PREFACE

This guidance is intended to strengthen community preparedness for accidental chemical releases. It does so by increasing understanding of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and its amendments under the America's Water Infrastructure Act (AWIA) of 2018. The information provided in this guidance will be helpful for all communities that endeavor to better prepare for chemical accidents and other emergencies. It will also be valuable for new and existing members of the tribal and local organizations responsible for implementing EPCRA.

Background

After the December 1984 Union Carbide incident in Bhopal, India,[1,2] the President signed into law the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986. Title III of SARA is also known as EPCRA. The law mandates emergency planning efforts at the state, tribal and local levels and provides citizens and emergency responders with information concerning potential chemical hazards present in their communities.

This guide is organized to provide the reader with an understanding of the EPCRA requirements for facilities handling hazardous chemicals, implementing responsibilities for Local Emergency Planning Committees (LEPCs) and Tribal Emergency Planning Committees (TEPCs), and guidance on how to maintain an effective LEPC or TEPC organization in each community.

Organization

This document is divided into two parts, followed by a series of appendices.

Part I of this document discusses statutory and regulatory requirements for facilities that handle or accidentally release hazardous chemicals and state, tribal and local agencies' responsibilities for collecting information, developing emergency response plans for the community and providing public access to information. Part I also includes statutory text from 1986 EPCRA legislation and amendments to EPCRA under the America's Water Infrastructure Act of 2018.

Part I discusses only the requirements provided in the federal EPCRA statute, its implementing regulations and EPA's interpretations of the federal law. Please refer to your state or tribal right-to-know program for state-specific or tribal-specific requirements.

States and tribes have always given the flexibility to implement EPCRA as necessary for their communities and meet the goals of EPCRA, which are to prepare for and respond to releases of hazardous substances and provide the public with information on potential chemical risks in their communities. This flexibility includes adding more chemicals, lower reporting thresholds, state-specific reporting forms or formats, etc. EPA is aware that some states follow the federal EPCRA program and others have more stringent EPCRA programs.

[1] https://www.youtube.com/watch?v=sMHmy-95MrI

[2] https://en.wikipedia.org/wiki/Bhopal_disaster

Since 1986, there have been many changes, as LEPCs and TEPCs have assumed additional responsibilities for community preparedness, including state or tribal requirements for all-hazard planning and response. Therefore, your state or tribal emergency management organization or other federal agencies may require you to develop an emergency operations plan (EOP) for all hazards (i.e., flood, hurricane, earthquake, terrorism, etc.). While you may be required to plan for all hazards, preparing your community for chemical releases, required by EPCRA, should be part of the all-hazard plan. Alternatively, you may prepare a stand-alone emergency plan for potential chemical accidents.

One key thing has not changed. LEPCs and TEPCs are the key to success in achieving the goals of EPCRA. They hold the primary authority for gaining the information necessary to prepare and protect their communities from chemical accidents.

Part II of this document provides guidance to LEPCs and TEPCs on organizational structure, how to perform their duties to meet the requirements under the law and suggestions for implementing EPCRA requirements, including developing an emergency response plan for your community. Recognizing that the people who serve on LEPCs and TEPCs also are involved in implementing other environmental laws and all-hazards emergency planning/management, this document will provide guidance on coordinating these efforts. This part of the document also provides information on tools and resources available to LEPCs and TEPCs to assist with implementing EPCRA requirements.

Part II of this document also provides an overview of other federal regulatory programs that LEPCs and TEPCs may need to be familiar with, as the information reported by facilities under these programs may also be useful in community preparedness.

The **Appendices** in this document contain sample LEPC by-laws, how to hold an effective meeting, sample LEPC mission statements, etc. that LEPCs and TEPCs may want to follow.

This document also contains a list of several resources that LEPCs and TEPCs may refer to for implementing EPCRA requirements.

Abbreviations

ACC	American Chemistry Council
ALOHA®	Areal Locations of Hazardous Atmospheres
AWIA	America's Water Infrastructure Act
CAA	Clean Air Act
CAMEO®	Computer-Aided Management of Emergency Operations
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CEPP	Chemical Emergency Preparedness Program
CFATS	Chemical Facility Anti-Terrorism Standards
CMA	Chemical Manufacturers Association
CSB	U.S. Chemical Safety Board
DHS	Department of Homeland Security
DOT	U.S. Department of Transportation
EHS	Extremely Hazardous Substance
EPA	U.S. Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
ERP	Emergency Response Plan
FEMA	Federal Emergency Management Agency
GDC	General Duty Clause
HAZWOPER	Hazardous Waste Operations and Emergency Response
HCS	Hazard Communication Standard
HMEP	Hazardous Materials Emergency Preparedness
HHFT	High Hazard Flammable Trains
ICP	Integrated Contingency Plan (also known as the "One Plan")
LEPC	Local Emergency Planning Committee
MARPLOT	Mapping Application for Response, Planning, and Local Operational Tasks
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NRT	National Response Team
OSH Act	Occupational Safety and Health Act
OSHA	Occupational Safety and Health Administration
RCRA	Resource Conservation and Recovery Act
RMP	Risk Management Program (or Risk Management Plan)
RRT	Regional Response Team
SARA	Superfund Amendments and Reauthorization Act
SDS	Safety Data Sheet
SERC	State Emergency Response Commission
SPI	Safety Performance Indicators
TEPC	Tribal Emergency Planning Committee
TERC	Tribal Emergency Response Commission
TPQ	Threshold Planning Quantity
TRI	Toxics Release Inventory
TSDF	Treatment, Storage, and Disposal Facility

History, Purpose and Basic Requirements of EPCRA

History

The Emergency Planning and Community Right-to-Know Act (EPCRA), also known as "SARA Title III," was passed on October 17, 1986, in response to concerns regarding environmental and safety hazards posed by the storage and handling of hazardous chemicals. These concerns were triggered by two major chemical incidents.

Bhopal, India: December 1984

Late on December 2, 1984, a faulty valve at a Union Carbide facility allowed water to mix with a tank of methyl isocyanate (MIC), resulting in a vigorous exothermic reaction in the tank. At around 1:00 AM on December 3, a safety valve failed, releasing a plume of toxic gases, including MIC. By dawn, thousands of people were dead, along with buffaloes, cows, dogs and birds. Local hospitals were soon overwhelmed with the injured, a crisis further compounded by a lack of knowledge of exactly what gases were involved and what their effects were. Estimates of the number of people killed in the first few days by the plume run as high as 10,000, with 15,000 to 20,000 premature deaths reportedly occurring in the subsequent two decades. The government reported that more than half a million people were exposed to the gas.[3]

Institute, West Virginia: August 1985

Shortly after the Bhopal disaster, a chemical release from another Union Carbide facility further demonstrated that these types of incidents could happen anywhere and that many communities could be facing similar or worse catastrophic risks. A release of aldicarb oxime with other chemicals from this facility sent more than 125 people to the hospital and again highlighted the lack of information on industrial chemicals and their risks available to communities. This incident increased national attention to hazardous chemicals in

New York Times

Late Edition

NEW YORK, MONDAY, AUGUST 12, 1985 30 CENTS

TOXIC CLOUD LEAKS AT CARBIDE PLANT IN WEST VIRGINIA

AT LEAST 135 ARE INJURED

Gas Escapes From Area Used to Process Chemical That Killed 2,000 in Bhopal

By BEN A. FRANKLIN

Paramedics moving patients to hospitals after treating them yesterday at an emergency medical center that was set up in a park to deal with effects of chemical leak at Union Carbide plant in Institute, W.Va.

Figure 1. Front page of the *New York Times,* August 12, 1985, showing the Union Carbide incident in Institute, West Virginia.

[3] https://ehjournal.biomedcentral.com/articles/10.1186/1476-069X-4-6

communities and spurred Congressional action.[4]

Purpose of EPCRA

The main purpose of EPCRA (also known as "SARA Title III") is to:

- Ensure first responders and citizens are prepared for an accidental chemical release.
- Increase the public's knowledge of and access to information on:
  - The presence of hazardous chemicals in their communities.
  - Releases of hazardous chemicals into the environment.

The dual legislative purposes of EPCRA are reflected in its name: emergency planning and community right-to-know. The first part of the law requires facilities to report the presence and release of hazardous chemicals to federal, state, tribal and local authorities. The second part of the law is community right-to-know provisions, which require facilities to report inventories of hazardous chemicals and releases of toxic chemicals.

Basic Requirements of EPCRA

Congress enacted EPCRA to establish requirements for federal, state, tribal and local governments and industry regarding emergency planning and release notification, community right-to-know, and reporting on hazardous and toxic chemicals. These requirements are essential to meeting EPCRA's goal of improving local emergency preparedness and increasing community awareness of chemical hazards.

EPCRA has four provisions related to preparing the community for chemical accident releases, divided into Subtitles A and B:

- Subtitle A: Establishing the framework for state, tribal and local emergency planning.
  - Emergency Planning Notification (Section 302)
  - Emergency Release Notification (Section 304)
- Subtitle B: Mechanism for informing the public of the presence of chemicals and releases of toxic chemicals
  - Hazardous Chemical Inventory Reporting (Sections 311 and 312)
  - Toxic Chemical Release Reporting (Section 313)

Subtitle C contains provisions related to providing public access to EPCRA information, enforcement, and civil actions for failure to comply with requirements of EPCRA (Sections 324 to 326).

[4] Environ Health. 2005;4(1):6. Published 2005 May 10. doi:10.1186/1476-069X-4-6; Sharma DC. Bhopal: 20 Years On. Lancet. 2005; 365:111–112. DOI: 10.1016/S0140-6736(05)17722-8.

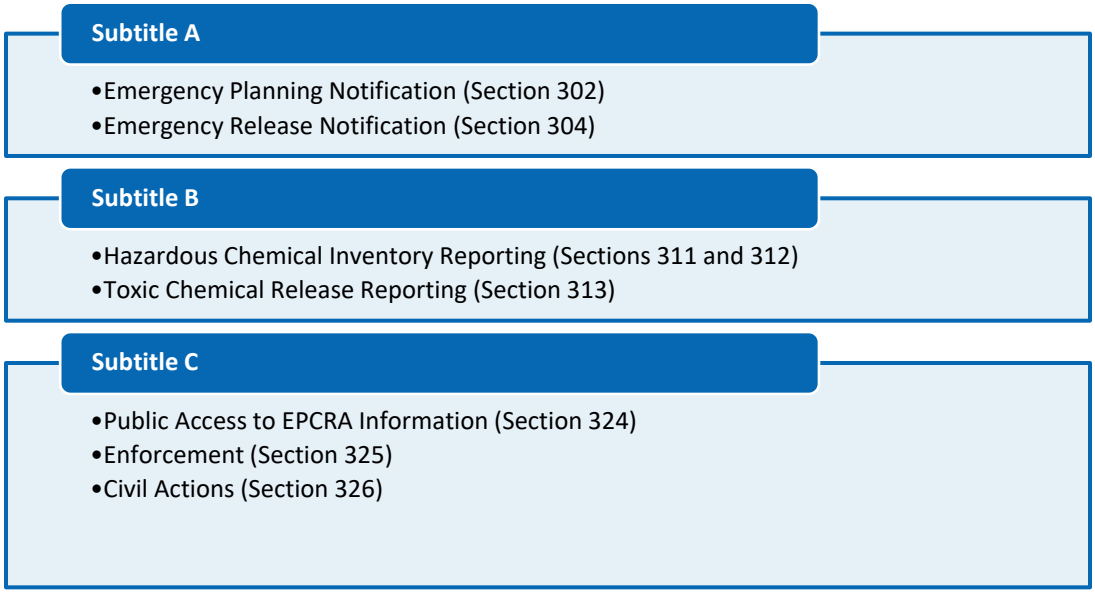

Figure 2. EPCRA provisions.

Precursors to EPCRA

Prior to EPCRA, federal, state and local programs assumed the responsibility for responding to chemical incidents. Emergency response was delegated to the National Response Team (NRT),[5] Regional Response Teams (RRTs), and state and local response teams. A few of these programs are discussed below.

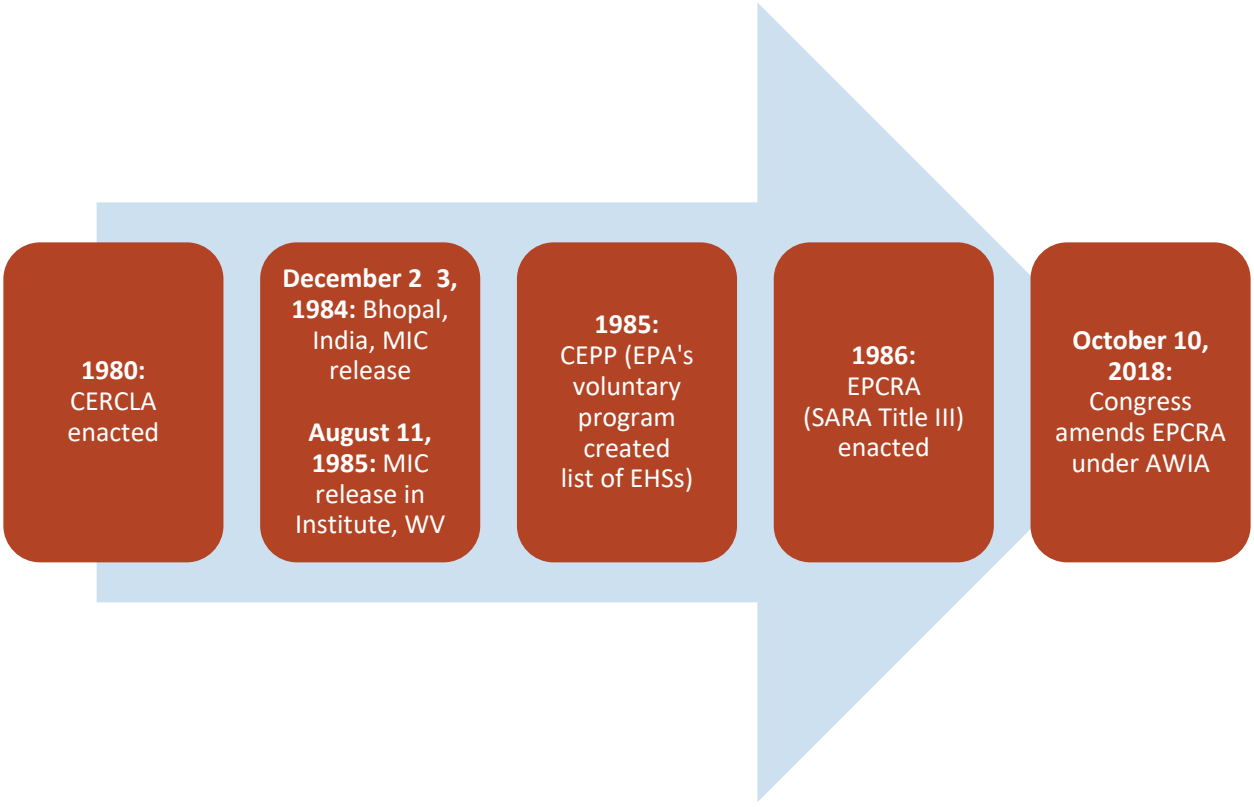

Figure 3. Timeline of the development of EPCRA, its precursors, and its amendments.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980—otherwise known as CERCLA or Superfund—provides a federal "superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA,

[5] The NRT is composed of representatives of 15 federal agencies with responsibilities for emergency preparedness and response. EPA and the U.S. Coast Guard (USCG) serve as Chair and Vice Chair, respectively. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the Code of Federal Regulations (40 CFR part 300) outline the role of the NRT and RRTs. RRTs consist of regional representatives of the federal agencies on the NRT, as well as state emergency response and preparedness officials.

EPA has authority to seek out those parties responsible for any releases and assure their cooperation in the cleanup.

EPA cleans up sites even if potentially responsible parties cannot be identified or located, or when they fail to act. Through various enforcement tools, EPA obtains private party cleanup through orders, consent decrees, and other small party settlements. EPA also recovers costs from financially viable individuals and companies once a response action has been completed.

EPA is authorized to implement the Act in all U.S. states and territories. Superfund site identification, monitoring and response activities in states are coordinated through the state and tribal environmental protection or waste management agencies.

CERCLA was the first federal law designed to address the release of chemicals in the environment, prior to the enactment of EPCRA. However, CERCLA did not address chemical preparedness in local communities. For example, CERCLA **did not** account for:

- Identifying on-site chemical storage at facilities.
- Pre-planning at state, tribal, and local levels.
- Training local emergency and medical personnel to deal with incidents involving exposure to chemicals.

In addition, the public did not have access to chemical inventory information under CERCLA.

The Superfund Amendments and Reauthorization Act (SARA) of 1986 reauthorized CERCLA to continue cleanup activities around the country. Section 103(a) of CERCLA "as amended" requires that the person in charge of a vessel or facility immediately notify the National Response Center whenever a reportable quantity (RQ) or more of a CERCLA hazardous substance is released in any 24-hour period, unless the release is federally permitted. The purpose of this requirement is to notify federal government officials of potentially dangerous releases so that they can evaluate the need for a response action.

Voluntary Chemical Emergency Preparedness Programs Prior to EPCRA

Prior to 1986, a mandatory national emergency response program and comprehensive state and local programs to address chemical accidents were lacking in communities throughout the country.

The Bhopal tragedy prompted the initiation of several programs; some were voluntary. A few are discussed below.

EPA’s Chemical Emergency Preparedness Program

Although emergency response programs such as CERCLA were in existence to respond to releases of hazardous substances and oil, there was no federal mandate to plan and prepare the community for chemical accidents. The Bhopal, India, tragedy demonstrated that substances that are acutely toxic and have a high potential for becoming airborne posed a hazard to the community. In many cases, public health and the environment may be impacted before

emergency response personnel arrive on the scene of a release. For these types of releases, comprehensive emergency planning to prepare for the possibility of a release is vital to effectively protect the public and the environment. To address this, in June 1985, EPA initiated the voluntary Chemical Emergency Preparedness Program (CEPP) as part of the Agency's Air Toxics Strategy for addressing both continuing and accidental releases of toxic substances into the air.

This voluntary program's goals were to:

- Increase community awareness of chemical hazards.
- Better coordinate federal activities.
- Develop state and local response plans for dealing with chemical accidents.

Under CEPP, EPA developed a list of substances and guidance materials to help local communities focus their planning efforts. The list of chemicals developed under the CEPP program later became the list of extremely hazardous substances (EHSs) established under EPCRA Section 302, which will be discussed in Chapter 2.

Industry and State Programs

At the same time as EPA established the voluntary CEPP program, the Chemical Manufacturers Association (now known as the American Chemistry Council (ACC)) also set up a voluntary program called Community Awareness and Emergency Response (CAER) for member companies to become more involved in their local community by explaining their plant's operations and participating in local emergency planning.

More than 30 states passed laws (some even before the Bhopal tragedy) giving workers and citizens access to information about hazardous substances in their workplaces and communities. Some of the state programs required reporting of toxic chemical releases and the presence of hazardous substances. A few required information to be available to the public.