to include firm, corporation, partnership, and association, as well as a specific individual.

For purposes of emergency release notification only, the term includes motor vehicles, rolling stock, wheeled vehicles owned and used by a railroad or motor carrier, and aircraft.

Hazardous Chemical is any chemical which is a physical hazard or a health hazard as defined by Occupational Safety and Health Administration (OSHA) under its *Employee Right-to-Know Law* (29 CFR 1910.1200 (c)). In practical terms, this means any chemical for which a manufacturer or supplier is required to provide a MSDS.

Important Note

For purposes of Hazardous Chemical Reporting, there are exclusions from the definition of hazardous chemical, such as certain cosmetics, drugs, consumer products, and laboratory chemicals. See the definition in 40 CFR, Part 370.2.

Inventory Form is the form for filling out the annual "Tier I" and "Tier II" Emergency and Hazardous Chemical Inventory Report.

Local Emergency Planning Committee (LEPC) is the body appointed by each state's emergency response commission to be responsible for emergency planning for chemical incidents at the local level. Many states have organized their LEPCs on a county-by-county basis.

Material Safety Data Sheet (MSDS) is written or printed material accompanying every product containing hazardous chemical(s) as defined by OSHA. The MSDS must include specified information about the identity, physical properties, exposure limits, fire hazards, and other safety and health information related to the chemical product. See 29 CFR 1910.1200 (g) for a complete definition.

Occupational Safety and Health Administration (OSHA) is the federal agency that governs protection of employees from workplace health and safety hazards, generally through regulatory standards of 29 CFR.

Release refers to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including abandonment or discard of barrels, containers, and other closed receptacles, of any hazardous chemical, extremely hazardous substance, CERCLA hazardous substance, or toxic chemical.

Reportable Quantity (RQ) is the quantity of a spilled or released material that is equal to or greater than the threshold for reporting. Reportable quantities established for EPCRA mirror the ones established for CERCLA hazardous substances, listed in 40 CFR 302.4. For any substance regulated under EPCRA that is not on the CERCLA list, the reportable quantity is one pound.

State Emergency Response Commission (SERC) is the appointed body that oversees emergency planning for chemical incidents on a statewide basis and provides oversight and guidance to LEPCs.

Threshold Planning Quantity (TPQ) is the quantity that triggers the requirement to develop and file an emergency plan of any substance listed in Appendices A and B of 40 CFR 355.

Toxic Chemical is a chemical or chemical category listed in 40 CFR 372.65. Toxic chemicals are covered by EPCRA's toxic release inventory reporting requirements.

KEY PROVISIONS OF INTEREST TO SMALL BUSINESSES

1. Emergency Response Plans (EPCRA Sections 301 – 303)

A facility that possesses any of the Extremely Hazardous Substances (EHS) at or above the threshold planning quantity is obligated to follow emergency planning requirements and must notify the State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC). The facility must then designate an emergency coordinator to participate in the emergency planning process and provide any information requested by the LEPC to facilitate emergency planning. The idea is that the facility's emergency procedures would complement and be integrated with the overall emergency response plan of the LEPC.

How Do You Calculate the Quantity of Extremely Hazardous Substances (EHS)?

The quantity calculation includes the total amount of EHS present at a facility at any one time, regardless of location, number of containers, or storage method. Mixtures containing EHS are included, and the regulations detail how to calculate them.

2. Emergency Notification Requirements (EPCRA Section 304)

A facility must notify the SERC and LEPC if there is a release into the environment of a hazardous substance that exceeds the reportable quantity. This requirement covers Extremely Hazardous Substances (EHS) regulated under EPCRA, as well as more than 7,000 hazardous substances listed under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Initial notification can be made by telephone, radio, or in person, with written follow-up submitted to SERC and LEPC as soon as practicable after the release. Releases of hazardous substances regulated under CERCLA must be reported following the provisions of both CERCLA and EPCRA. Since emergency notification applies to CERCLA hazardous substances as well as those listed in EPCRA, this means that a small business **could be subject to emergency notification in the event of a release, even though they may not be required to follow any other provision of EPCRA**. There may also be additional reporting required under U.S. Department of Transportation and state regulations.

3. Community Right-to-Know Requirements (EPCRA Sections 311 and 312)

These requirements apply to a facility that has at any one time:

- Any Extremely Hazardous Substance in a quantity greater than 500 pounds or the threshold planning quantity (TPQ), whichever is less; or
- Any other hazardous chemical as defined by OSHA in a quantity of 10,000 pounds or more.

NOTE: There are special thresholds for retail gasoline and diesel fuel. See Roadmap for details.

Important Note

Applicability under Community Right-to-Know requirements depends on whether the facility is required by OSHA to provide or maintain an MSDS. This differs from Emergency Planning and Notification requirements, where the amount of EHS is the sole determining factor.

For those hazardous chemicals and EHS above these amounts, the business must submit copies of their MSDSs or a list of the chemicals to the SERC, the LEPC, and the local fire department. Facilities must also annually submit an emergency and hazardous chemical inventory report to the LEPC, SERC, and the

local fire department for those hazardous chemicals and EHS that exceeded thresholds at any one time during the preceding year. Facilities provide either a “Tier I” or “Tier II” report, as required by their LEPC or SERC. The “Tier II” report is more detailed.

4. Toxics Release Inventory (TRI) Requirements (EPCRA Section 313)

Facilities with 10 or more full-time employees that manufacture, import, process, or otherwise use a listed toxic chemical above threshold quantities, and are within specific Standard Industrial Classification (SIC) Codes, are required to complete a Toxic Chemical Release Inventory (TRI) Form and submit it annually to EPA and the state by July 1 of every year. This report entails accounting for all losses of the chemical through business activities, including air emissions, permitted and unpermitted water discharges, accidental spills and releases, and hazardous wastes. It also requires reporting on pollution prevention efforts and progress relative to those chemicals reported. Thresholds are generally 25,000 pounds manufactured or processed in a reporting year, or 10,000 pounds otherwise used. There are lower thresholds for chemicals of special concern, listed in 40 CFR 372.28, which are persistent, tend to bioaccumulate, or are highly toxic. For example, the threshold for mercury is 10 pounds. The regulations detail how mixtures are to be counted.

How Many OSHA Hazardous Chemicals Are There?

There is no comprehensive list of OSHA hazardous chemicals, but MSDSs must be developed, provided, and maintained for approximately 500,000 chemical products.

Summary of EPCRA Chemicals & Reporting Thresholds

EPCRA Section	Chemical List	Threshold	Reporting Requirement	Report Schedule
Emergency Response Plan	EHS	TPQ (ranges from 1 - 10,000 pounds).	Emergency Planning Notification to LEPC and SERC.	Within 60 days of exceeding EHS thresholds.
Emergency Notification	EHS and 40 CFR 102 (a) Hazardous Substances	Reportable Quantities.	Accidental Release Reporting to LEPC and SERC.	Verbal notice immediately; written follow-up as soon as practicable.
Community Right- to- Know	OSHA Hazardous Chemicals	TPQ or 500 pounds, whichever is less, of an EHS; or 10,000 pounds of any OSHA hazardous chemical.	Submit MSDSs or list of chemicals to SERC, LEPC, and local fire dept. Hazardous chemical (“Tier I” or “Tier II”) reports to SERC, LEPC, and local fire dept.	Initial submission updates for new chemicals exceeding thresholds or revised MSDSs within three months. Annually by March 1.

EPCRA Section	Chemical List	Threshold	Reporting Requirement	Report Schedule
Toxic Release Inventory Reporting	Toxic Chemical List	25,000 pounds manufactured or processed; 10,000 pounds otherwise used; or other specified threshold.	Total Annual Releases and Waste Management Data Report – “Form R” to EPA and state.	Annually by July 1.

Table Notes:

EHS = Extremely Hazardous Substance

LEPC = Local Emergency Planning Committee

MSDS = Material Safety Data Sheet

SERC = State Emergency Response Commission

TPQ = Threshold Planning Quantity

EPA = US Environmental Protection Agency

FIRST QUESTIONS FOR THE SMALL BUSINESS OWNER

- Do you have an inventory of the chemical raw materials and products you use and store at your business? For which products do you receive MSDSs from the supplier?
- Do you know if the raw materials and chemical products you use contain ingredients listed on the Extremely Hazardous Substances list?
- Do you store gasoline or diesel fuel at your facility?
- Do you store any chemicals in quantities more than 10,000 pounds? Do you use or produce more than 10,000 pounds per year of any chemical?
- Do you know what the Standard Industrial Classification code for your business is? This information is available in OSHA’s website often times state unemployment records, and tax records.

WHAT TO LOOK FOR

- Large inventories of hazardous chemicals. Keep in mind that 10,000 pounds is approximately 22 fifty-five-gallon drums.
- Chemical labels showing acutely toxic or highly hazardous properties even in small quantities (look for listed Extremely Hazardous Substances).
- For a large throughput of hazardous chemicals, or small throughputs of persistent, bioaccumulative, or toxic chemicals, review the Toxic Chemical List to determine the need for TRI reporting.

THE POLLUTION PREVENTION CONNECTION

- Substitute products to reduce or eliminate Extremely Hazardous Substances.
- Use good chemical inventory management practices and take advantage of just-in-time delivery options to keep amounts of raw materials and chemical products on the premises to a minimum.

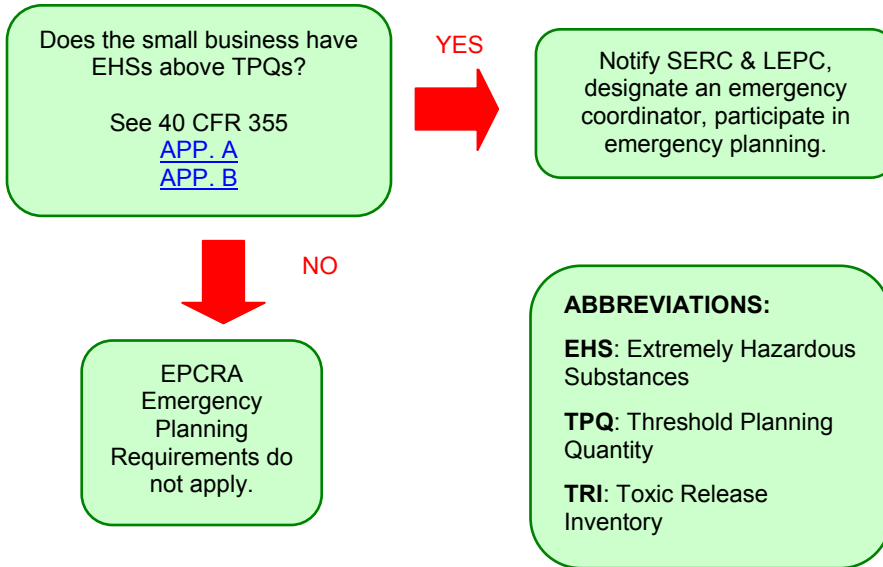
FOR FURTHER INFO

- EPCRA Hotline (800-424-9346).
- EPA's Chemical Emergency Preparedness and Prevention Office Home Page at: <http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/index.html>.
- US EPA, October 2001, *List of Lists – Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-to-Know Act (EPRCA) and Section 112(r) of the Clean Air Act*, EPA550-B-01-003: <http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/chemicalinfo.htm>.
- List of Extremely Hazardous Substances with chemical profiles and First Aid guides: http://yosemite.epa.gov/oswer/ceppoehs.nsf/Alphabetical_Results?openview.

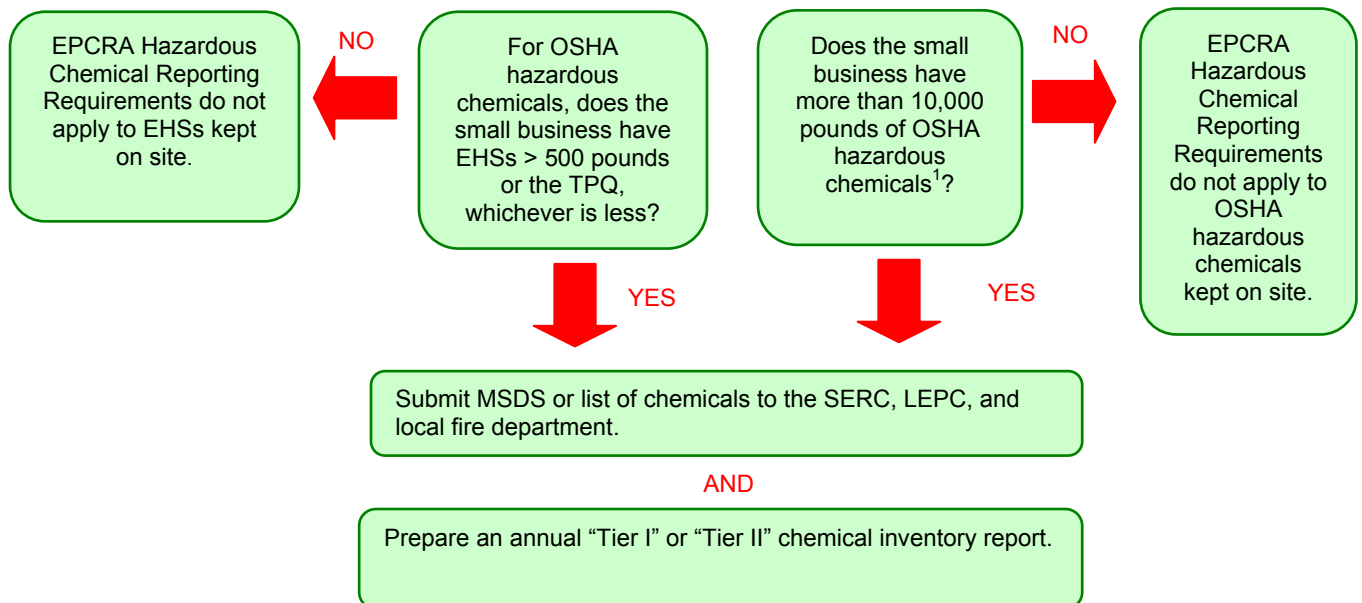
This Fact Sheet provides a general overview of regulatory requirements. It is not all-inclusive and does not describe specific state and local requirements. Its purpose is to provide state SBAP staff with guidance on key provisions so that they may recognize potential applicability to small business and be more effective when seeking interpretations from regulatory experts.

EPCRA Regulations Roadmap

1. Emergency Planning and Notification



2. Community Right-to-Know Requirements

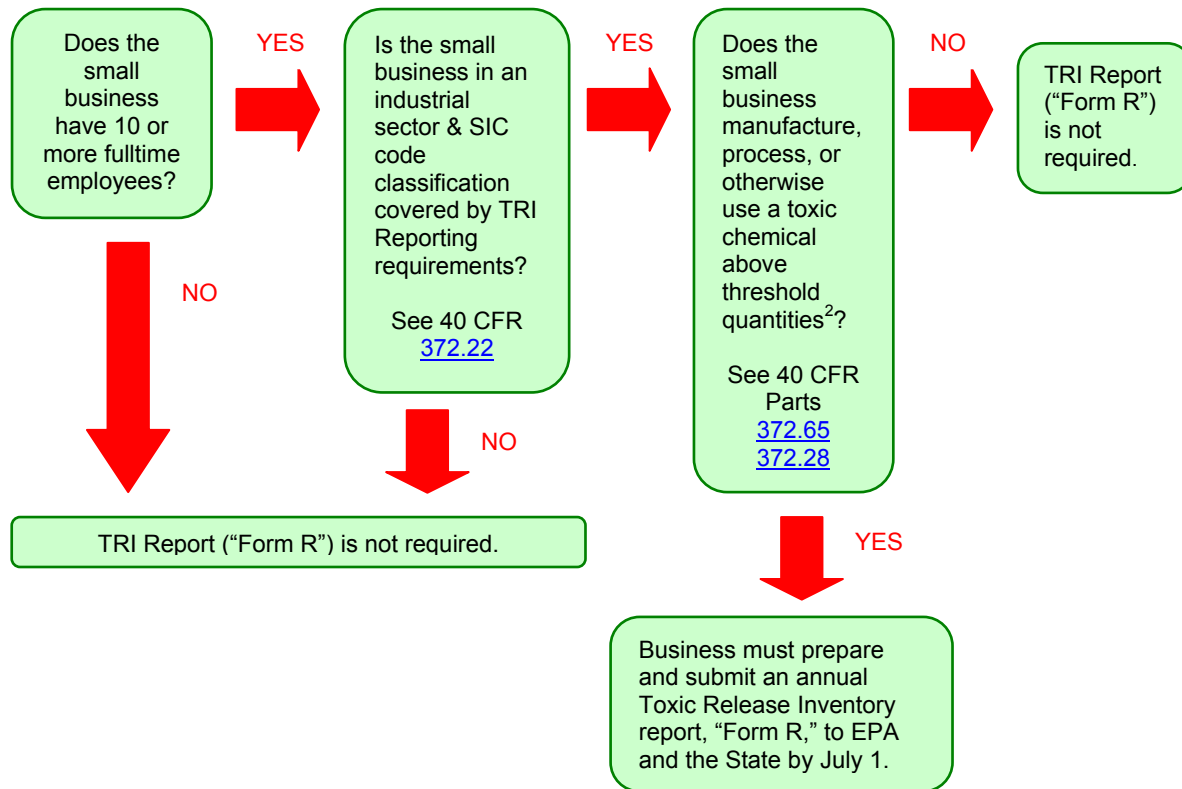


Note:

¹ At a retail establishment selling motor fuel to the public and meeting certain requirements, the threshold for diesel or gasoline is 75,000 gallons. See 40 CFR [370.20](#).

EPCRA Regulations Roadmap

3. Toxic Release Inventory (TRI) Reporting



NOTES:

²Toxic Chemical Thresholds

- 25,000 pounds manufactured or processed in a year;
- 10,000 pounds otherwise used in a year;
- Specified thresholds for certain persistent, bioaccumulative, or toxic chemicals (e.g., pentachlorobenzene at 10 pounds, mercury at 10 pounds).

Emergency Notification Requirements: Regardless of whether other EPCRA provision apply, a facility must immediately notify LEPC and SERC of any release of a hazardous substance at or above the reportable quantity. (This includes EPCRA EHSs as well as hazardous substances listed under CERCLA in 40 CFR 302.4.)