

CHAPTER 14

SUPERFUND AMENDMENT AND REAUTHORIZATION ACT OF 1986

SARA Title III

BOARD OF HEALTH ROLE AT A GLANCE

The local boards of health are involved with planning response activity regarding hazardous materials and should be knowledgeable of emergency response plans within their community. The board of health (BOH) responds to and refers to the appropriate agency, emergency situations involving hazardous materials found in their community. Additionally, the BOH must be aware of local facilities using hazardous materials and the potential for off-site exposure.

OVERVIEW

The Superfund Amendment and Reauthorization Act of 1986 (SARA Title III), also known as the Emergency Planning and Community Right-to-Know Act (EPCRA), was passed by Congress to deal with reporting of hazardous substance spills, usage, and release into the environment and to provide information to emergency responders about hazardous materials found in their community. This legislation can be found at 42 US Code Annotated (USCA), Sections 11001 to 11050. The various sections of the law continue to be referred to by the section numbers of the original legislation; therefore, all sections will be listed under both sets of citations.

SCOPE OF EPCRA

EPCRA deals with four basic issues that encompass the planning for chemical emergencies and reporting of hazardous substance use. These subjects are:

- Emergency Planning and Responsible Parties
(EPCRA Sections 301-303, 42 USCA 11001-11003)
- Emergency Notification of Hazardous Chemical Release
(EPCRA Sections 304, 42 USCA 11004)
- Community Right-to-Know Reporting
(EPCRA Sec. 311-312, 42 USCA 11021-11022)
- Toxic Chemical Release Reporting
(EPCRA Section 313, 42 USCA 11023)

The sections of Title III are linked to several different chemical lists. US Environmental Protection Agency (EPA) can provide copies of the chemical lists. Each section may cover the facilities in your community that store, use, or release any of the covered chemicals in the regulated quantities. The facilities should have Material Safety Data Sheets (MSDS), obtained from substance manufacturers, that can be checked to ascertain if a product contains hazardous substances.

BOARD OF HEALTH RESPONSIBILITIES

It is important that local Boards of Health are aware of all facilities in their community that use hazardous materials. A community's Local Emergency Planning Committee (LEPC) is required to draft, amend and review hazardous materials response plans. A LEPC is made up of municipal emergency response agencies, community officials, representatives of facilities using hazardous materials, and other interested parties that all participate in the planning and response process. Local BOH officials are typically involved in this planning and response activity. The following is an example of a situation that the BOH would respond to:

The local BOH would assist other emergency responders in assessing the hazards and risks of an emergency situation involving a leak of hazardous material in a densely populated neighborhood. Additionally, the BOH can assist in the determination of the appropriate protective measures to be taken by the community, i.e. evacuate the neighborhood, or stay indoors.

Although a BOH official may not be a member of the local LEPC, it is recommended that the BOH be well informed of any emergency response plans and activities.

The following is a series of questions and answers that provide useful information for boards of health concerning hazardous chemicals and other materials in their community:

How must facilities in your community comply with the emergency planning requirements? (EPCRA sec. 301-303, 42 USCA 11001-11003)

All public and private employers must know if their facility is covered by these sections. If any of the chemicals on the EPA List of Extremely Hazardous Substances, containing over 400 chemicals, is maintained at a facility in your community above the planning quantities, notification must be made to the Massachusetts State Emergency Response Commission (SERC), c/o Massachusetts Emergency Management Agency (MEMA). The US EPA regulations define planning quantities for each substance which can vary from 1 lb. to 10,000 lbs. Planning quantities can be referenced in the latest Title III List of Lists published by the US EPA. This list can be obtained by contacting the EPCRA Hotline at (800) 535-0202. If a facility produces, uses or stores any of these extremely hazardous substances at regulated amounts (Threshold Planning Quantities and Reportable Quantities are defined in the SARA Title III List of Lists for definitions), they must notify SERC within 60 days, c/o the DEP, One Winter Street, Boston, MA 02108.

Do communities have additional obligations under these sections of EPCRA?

All Massachusetts cities and towns have established an LEPC. These committees are required to develop a comprehensive emergency response plan. The plan should identify regulated facilities, emergency response and notification procedures, and incorporate training and evacuation plans. If a facility in your community is subject to the emergency planning sections, a facility emergency response coordinator must be designated to participate in the emergency planning process.

Your LEPC must include elected officials, representatives of local government, hospitals, community groups, the media and local reporting facilities' emergency coordinators. Other members may be added by the committee.

What happens to these local plans?

These local plans must be exercised annually by all local emergency responders that may include BOH officials, and reviewed by SERC. Information concerning LEPCs can be obtained from SERC by calling (508) 820-2000.

What is required of covered facilities in your community under the section on emergency notification of hazardous chemical releases? (EPCRA Section 304, 42 USCA 11004)

Public and private employers will need to reference two lists under this section. The first is the EPA List of Extremely Hazardous Substances. The second list is taken from Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (see the Federal Register, Vol. 51, P. 34535, Sept. 29, 1986). The two lists combined, cover almost 1,000 substances. These substances can be found in the EPA Title III List of Lists.

A facility must immediately notify both SERC and the local LEPC if it releases chemicals that:

- are on either of the two lists;
- are released in reportable quantities; and
- the release has potential for exposure off-site.

Facilities must provide the names, amounts, and duration of release of the chemicals and the associated health risks and other relevant information. Initial notification can be by phone, radio, or in person. Telephone numbers for reporting such releases to SERC are, MassDEP (888) 304-1133. A LEPC should designate a community emergency coordinator who will receive emergency notification of chemical releases.

Facilities must also provide written follow-up information that includes:

actual response actions taken;
any known or anticipated health risks associated with the release; and
advice on medical attention for the exposed individuals.

Note: These actions do not fulfill other federal and state requirements for chemical releases. More information on these other requirements is available from the MassDEP Emergency Response Program at (617) 292-5500.

What are the Community Right-to-Know (RTK) reporting requirements for the facilities in your community? (EPCRA Sec. 311-312, 42 USCA 11021-11022)

The Community RTK sections of SARA provide public access to information on many of the chemicals manufactured, used, or stored by facilities in your community.

If a company is covered by the OSHA Hazard Communication Standard and has OSHA-regulated chemicals above the EPA established thresholds, then that company is covered by these sections. The threshold for hazardous substances is 10,000 lbs.; for extremely hazardous substances the threshold is 500 lbs., or the threshold planning quantity, whichever is lower.

The Hazardous Communication Standard (29 CFR 1910.1200) has a floor list of chemicals and guidelines that must be used by the chemical manufacturer to determine if other chemicals pose a health or physical hazard.

What must companies file with the local emergency planning committee?

Companies have a choice of submitting either MSDSs or a list of regulated chemicals to SERC, c/o the Toxics Use Reduction Act (TURA) at MassDEP, community LEPC, and local fire department. If

new substances are introduced into the workplace or an MSDS is revised, the facility must send a copy of the MSDS or addition to the list of regulated chemicals, to SERC, LEPC and local fire department within three months after accepting the material into the facility.

Do facilities in your community have any annual filing requirements?

In Massachusetts, all facilities must annually submit a Tier Two form prior to March 1 with the SERC, c/o the Toxics Use Reduction Program, LEPC and local fire department. The Tier Two form reports Chemicals Abstract Service (CAS) numbers, usage, quantities and location of hazardous substances found in the facility.

What is the role of the local Fire Department?

In addition to receiving EPCRA, Sec. 311 and 312 filings, the fire department may conduct on-site inspections of any facility subject to the reporting requirements of this section, and may obtain specific location information about the hazardous chemicals at these facilities. The Division of Occupational Hygiene of the Department of Labor and Workforce Development can provide technical assistance to fire departments (see Emergency Notification).

Who must report toxic chemical releases? (EPCRA Sec. 313, 42 USCA 11023)

Manufacturing facilities that:

have ten or more employees;

are in Standard Industrial Classification (SIC) codes 20-39; and

use any chemicals found in the Sec. 313 list of toxic substances, above threshold amounts, must submit a Form R to the US EPA and SERC, c/o MEMA annually on July 1.

The list of Sec. 313 substances was first published on February 16, 1988 (53 Federal Regulation 4500) (40 CFR 372). The threshold amounts for reporting pursuant to this section are: facilities that manufactured or processed chemicals in excess of 25,000 lbs. for the previous calendar year; and facilities that otherwise used chemicals in excess of 10,000 lbs. for the previous calendar year. The information submitted must include the name, amount, and waste treatment method for the chemical(s).

TRADE SECRETS

A chemical manufacturer may petition the EPA for trade secret status for any particular chemical. Portions of the documentation must also be presented to SERC, c/o the Department of Public Health, 250 Washington Street, Boston, MA 02108-4619. The names of specific substances that are considered trade secrets may be withheld on the MSDS; however, health care providers and local boards of health may obtain the names of specific substances during medical emergencies and for other medical purposes by contacting the specific company.

For questions about SARA Title III contact:

STATE AGENCY

DEPARTMENT OF PUBLIC SAFETY

Massachusetts Emergency Management Agency (MEMA)

State Emergency Response Commission

(508) 820-2000

DEPARTMENT OF PUBLIC HEALTH

Bureau of Environmental Health Assessment

Emergency Response/Right To Know Unit

(617) 624-5757

SUBJECT

Emergency Notification,

Local Emergency Planning

Committees

EPCRA Sec. 311/312,

hazard categories and

substances, toxicological

data, trade secrets, research labs

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Waste Prevention
Toxics Use Reduction Program (TURA)
(617) 292-5982

EPCRA Sec. 313 filing
Requirements

DEPARTMENT OF LABOR AND WORKFORCE
DEVELOPMENT
Division of Occupational Hygiene
(617) 969-7177

MSDS requirements,
workplace chemical information

FEDERAL AGENCIES

US ENVIRONMENTAL PROTECTION AGENCY
Region I: (617) 565-4969

EPCRA requirements,
trade secrets, exempt facilities

Occupational Safety and Health Administration (OSHA)
(617) 565-9860

Hazardous Communication
Standard

NATIONAL RESPONSE CENTER
(800) 424-8802

chemical releases

OTHER RELATED PROGRAMS

EPCRA Hotline
(800) 535-0202

EPCRA information
EPCRA documents

EMERGENCY NOTIFICATION OF CHEMICAL RELEASES

MassDEP Emergency Response:
24/7 Notification (888) 304-1133

GLOSSARY

Regulated Amounts: Threshold Planning Quantities, see SARA Title III List of Lists for definitions.

Reportable Quantities: see SARA Title III List of Lists for definitions.