

APPENDIX M

Emergency Planning and Community Right to Know Act of 1986

Superfund Amendments and Reauthorization Act of 1986 (SARA Title III)

Introduction

The Emergency Planning and Community Right to Know Act of 1986 (EPCRA), found in Title 40, Part 355, of the Code of Federal Regulations (40 CFR 355), is a federal law that is enforced by the United States Environmental Protection Agency and managed by the state emergency response commission and local emergency planning committees. EPCRA applies to the storage and handling of hazardous materials. EPCRA requires that facilities report storage of certain chemicals above a certain amount to the state and local authorities. This law is called both EPCRA and SARA Title III. In this section, it will be referred to as EPCRA.

The purpose of EPCRA is twofold:

1. "Encourage and support industry's emergency planning for response to chemical accidents (in coordination with state and local governments) through emergency planning and emergency notification."
2. "Provide local governments and the public with information about possible chemical hazards in their communities by requiring facilities to (a) report to their state emergency response commission, local emergency planning committees, and local fire departments their hazardous chemical inventory, and (b) report to federal and state authorities their toxic chemical releases and other waste management practices" (U.S. EPA, 1999).

Listed below are the different sections of EPCRA regulations.

- Emergency planning (EPCRA Sections 301-303)
- Emergency release notification (EPCRA Section 304)
- Hazardous chemical inventory and reporting (material safety data sheet and Tier reporting) (EPCRA Sections 311 and 312)
- Toxic chemical release reporting (EPCRA Section 313)
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA Section 103)
- Sections 301-303, 311, and 312 are related to chemicals present in a facility. Section 313 includes regulations related to chemicals manufactured, processed, or otherwise used in a facility. Regulations related to emergency notification of a release of specific substances are described in the EPCRA Section 304.

Emergency Planning

(EPCRA Sections 301-303)

The emergency planning section of the law is designed to help communities prepare for and respond to emergencies involving hazardous substances. Every community in the United States must be part of a comprehensive plan. It starts at the state level with a state emergency response commission (SERC). In turn, the SERC designates local emergency planning districts. For each district, the SERC appoints, supervises and coordinates the activities of a local emergency planning committee (LEPC). The LEPC must, in turn, develop an emergency response plan for its district and review it annually. The membership of the LEPC includes representatives of public and private organizations as well as a representative from every facility subject to EPCRA emergency planning requirements.

What are the required elements of a community emergency response plan?

- Identify facilities and transportation routes of extremely hazardous substances;
- Describe emergency response procedures, on and off site;
- Designate a community coordinator and facility coordinator(s) to implement the plan;
- Outline emergency notification procedures;
- Describe how to determine the probable affected area and population by releases;
- Describe local emergency equipment and facilities and identify the persons responsible for them;
- Outline evacuation plans;
- Provide a training program for emergency responders (including schedules); and,
- Provide methods and schedules for exercising emergency response plans.

What do facilities need to report?

If you store any of the 385 listed “extremely hazardous substances” in excess of the listed threshold planning quantity, you are required to complete a “Section 302 – Emergency Planning Notification Form” and submit it to the Indiana Emergency Response Commission AND your local emergency planning district within 60 days of when the substance becomes present at the facility. If you are required to file a “Section 302 – Emergency Planning Notification Form” you must also designate a facility emergency coordinator who will be the emergency contact person for your facility.

For the U.S. Environmental Protection Agency’s “Alphabetical Order List of Extremely Hazardous Substances,” refer to Appendix A of 40 CFR 355 which can be found at ecfr.gpoaccess.gov.

What might be reportable under Section 302 at your marina?

- **Sulfuric Acid** [Chemical Abstract Service (CAS) Number 7664-93-9]: Sulfuric acid, which is found in lead acid batteries, is reportable under Section 302 if your marina maintains an inventory of sulfuric acid in excess of 1,000 pounds. This amount includes all the sulfuric acid in batteries stored on site AND on your customers’ boats. The average small boat battery contains approximately five pounds of sulfuric acid. Therefore, if you have over 200 batteries at your facility, including batteries for sale, batteries stored for recycling and batteries on your customers’ boats, you must file a “Section 302 – Emergency Planning Notification Form.”
- **Chlorine** (CAS Number 7782-50-5): If you store chlorine, a water treatment chemical, in a liquid, granular or gaseous state in excess of 100 pounds, you must file a “Section 302 – Emergency Planning Notification Form.” Pool tablets and powdered chlorine typically are NOT the same thing. Please look at the CAS number on the product.

Accidental Release Notification

(EPCRA Section 304)

Facilities must immediately notify their local emergency planning committee and the Indiana Emergency Response Commission if there is a release of a hazardous substance in excess of the minimum reportable quantity set under EPCRA or in excess of the reportable quantity of a chemical listed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302.4). If the spill meets the requirements set forth in 40 CFR 110 and 40 CFR 116 it may be reportable to the National Response Center (NRC) at (800) 424-8802. If you are unsure whether to report the spill to the NRC, it is better to report than not. Not reporting can result in fines.

Under EPCRA, you are not required to report a spill to the federal government above the reportable quantity if the release:

- Does not affect persons off-property;
- Is federally permitted;
- Is a continuous release, except when statistically significant;

- Is of certain nuclear material;
- Results from pesticide or fertilizer application;
- Is petroleum, unless an “extremely hazardous substance” is present (Note: This does not exempt you from reporting an oil spill to the state and federal authorities as required by the spill prevention, control and countermeasures plan.

Notification should be made first by telephone, radio or in person. If the spill was a result of a transportation incident, notification requirements can be met by calling 911. The notification needs to include:

- The chemical name;
- An indication of whether the substance is extremely hazardous;
- An estimate of the quantity released;
- The time and duration of the release;
- Whether the release occurred into air, water, and/or land;
- Any known or anticipated acute or chronic health risks associated with the emergency and, where necessary, advice regarding medical attention for exposed individuals;
- Proper precautions, such as evacuation or sheltering in place; and
- The name and telephone number of the contact person.

A written notice to the Indiana Emergency Response Commission and your local emergency planning committee must be sent as soon as practicable after the release. The notice should include an update of information included in the initial notice and response actions that were taken.

Reporting Hazardous Chemicals “Community Right to Know Requirements”

EPCRA Section 311 (List of Chemicals Form)

The Occupational Safety and Health Administration (OSHA) requires employers to keep copies of materials safety data sheets (MSDSs) for each hazardous chemical used or stored on site. The MSDSs need to be kept in a location available to all employees and kept current. Distributors are required to provide MSDSs for hazardous substances (29 CFR 1910-1200).

If you have chemicals on site that are required under OSHA to have an MSDS and you meet one of these following conditions, you are required to complete a “Section 311 – List of Chemicals Form.”

1. You store one or more substances listed as an “extremely hazardous substance” in quantities equal to or greater than the listed “threshold planning quantity” or 500 pounds, whichever is less. The list of “extremely hazardous substances” and their “threshold planning quantities” can be found in Appendix A of 40 CFR 355 at ecfr.gpoaccess.gov.
2. You store 10,000 pounds or more and any hazardous substance requiring an MSDS.

EPCRA Section 312 – Annual Tier II Reporting

If you fall into one of the above categories and are subject to Section 311 reporting requirements, you must also submit an annual “Tier II Emergency and Hazardous Chemical Inventory” form. This form requires that you inventory your facility’s hazardous chemicals and identify their storage locations. The Tier II report must be submitted to the Indiana Emergency Response Commission, your local emergency planning committee, and your local fire department each year by March 1st.

What might a marina have to report under Section 311 and Tier II?

- **Gasoline, Diesel Fuel, Propane or Fuel Oil:**
If you store gasoline, diesel fuel, propane or fuel oil (all of which require MSDSs) in excess of 10,000 pounds, you must report under Section 333 and Tier II. This amount does not include fuel in boats dockside. According to the MSDS, gasoline weighs about 6.19 pounds per gallon, diesel around 7.05 pounds per gallon, and propane around 4.23 (60° F) pounds per gallon. If you store over 1615 gallons of gasoline on site, you would need to report. This does not include the fuel in the boats dockside.

- **Sulfuric Acid:**
You must also report the sulfuric acid in lead acid batteries if your marina maintains an inventory of sulfuric acid in excess of 500 pounds. The average 12-volt boat battery contains 2-4 quarts of sulfuric acid. Larger yacht-type boats may have significantly larger batteries. In the calculation for the sulfuric acid in batteries, you should add together all batteries stored (before or after use) and used on site for commercial purposes (batteries for sale, forklift truck batteries and generator batteries). This reporting requirement does not apply to the batteries that boaters can physically move on and off their boats.
- **Lead:**
You may also have to report for lead. The amount of lead found in typical marine batteries can vary depending on the make and model. The typical battery contains 60% lead. If you add all the lead in the batteries you store (before or after use) and use on site for commercial purposes (batteries for sale, forklift truck batteries and generator batteries) and it totals 500 pounds or more, you will need to include lead in the Tier II report.

Toxic Release Inventory EPCRA Section 313

It is unlikely that any marina in Indiana will be subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right to Know Act of 1986. If you meet all of the following criteria, you must file a “Toxic Chemical Release Inventory Form” by July 1st each year to both the Indiana Toxic Release Inventory (TRI) Data Processing Center (formerly the EPCRA Reporting Center) and U.S. EPA’s EPCRA Reporting Center.

- Your facility must be included in the Standard Industrial Classification (SIC) Codes 10 (except 1011, 1081, 1094), 12 (except 1241), 20-39, and with limitations 4911, 4931, 4939, and 4952. A marina may be listed under major group 3700 if it engages in manufacturing equipment for transportation of passengers and cargo by water such as ships and boats
- You have 10 or more full-time employee equivalents (a total of 20,000 or greater; see 40 CFR 372.2)
- You manufacture, process or otherwise use an EPCRA Section 313 chemical in quantities greater than the established threshold in the course of a calendar year.

For More Information

Contact the Emergency Planning and Community Right to Know Information Hotline at (800) 424-9346 or (800) 535-7672 (via Telecommunications Device for the Deaf) for more information on EPCRA, TRI and the Community Right to Know Act, or visit the Web at:

[www.epa.gov/emergencies/
content/epcra/index.htm](http://www.epa.gov/emergencies/content/epcra/index.htm)