

# TITLE III FACT SHEET

## EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW<sup>1</sup>



U.S. Environmental Protection Agency

### INTRODUCTION

*On October 17, 1986, the "Superfund Amendments and Reauthorization Act of 1986" (SARA) was enacted into law. One part of the new SARA provisions is Title III: the Emergency Planning and Community Right-to-Know Act of 1986. Title III establishes requirements for Federal, State, and local governments and industry regarding emergency planning and community right-to-know reporting on hazardous and toxic chemicals. This legislation builds upon EPA's Chemical Emergency Preparedness Program (CEPP) and numerous State and local programs aimed at helping communities to better meet their responsibilities in regard to potential chemical emergencies. The community right-to-know provisions of Title III will help to increase the public's knowledge and access to information on the presence of hazardous chemicals in their communities and releases of these chemicals into the environment.*

*Title III has four major sections: emergency planning (§301 - §303), emergency notification (§304), community right-to-know reporting requirements (§311, 312), and toxic chemical release reporting - emissions inventory (§313).*

#### §301-303: Emergency Planning:

The emergency planning sections are designed to develop State and local governments' emergency

response and preparedness capabilities through better coordination and planning, especially within the local community.

Title III requires that the Governor of each State designate a State emergency response commission by April 17, 1987. If a State commission is not designated, the Governor will operate as the commission until the Governor makes such designation. While existing State organizations can be designated as the State emergency response commission, the commission can have broad-based representation. Public agencies and departments concerned with issues relating to the environment, natural resources, emergency services, public health, occupational safety, and transportation all have important roles in Title III activities. Various public and private sector groups and associations with interest and expertise in Title III issues also can be included in the State commission.

The State commission must designate local emergency planning districts by July 17, 1987, and appoint local emergency planning committees within one month after a district is designated. The State commission is responsible for supervising and coordinating the activities of the local emergency planning committees, for establishing procedures for receiving and processing public requests for information collected under other sections of Title III, and for reviewing local emergency plans.

This local emergency planning committee must include elected State

and local officials, police, fire, civil defense, public health professionals, environmental, hospital, and transportation officials as well as representatives of facilities subject to the emergency planning requirements, community groups, and the media. No later than September 17, 1987, facilities subject to the emergency planning requirements must designate a representative to participate in the planning process. The local committee must establish rules, give public notice of its activities and establish procedures for handling public requests for information.

The local committee's primary responsibility will be to develop an emergency response plan by October 17, 1988. In developing this plan, the local committee will evaluate available resources for preparing for and responding to a potential chemical accident. The plan must include:

- Identification of facilities and extremely hazardous substances transportation routes
- Emergency response procedures, on-site and off-site
- Designation of a community coordinator and facility coordinator(s) to implement the plan
- Emergency notification procedures
- Methods for determining the occurrence of a release and the probable affected area and population

## Key Dates to Remember

November 17, 1986	EPA published List of Extremely Hazardous Substances and Planning Threshold Quantities in Federal Register (§302, 303, 304)
November 17, 1986	EPA initiates comprehensive review of emergency systems (§305(b))
January 27, 1987	Format for Emergency Inventory Forms and reporting requirements published in Federal Register (§311, 312)
March 17, 1987	National Response Team publishes guidance for preparation and implementation of emergency plans (§303(f))
April 17, 1987	State governors appoint State emergency response commissions (§301(a))
May 17, 1987	Facilities subject to Section 302 planning requirements notify State emergency response commission (§302(c))
	Interim report on emergency system review due to Congress (§305(b))
June 1, 1987	EPA publishes toxic chemical release (i.e., emissions inventory) form (§313(g))
July 17, 1987	State emergency response commission designates emergency planning districts (§301(b))
August 17, 1987 (or 30 days after designation of districts, whichever is sooner)	State emergency response commission appoints members of local emergency planning committees (§301(c))
September 17, 1987 (or 30 days after committee is formed, whichever is earlier)	Facility notifies local planning committee of selection of a facility representative (§303(d)(1))
October 17, 1987	MSDS or list of MSDS chemicals submitted to State commission, local committee and local fire department (§311(d))
March 1, 1988 (and annually thereafter)	Facilities submit their emergency inventory forms to State commission, local committee and local fire department (§312(a)(2))
April 17, 1988	Final Report on emergency systems study due to Congress (§305(b))

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- Description of community and industry emergency equipment and facilities and the identity of persons responsible for them
- Evacuation plans
- Description and schedules of a training program for emergency response personnel
- Methods and schedules for exercising emergency response plans.

In order to assist the local committees in preparing and reviewing plans, Congress required the National Response Team (NRT), composed of 14 Federal agencies with emergency response responsibilities, to publish guidance on emergency response planning. This guidance, the Hazardous Materials Emergency Planning Guide, will be published by the NRT and incorporates emergency planning aspects of the CEPP Interim Guidance. It also replaces the Federal Emergency Management Agency's Planning Guide and Checklist for Hazardous Materials Contingency Plans (popularly known as FEMA-10). See Federal Register dated 12/2/86.

The emergency response plan must be reviewed by the State commission as well as annually by the local committee. The Regional Response Teams, composed of the Federal Regional officials and State representatives, may review the plans and provide assistance to the local committees upon request.

Those planning activities of the local committees and facilities should be focused on, but not limited to, the 402 extremely hazardous substances published in the November 17, 1986, Federal Register. The list included the threshold planning quantities for each substance. EPA can revise the list and threshold planning quantities based on the toxicity, reactivity, volatility, dispersability, combustibility, or flammability of a substance.

Any facility that produces, uses, or stores any of the listed chemicals in

a quantity greater than its threshold planning quantity is subject to the emergency planning requirements. In addition, the State commission or the Governor can designate additional facilities, after public comment, to be subject to these requirements. By May 17, 1987, covered facilities must notify the State commission that they are subject to these requirements. If a facility begins to produce, use, or store any of the extremely hazardous substances in threshold quantity amounts, it must notify the State commission within 60 days.

Each State commission must notify EPA of all facilities subject to the emergency planning requirements, including facilities designated by the State commission or the Governor.

**§304: Emergency Notification**

Facilities must immediately notify the local emergency planning committee and the State emergency response commission if there is a release of a listed hazardous substance that exceeds the reportable quantity for that substance. Substances subject to this requirement are substances on the list of 402 extremely hazardous substances as published in Federal Register on 11/17/86 and substances subject to the emergency notification requirements under CERCLA Section 103(a).

The initial notification can be by telephone, radio, or in person. Emergency notification requirements involving transportation incidents can be satisfied by dialing 911, or in the absence of a 911 emergency number, calling the operator.

This emergency notification needs to include:

- The chemical name
- An indication of whether the substance is extremely hazardous
- An estimate of the quantity released into the environment

- The time and duration of the release
- The medium into which the release occurred
- Any known or anticipated acute or chronic health risks associated with the emergency, and where appropriate, advice regarding medical attention necessary for exposed individuals
- Proper precautions, such as evacuation
- Name and telephone number of contact person.

Section 304 also requires the follow-up written emergency notice after the release. The follow-up notice or notices shall:

- Update information included in the initial notice, and
- Provide information on:
  - Actual response actions taken
  - Any known or anticipated data or chronic health risks associated with the release
  - Advice regarding medical attention necessary for exposed individuals.

Until State commissions and local committees are formed, releases should be reported to appropriate State and local officials.

**§311-312: Community Right-to-Know Reporting Requirements**

There are two "community right-to-know" reporting requirements which apply primarily to manufacturers and importers. Section 311 requires that facilities which must prepare or have available material safety data sheets (MSDS) under the Occupational Safety and Health Administration (OSHA) regulations to submit either copies of its MSDS or a list of MSDS chemicals to:

- The local emergency planning committee
- The State emergency response commission
- The local fire department.

If the facility owner or operator chooses to submit a list of MSDS chemicals, the list must include the chemical name or common name of each substance and any hazardous component as provided on the MSDS. This list must be organized in categories of health and physical hazards as set forth in OSHA regulations unless modified by EPA.

If a list is submitted, the facility must submit the MSDS for any chemical on the list upon the request of the local planning committee. Under Section 311, EPA may establish threshold quantities for hazardous chemicals below which no facility must report.

The initial submission of the MSDSs or list is required no later than October 17, 1987, or 3 months after the facility is required to prepare or have available an MSDS under OSHA regulations. A revised MSDS must be provided to update MSDS which were originally submitted if significant new information regarding a chemical is discovered.

The reporting requirement of Section 312 involves submission of an emergency and hazardous chemical inventory form to the local emergency planning committee, the State emergency response commission and the local fire department. The hazardous chemicals covered by Section 312 are the same for which facilities are required to submit MSDS or the list for Section 311.

Under Section 312, EPA may also establish threshold quantities for hazardous chemicals below which no facility must be subject to this requirement.

The inventory form incorporates a two-tier approach. Under Tier I,

facilities must submit the following aggregate information for each applicable OSHA category of health and physical hazard:

- An estimate (in ranges) of the maximum amount of chemicals for each category present at the facility at any time during the preceding calendar year
- An estimate (in ranges) of the average daily amount of chemicals in each category
- The general location of hazardous chemicals in each category.

Upon request of a local committee, State commission or local fire department, the facility must provide the following Tier II information for each substance subject to the request:

- The chemical name or the common name as indicated on the MSDS
- An estimate (in ranges) of the maximum amount of the chemical present at any time during the preceding calendar year
- A brief description of the manner of storage of the chemical
- The location of the chemical at the facility
- An indication of whether the owner elects to withhold location information from disclosure to the public.

The public may also request Tier II information from the State commission and the local committee. The information submitted by facilities under Sections 311 and 312 must generally be made available to the public by local and State governments during normal working hours.

EPA published a uniform format for the inventory forms on January 27, 1987. Tier I information shall

be submitted on or before March 1, 1988, and annually thereafter on March 1.

### §313: Toxic Chemical Release Reporting

Section 313 of Title III requires EPA to establish an inventory of toxic chemical emissions from certain facilities. Facilities subject to this reporting requirement are required to complete a toxic chemical release form for specified chemicals. The form must be submitted to EPA and those State officials designated by the Governor, on or before July 1, 1988, and annually thereafter on July 1, reflecting releases during each preceding calendar year.

The purpose of this reporting requirement is to inform government officials and the public about releases of toxic chemicals in the environment. It will also assist in research and the development of regulations, guidelines, and standards.

The reporting requirement applies to owners and operators of facilities that have 10 or more full-time employees, that are in Standard Industries Classification Codes 20 through 39 (i.e., manufacturing facilities) and that manufactured, processed or otherwise used a listed toxic chemical in excess of specified threshold quantities.

Facilities using listed toxic chemicals in quantities over 10,000 pounds in a calendar year are required to submit toxic chemical release forms by July 1 of the following year. Facilities manufacturing or processing any of these chemicals in excess of 75,000 pounds in 1987 must report by July 1, 1988. Facilities manufacturing or processing in excess of 50,000 pounds in 1988 must report by July 1, 1989; thereafter, facilities manufacturing or processing more than 25,000 pounds in a year are required to submit the form. EPA can revise these threshold quantities and covered SIC categories.

The list of toxic chemicals subject to reporting consists initially of chemicals listed for similar reporting purposes by the States of New Jersey and Maryland. There are over 300 chemicals and categories on these lists. EPA can modify this combined list. In adding a chemical to the combined Maryland and New Jersey lists, EPA must consider the following factors:

- Is the substance known to cause cancer or serious reproductive or neurological disorders, genetic mutations, or other chronic health effects?
- Can the substance cause significant adverse acute health effects outside the facility as a result of continuous or frequently recurring releases?
- Can the substance cause an adverse effect on the environment because of its toxicity, persistence, or tendency to bioaccumulate?

Chemicals can be deleted if there is insufficient evidence to establish any of these factors. State governors may petition the Administrator to add or delete a chemical from the list for any of the above reasons. Any person may petition for the first two reasons.

Through early consultation with States or EPA Regions, petitioners can avoid duplicating previous petitions and be assisted in locating sources of data already collected on the problem of concern to support their petitions. EPA will conduct information searches on chemicals contained in a petition, focusing on the effects the petitioners believe warrant addition or deletion.

EPA is required to publish a format for the Toxic Chemical Release form by June 1, 1987. The following information must be included:

- The name, location and type of business
- Whether the chemical is manufactured, processed, or otherwise used and the general categories of use of the chemical
- An estimate (in ranges) of the maximum amounts of the toxic chemical present at the facility at any time during the preceding year
- Waste treatment/disposal methods and efficiency of methods for each wastestream
- Quantity of the chemical entering each environmental medium annually
- A certification by a senior official that the report is complete and accurate.

EPA must establish and maintain a national toxic chemical inventory based on the data submitted. This information must be computer accessible on a national database.

In addition to the requirements for the emissions inventory in Section 313, EPA will arrange for a mass balance study to be carried out by the National Academy of Sciences using information collected from States that conduct a mass balance-oriented annual quantity toxic chemical release program. Mass balance

is the accounting of the total quantity of substances brought into a facility versus the amount that is shipped out. The difference is an indication of the amount released into the environment. A report of this study must be submitted by EPA to Congress no later than October 17, 1991.

The purpose of this study is to assess the value of obtaining mass balance information to determine the accuracy of information on toxic chemical releases. Also, the study will assess the value of using the information for determining the waste reduction efficiency and for evaluating toxic chemical management practices at categories of facilities. In addition, the study must determine the implications of mass balance information collected on a national scale including for use as part of a national annual quantity toxic chemical release program.

### Other Title III Provisions

Section 322 of Title III addresses trade secrets and applies to emergency planning, community right-to-know, and toxic chemical release reporting. Any person may withhold the specific chemical identity of a hazardous chemical for specific reasons. Even if the chemical identity is withheld, the generic class or category of the chemical must be provided. The withholder must show each of the following:

- The information has not been disclosed to any other person other than a member of the local planning committee, a government official, an employee of such person or someone bound by a confidentiality agreement, that measures have been taken to protect the confidentiality, and that the withholder intends to continue to take such measures
- The information is not required to be disclosed to the public under any other Federal or State law
- The information is likely to cause substantial harm to the competitive position of the person
- The chemical identity is not readily discoverable through reverse engineering.

However, even if chemical identity information can be legally withheld from the public, Section 323 provides for disclosure under certain circumstances to health professionals who need the information for diagnostic purposes or from local health officials who need the information for assessment activities. In these cases, the person receiving the information must be willing to sign a confidentiality agreement with the facility.

Information claimed as trade secret and substantiation for that claim must be submitted to EPA. This includes information that otherwise would be submitted only to State or local officials, such as the emergency and hazardous material inventory (§312). People may challenge trade secret claims by petitioning EPA, which must then review the claim and rule on its validity.

EPA must publish regulations governing trade secret claims. The regulations will cover the process for submission of claims, petitions for disclosure and a review process for these petitions.

Section 305 of Title III authorizes the Federal Emergency Management Agency to provide \$5 million

### Key Dates to Remember

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July 1, 1988 (and annually thereafter)	Covered facilities submit initial toxic chemical forms to EPA and designated State officials (§313(a))
October 17, 1988	Local emergency planning committees complete preparation of an emergency plan (§303(a))
June 30, 1991	Comptroller general report to Congress on toxic chemical release information collection, use and availability (§313(k))
October 17, 1991	EPA report to Congress on Mass Balance Study (§313(1))

### Summary for Chemical Lists for Title III

<u>LIST</u>	<u>Section</u>	<u>Purpose</u>
<p><u>List of Extremely Hazardous Substances</u> (FR 11/17/86) [402 substances]</p>	<p>§302: Emergency Planning §304: Emergency Notification</p>	<ul style="list-style-type: none"> <li>• Facilities with more than established planning quantities of these substances must notify the State commission</li> <li>• Initial Focus for preparation of emergency plans by local emergency planning committees</li> <li>• Certain releases of these substances trigger Section 304 notification to State commission <u>and</u> local committees</li> </ul>
<p>Substances requiring notification under Section 103(a) of CERCLA [717 substances]</p>	<p>§304: Emergency Notification</p>	<ul style="list-style-type: none"> <li>• Certain releases of these substances trigger Section notification to State commission <u>and</u> local committees as well as Section 103(a) requirement for National Response Center notification</li> </ul>
<p><u>Hazardous Chemicals</u> considered physical or health hazards under OSHA's Hazard Communication Standard [This is a performance standard, there is no specific list of chemicals]</p>	<p>§304: Emergency Notification §311: Material Safety Data Sheets §312: Emergency Inventory</p>	<ul style="list-style-type: none"> <li>• Identifies facilities subject to emergency notification requirements</li> <li>• MSDS or list of MSDS chemicals provided by covered facilities to State commission, local committee, <u>and</u> local fire department</li> <li>• Covered facilities provide site-specific information on chemicals to State commission, local committees and local fire departments</li> </ul>
<p><u>Toxic Chemicals</u> identified as of concern by States of New Jersey and Maryland [329 chemicals/chemical categories]</p>	<p>§313: Toxic Chemical Release Reporting</p>	<ul style="list-style-type: none"> <li>• These chemicals are reported on an emissions inventory to inform government officials and the public about releases of toxic chemicals in the environment.</li> </ul>

for each of fiscal years 1987, 1988, 1989, and 1990 for training grants to support State and local governments. These training grants are designed to improve emergency planning, preparedness, mitigation, response, and recovery capabilities. Such programs must provide special emphasis to hazardous chemical emergencies. The training grants may not exceed 80 percent of the cost of any such programs. The remaining 20 percent must come from non-Federal sources.

Under Section 305, EPA is required to review emergency systems for monitoring, detecting, and preventing releases of extremely hazardous substances at representative facilities that produce, use, or store these substances. EPA will report interim findings to Congress no later than May 17, 1987 and issue a final report of findings and recommendations to Congress by April 17, 1988.

The report must include EPA's findings regarding each of the following:

- Status of current technological capabilities to (1) monitor, detect, and prevent significant releases of extremely hazardous substances; (2) determine the magnitude and direction of the hazard posed by each release; (3) identify specific substances; (4) provide data on specific chemical composition of such releases; and (5) determine relative concentration of the constituent substances.
- Status of public emergency alert devices or systems for effective public warning of accidental releases of extremely hazardous substances into any media.
- The technical and economic feasibility of establishing, maintaining, and operating alert systems for detecting releases.

The report must also include EPA's recommendations for:

- Initiatives to support development of new or improved technologies or systems that would assist the timely monitoring, detection, and prevention of releases of extremely hazardous substances.
- Improving devices or systems for effectively alerting the public in the event of an accidental release.

For more information on Title III and EPA's Chemical Emergency Preparedness Program, contact the CEPP Hotline:

**1-800-535-0202**  
(in Washington, D.C. (202) 479-2449)

Hours: 8:30 am - 4:30 pm (EST),  
Monday - Friday

**This is NOT an emergency number**

