

# ***Emergency Planning and Community Right-to-Know Act (EPCRA)***

## **General Public Access Guide**

### **What is the Emergency Planning and Community Right-to-Know Act?**

The Emergency Planning and Community Right-to-Know Act (EPCRA) is Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and is often referred to as SARA Title III. EPCRA was the United States congressional response to serious chemical incidents that occurred in Bhopal, India and Institute, West Virginia in the two years prior to its enactment. The incident in Bhopal resulted in 2,000 immediate fatalities. While the accident in West Virginia caused no fatalities, the circumstances were similar and aroused concern.

EPCRA was designed to provide all levels of government and the public with information required to plan for a chemical incident. The law was meant as a starting point for an on going dialogue between community representatives, emergency response personnel, and industry. EPCRA requires each state to establish a state emergency response commission (SERC), to designate local emergency planning districts, and to appoint a local emergency planning committee (LEPC) for each district. Industries are required to provide the government with information about their activities with hazardous and toxic chemicals. The SERC and the LEPCs use the information in their emergency planning activities and make it available to the public.

### **Are EPCRA records considered "public records?"**

Yes. A public record is defined as the original or copy of any documentary material in any form, to include written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps and drawings created or received by the Department in connection with the transaction of public business.

### **Who can request EPCRA information?**

Anyone – citizens, corporations, associations, public interest groups, and universities.

### **Can I have access to all EPCRA records?**

You may have access to all information not designated as confidential by EPCRA. Under the law, industries are allowed to maintain confidentiality of certain information. In most cases confidentiality pertains to confidential business information. For example, a company may withhold the location of a specific chemical at their facility from the public. That information can not be withheld from the government planning agencies and emergency response personnel. For Toxic Release Inventory Reporting, a facility may withhold the specific chemical name of a toxic chemical if that information is a Trade Secret. A facility must make a formal claim to US EPA for Trade Secret status for each such chemical. They must provide substantiation concerning this claim. When a company claims confidentiality or Trade Secret status for a substance, they must provide sanitized report forms for public access.

### **What kind of information is available from EPCRA reporting?**

EPCRA is comprised of Sections with various reporting requirements for facilities meeting specific conditions. Depending on the circumstances, a given facility may have to comply with one, a combination of, or all reporting requirements. All materials submitted to the EPA, the SERC, and the LEPC (except those described above) are available to the public. Maryland follows all federal reporting guidelines and uses federal reporting forms for collection of EPCRA data. The following table provides information about

the various sections, their requirements, and the format in which it is both received and maintained at MDE and how to obtain reporting forms, instructions, and EPA guidance about those requirements.

<b>Table 1 EPCRA Reporting Requirements</b>		
<b>Section</b>	<b>Requirements</b>	<b>Format</b>
<p><b>§302</b></p> <p>Extremely Hazardous Substance (EHS) Notification</p>	<p>Any facility with a quantity of a Listed EHS which meets or exceeds the established threshold for that EHS must notify the appropriate SERC and LEPC that the facility must be included in any emergency planning for that area.</p>	<p>This is a one-time notification, usually in a letter. The law does not require the facility to provide the name or the quantity of the EHS.</p> <p>Original notification letters are kept on file at MDE. The information is recorded as a Yes/No response in a computer database with receipt date where appropriate.</p> <p>A complete list of EHS and their associated Threshold Planning Quantities (TPQ) is available in the EPA's SARA Title III List of Lists. This document is available on-line at: <a href="http://www.epa.gov/swercepp/crtk.html">www.epa.gov/swercepp/crtk.html</a>.</p>
<p><b>§304</b></p> <p>Accidental Release Notification</p>	<p>Any facility that releases more than the reportable quantity (RQ) of a Section 302 EHS or a Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substance within a 24-hour period, must notify the SERC, the LEPC, and the National Response Center (if appropriate). Initial report must be made immediately. A written follow-up must be made within a reasonable time period subsequent to the release.</p>	<p>Initial telephone notification is recorded by MDE. These are kept on file along with the follow-up written notifications.</p> <p>This information is not recorded in a database at this time.</p> <p>A complete list of § 304 substances with their Reportable Quantities (RQ) can be found in the EPA's SARA Title III List of Lists. The List of Lists is available on-line at: <a href="http://www.epa.gov/swercepp/crtk.html">www.epa.gov/swercepp/crtk.html</a>.</p>
<p><b>§311</b></p> <p>Routine Reporting Material Safety Data Sheets (MSDS)</p>	<p>Any facility that stores: 10,000 lbs. of a hazardous substance; or 500 lbs. or the TPQ (whichever is less) of an EHS must provide the MSDS for each such substance or a list of those substances to the SERC, the LEPC, and the local fire department</p>	<p>This is a one-time submission unless there is a significant change at the facility. Original lists and MSDSs are kept on file at MDE.</p> <p>Original or revision submittal dates are recorded in a computer database.</p>
<p><b>§312</b></p> <p>Routine Reporting Annual Hazardous Chemical Inventory  (Tier Two)</p>	<p>Any facility that must comply with § 311 must complete an annual inventory of those chemicals. The inventory must include quantity, location, and storage conditions for the covered substances. Reports are submitted to the SERC, the LEPC, and the local Fire Department.</p>	<p>Annual submissions, using USEPA Tier Two reporting forms, are due by March 1. Forms are maintained on file at MDE.</p> <p>Facility information (including original and revision submission dates) are maintained in a computer database. Chemical specific information is not</p>

	<p><b>Note:</b> Retail gasoline stations with &gt; 75,000 gals. of gasoline combined and with &gt; 100,000 gals. of diesel fuel, are not required to provide a Tier II Report to MDE. Owner/operators should check with their Local Emergency Planning Committee to determine if reports are required at the local level. Gas stations that exceed these thresholds must still report. Kerosene or propane in excess of threshold must be reported</p>	<p>computerized at this time.</p> <p>Report forms, instructions and guidance for § 312 reporting is available via the Internet at This is a one-time notification, usually in a letter. The law does not require the facility to provide the name or the quantity of the EHS.</p> <p>Original notification letters are kept on file at MDE. The information is recorded as a Yes/No response in a computer database with receipt date where appropriate.</p> <p>Reporting forms, instructions and guidance for § 312 reporting are available via the Internet at: <a href="http://www.epa.gov/swercepp/crtk.html">www.epa.gov/swercepp/crtk.html</a>.</p>
<p><b>§313</b></p> <p>Routine Reporting Annual Toxic Chemical Release Inventory (TRI)</p>	<p>A facility is required to report if it meets all of the following requirements:</p> <ol style="list-style-type: none"> <li>1. The facility has 10 or more full-time employees; and</li> <li>2. The facility is included in Standard Industrial Classification (SIC) Codes 10 (except 1011,1081, and 1094), 12 (except 1241), 20 – 39, 4911 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4931 (limited to facilities that combust coal, and/or oil for the purpose of generating electricity for distribution in commerce), 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under RCRA Subtitle C, 42 U.S.C. section 6921 <i>et seq.</i>), 5169, 5171,and 7839 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis; and</li> <li>3. The facility manufactures (defined to include importing), processes. or otherwise uses</li> </ol>	<p>Annual submissions, using USEPA Form R and Form A, are due by July 1. One form must be submitted per toxic chemical. Forms are maintained on file at MDE.</p> <p>Facility and chemical information is entered into a computer database. The database includes all release and transfer information for each toxic chemical. Separate databases are maintained for each reporting year. Reporting forms, instructions, and guidance are available from the EPA at: <a href="http://www.epa.gov/tri">www.epa.gov/tri</a>.</p>

	<p>any EPCRA Section 313 chemical in quantities greater than the established threshold in the course of a calendar year.</p> <p><b>Note:</b> For the 2000 reporting year (forms due July 1, 2001) EPA has lowered the the thresholds for persistent bioaccumulative toxic (PBT) chemicals and added certain other PBT chemicals to the TRI list. The final rule includes lower thresholds for PBT chemicals and a special lower reporting threshold for dioxin and includes modifications to certain reporting exemptions and requirements for those substances subject to the new thresholds. EPA is developing guidance for dioxin and dioxin-like compounds and other PBT chemicals. Some guidance should be available at the EPA web site listed .</p>	
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### **How do I make a request for EPCRA information?**

The law requires that requests for EPCRA information be in writing. To provide the best possible service, MDE asks that you provide specific information concerning the record(s) in which you are interested. Be specific about the type of information you are seeking and provide the EPCRA section number when possible. You should also include as much specific facility information as possible. Facility name and full address, including zip code are extremely helpful in processing EPCRA requests. If you need help preparing your written request, please contact the Community Right-To-Know Section at 410-537-3800.

Requests for EPCRA information should be sent to:

Patricia S. Williams  
Maryland Department of the Environment  
1800 Washington Blvd  
Baltimore MD 21230  
Phone: (410) 537-3800  
Fax: (410) 537-3873  
E-mail address: [pwilliams@mde.state.md.us](mailto:pwilliams@mde.state.md.us)

### **Can EPCRA files be searched by zip code, map coordinates, watersheds, or tax map notations?**

EPCRA files can not be searched by map coordinates, watersheds, or tax map notations at this time. In certain cases EPCRA files can be searched by zip code. However, this type of search requires generation of a computer report. This is a special service and is not covered under EPCRA or PIA.

### **Can MDE write, generate, or create reports and lists under EPCRA?**

Information covered under EPCRA is only that information in existence at the time of the request. Requests to write, generate, or create reports and lists are not covered under EPCRA or PIA. Such

requests are considered a special service request. Complying with requests for special services is at the discretion of the Department. Neither the PIA nor its fee structure cover these services. The Department will typically provide services only after agreement has been obtained in writing from the requester to pay for the special service.

**Are there fees related to EPCRA?**

EPCRA is covered by the same fee structure as the PIA.

**Costs for Special Services:**

Complying with requests for special services (e.g., sending records by express mail or generating data/records to fill a request) is at the discretion of the Department. Neither EPCRA nor the PIA and its fee structure covers these kinds of services. The Department will typically provide services only after agreement has been obtained in writing from the requester to pay for the special service.

Fees for special services are computed to recover all reasonable costs to the State government rendering the service. All reasonable costs include all direct costs (as defined above) plus all indirect costs to conduct the search and review, and to duplicate the records (for requests to generate records or technical data). Indirect costs for special services will be calculated using the Department’s negotiated federal indirect rate in effect at the time of the request. For more information about Departmental fees for Special Services, see the [MDE PIA Homepage](#).

**Other Related Links:**

<b>Envirofacts</b>	<a href="http://www.epa.gov/enviro/index_java.html">www.epa.gov/enviro/index_java.html</a>
<b>Scorecard</b>	<a href="http://www.scorecard.org">www.scorecard.org</a>
<b>TRI Explorer</b>	<a href="http://www.epa.gov/triexplorer">www.epa.gov/triexplorer</a>



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