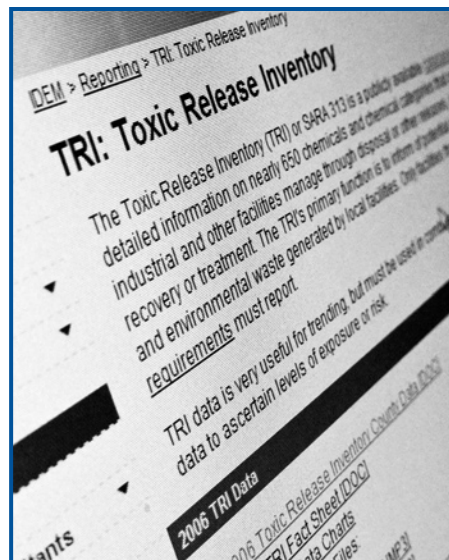


SARA Title III – Emergency Planning and Community Right-to-Know Act

Purpose and Applicability of Regulations

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted by Congress in 1980 to clean up the nation's hazardous waste sites and to provide for emergency response to releases of hazardous substances into the environment. CERCLA is also called Superfund, and the hazardous waste sites are known as Superfund sites. In response to continuing community concern regarding hazardous materials and chemical release tragedies, a reauthorization and expansion of Superfund was signed into law in 1986. It is known as the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA (SARA Title III) is the Emergency Planning and Community Right-To-Know Act (EPCRA).



SARA Title III establishes requirements for federal, state, and local governments, Indian tribes, and industry regarding emergency planning and Community Right-to-Know reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.

Agencies and Their Laws and Rules

■ Federal Agencies

The U.S. Environmental Protection Agency (U.S. EPA) enforces SARA Title III. The regulations implementing SARA Title III are codified in Title 40 of the Code of Federal Regulations (CFR), Parts 350 through 372.

■ State Agencies

At the state level, Indiana law (Indiana Code 13-25-2) provides for the establishment of a state emergency response commission (SERC). The Indiana Emergency Response Commission (IERC) is comprised of 13 members who are appointed by the governor. The commission consists of professionals from state and local governments, private businesses and industries, and the general public. The main functions of IERC are to maintain SARA Title III records and to manage the local emergency planning commissions (LEPCs).

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■ Local Agencies

SARA Title III requires that the SERC establish LEPCs. LEPC members are appointed by the SERC. There are currently 91 LEPCs in Indiana—90 county-specific LEPCs and one regional LEPC that is comprised of two counties. These committees consist of professionals from state, local, private, and public organizations. The function of the LEPC is to develop and manage the emergency response plans dealing with accidental chemical releases from facilities, and to distribute information to the general public.

A complete list of LEPCs and their addresses and telephone numbers can be found at www.IN.gov/dhs/2362.htm. For further information, call the Indiana Emergency Response Commission at (317) 232-3830, or e-mail your question or concern to mjohnson@idem.IN.gov.

Definitions Of Regulated Materials	
Extremely Hazardous Substances (as defined by SARA Title III)	An extremely hazardous substance (EHS) is any substance regulated under SARA Title III, Sections 302–304. The EHSs are listed in Appendices A and B of Title 40, Part 355 of the Code of Federal Regulations (CFR). To obtain a list of EHSs, see List of Lists on page 125.
Hazardous Chemicals (as defined by OSHA)	As defined by the Emergency Planning and Community Right-to-Know Act (EPCRA), hazardous chemicals have the meaning given in Title 29, Section 1910.1200(c) of the CFR. It is any substance for which a facility must maintain a material safety data sheet (MSDS) under the Occupational Safety and Health Administration's Hazard Communication Standard/Employee Right-to-Know regulations, but does not include the following: (1) any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration; (2) any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use; (3) any substance used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public; (4) any substance used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or (5) any substance used in routine agricultural operations or fertilizer held for sale by a retailer to the ultimate customer.
Hazardous Substances (as defined by CERCLA)	A hazardous substance is a substance subject to reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and listed in Title 40, Part 302.4 of the CFR. To obtain a list of CERCLA hazardous substances, see List of Lists on page 125.
Hazardous Waste (as defined by RCRA)	As defined by the Resource Conservation and Recovery Act (RCRA), hazardous waste is a solid waste, or combination of solid wastes which, because of quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

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Definitions Of Regulated Materials	
Toxic Chemicals	Toxic chemicals are chemicals or chemical categories regulated under Section 313 of EPCRA. Toxic chemicals are listed in Title 40, Part 372.65 of the CFR. To obtain a list of toxic chemicals, see List of Lists below.
List of Lists	U.S. EPA has consolidated a number of the lists described above into one document known as the List of Lists. This document contains the lists of extremely hazardous substances, hazardous substances (as defined by CERCLA), Clean Air Act Section 112(r) substances, and toxic chemicals. You can obtain this document by contacting the Indiana Emergency Response Commission at (317) 233-0066 or via the Internet at http://yosemite.epa.gov/oswer/lol.nsf/homepage .

What Does SARA Title III Cover?

SARA Title III has four major components:

1. Emergency planning (Sections 302 and 303);
2. Emergency release notification (Section 304);
3. Hazardous chemical inventory (Sections 311 and 312); and
4. Toxic release inventory (Section 313).

The chemicals covered by each of the sections are different, as are the quantities that trigger reporting. Each of these components is discussed below.

■ Emergency Planning (Sections 302 and 303)

Off-site emergency response plans contain information that community officials can use at the time of a chemical accident. These plans are developed by LEPCs and address the off-site response to emergency releases of extremely hazardous substances from certain facilities in their planning districts. On-site emergency response plans are the responsibility of the facilities and are not addressed in SARA Title III (see *Environmental Release Prevention and Response Planning* on page 134).

There are 356 extremely hazardous substances listed by U.S. EPA in 40 CFR 355, Appendix A. The list includes the threshold planning quantities (minimum limits) for each substance. If your facility has any of the listed chemicals at or above its threshold planning quantity, you must notify the IERC and LEPC. This one-time notification must be made within 60 days after you first receive a shipment or produce the substance on site that causes your facility to meet or exceed the threshold planning quantity for that substance. The LEPC must then write an off-site emergency response plan for your facility.

You may use the SARA Title III – Section 302 Emergency Planning Notification form (State Form 52016) to notify the IERC and your LEPC that your facility is subject to the

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emergency planning provisions of SARA Title III. The SARA Title III Program in IDEM accepts these notifications. The form and the list of extremely hazardous substances with associated threshold planning quantities are available on the IERC Web site at www.IN.gov/dhs/2362.htm, and a copy is included in the SARA Title III Reporting Booklet, which can be ordered by calling (317) 232-3830.

■ Emergency Release Notification (Section 304)

If there is a release of a hazardous substance from your facility into the environment that is equal to or exceeds the minimum reportable quantity set in the regulations, you must immediately (within 15 minutes of discovery) notify the IERC and your LEPC. This requirement covers the 356 extremely hazardous substances as well as over 700 listed hazardous substances (as defined by CERCLA) subject to the emergency release notification requirements under CERCLA Section 130(a)(40 CFR 302.4); see table on page 124. Some chemicals are common to both lists. Initial notification can be made by telephone, radio, or in person. Emergency release notification requirements involving transportation incidents can be met by dialing 911, or in the absence of a 911 emergency number, calling the operator.

A written follow-up notice must be submitted to the IERC and LEPC as soon as practicable (within two weeks) after the release. The follow-up notice must update information included in the initial notice and provide information on the actual response actions taken and advice regarding medical attention necessary for citizens exposed to the released chemical.

■ Hazardous Chemical Inventory (Sections 311 and 312)

Hazardous chemical inventory reporting applies to any facility that is required to maintain a material safety data sheet (MSDS) in accordance with the Occupational Safety and Health Administration (OSHA) regulations and that stores over 10,000 pounds of a hazardous chemical, or stores an extremely hazardous chemical in an amount over the threshold listed in the SARA Title III Reporting Booklet. These inventories provide valuable information regarding hazard potential to the first responders in the event of a chemical release emergency.

What Chemicals Are Included?

Under OSHA regulations, employers must maintain an MSDS for any hazardous chemical or substance stored or used in the workplace. Approximately 500,000 products have MSDSs required by OSHA. These are referred to here as hazardous chemicals (as defined by OSHA). A list of these OSHA hazardous chemicals is available at www.aps.anl.gov/Safety_and_Training/User_Safety/oshatoxicchem.html.

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Sections 311 and 312 of SARA Title III require that facilities submit initial and annual reports of the hazardous chemicals (as defined by OSHA) [see table on page 124] if they exceed certain thresholds. The thresholds refer to the total amount of chemical on site, in storage and in process, at any one given time. The thresholds for reporting under Sections 311 and 312 follow:

- Extremely hazardous substance = 500 pounds or the threshold planning quantity (TPQ), whichever is less.
- Gasoline at retail gas stations, if all gasoline is stored in compliant underground storage tanks = 75,000 gallons.
- Diesel fuel at retail gas stations, if all diesel fuel is stored in compliant underground storage tanks = 100,000 gallons.
- All other hazardous chemicals (as defined by OSHA) except as stated below = 10,000 pounds.
- There is no threshold for reporting in response to a request from the IERC, LEPC, or local fire department. Regardless of the amount of chemical on site, you must submit a report if you are asked to do so by one of these agencies.

The thresholds are in pounds. So what do you do if your substance is in liquid form and you only know the number of gallons? To convert gallons to pounds, multiply the specific gravity (also called the relative density) of the substance (found on the MSDS) by the weight of water (8.34 pounds per gallon) to get the pounds per gallon of the substance:

$$(\text{Specific gravity of substance}) \times (\text{weight of water}) = \text{pounds/gallon substance}$$

For example, the MSDS for a certain gasoline lists a specific gravity that ranges from 0.7 to 0.77. To calculate the weight of that gasoline, multiply 0.77 by 8.34 pounds per gallon of water to get 6.42 pounds per gallon of gasoline. One thousand gallons of that gasoline would weigh 6,422 pounds:

$$0.77 \times 8.34 = 6.42 \text{ pounds/gallon gasoline}$$

What Chemicals Are Excluded?

The following substances are excluded from the hazardous chemical inventory reporting requirements:

- Any food, food additive, color additive, drug, or cosmetic regulated by the U.S. Food and Drug Administration (U.S. FDA).

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- Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
- Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public. Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
- Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Initial Report of Hazardous Chemicals

It is especially important for the safety of facility personnel, the community, and the first responders, that the first responders (usually the local fire department) know what hazardous chemicals are in your facility. Section 311 requires that facilities submit an initial report of hazardous chemicals (as defined by OSHA) on site in amounts greater than the above thresholds to the IERC, LEPC, and local fire department. This report must be submitted within three months after the chemical threshold is exceeded.

The initial report consists of either copies of the MSDSs or a list of the hazardous chemicals (as defined by OSHA). If the facility owner or operator chooses to submit a list, the list must include the chemical or common name of each substance and must identify the applicable hazard categories. These hazard categories are:

- Immediate (acute) health hazard;
- Delayed (chronic) health hazard;
- Fire hazard;
- Sudden release of pressure hazard; and
- Reactive hazard.

Annual Report of Hazardous Chemicals

Section 312 requires that facilities with hazardous chemicals (as defined by OSHA) on site in amounts greater than the above thresholds submit annually an Emergency and Hazardous Chemical Inventory to the IERC, LEPC, and local fire department. The inventory is submitted on a Tier II report form by March 1 of every year. The Tier II report includes information about the amount and storage of all hazardous chemicals (as defined by OSHA) that exceeded the applicable thresholds during the previous calendar year.

In Indiana, your Tier II report can be submitted electronically to IDEM's SARA Title III Program at www.tier2.IN.gov.

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Some LEPCs and fire departments will also accept electronic submittals. You may also mail a hard copy of the Tier II report to the LEPC, local fire department, and IDEM, which handles these reports, to the address indicated. Addresses for the LEPCs can be found in the SARA Title III Reporting Booklet.

IDEM Tier II Reports 100 N. Senate Ave., Rm. 1101 Indianapolis, IN 46204-2251
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Summary of Hazardous Chemicals Covered by SARA Title III Requirements

Hazardous chemicals (as defined by OSHA) [see table on page 124] are subject to Tier II Emergency and Hazardous Chemical Inventory reporting.

Within the universe of hazardous chemicals (as defined by OSHA) are the extremely hazardous substances (EHS). Each EHS has an associated threshold planning quantity for emergency planning and a reportable quantity for release reporting. The EHSs are also subject to Tier II Emergency and Hazardous Chemical Inventory reporting (unless an exemption applies – such as for farming operations).

Most of the hazardous substances (as defined by CERCLA) are within the universe of hazardous chemicals (as defined by OSHA) and have associated reportable quantities for release reporting. Some hazardous substances (as defined by CERCLA) fall outside of the OSHA group. OSHA does not require that you maintain an MSDS for hazardous waste that is subject to Resource Conservation and Recovery Act (RCRA) regulations, so hazardous waste (as defined by RCRA) is not reportable on the Tier II report. However, if there is a release of the hazardous waste (as defined by RCRA) that is above the listed reportable quantity, that release must be reported.

■ Toxic Release Inventory (Section 313)

The Toxic Release Inventory (TRI), or Section 313 of SARA Title III, requires facilities meeting specific requirements to report information about releases and transfers of toxic chemicals from their facilities. TRI's primary function is to inform communities, citizens, employees and other interested parties of potential chemical releases and environmental waste generated by facilities in their community.

TRI reporting is a federal requirement. Facilities must report release and waste activity of certain chemicals to both IDEM and U.S. EPA by July 1 of each year. U.S. EPA maintains a national database of TRI information that is available to the public. IDEM also tracks and maintains TRI information, making the information available to the public. IDEM uses the information to direct pollution prevention and technical assistance outreach efforts. IDEM frequently uses TRI data to work with industries and suggest ways to reduce waste at the source, use less toxic alternatives, and identify opportunities to recycle and reuse materials.

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Subject Facilities

There are basically four criteria a facility must meet to be required to report under TRI:

1. Facilities must be a manufacturing facility (primarily Standard Industrial Classification codes in 20–39); or a federal facility; or one of the following sectors (effective since 1998);
 - Coal mining (SIC = 1221, 1222, 1231);
 - Electricity generating facilities (limited to those that burn coal and/or oil for the purpose of generating electricity for distribution into commerce (SIC = 4911, 4931, 4939);
 - Treatment, storage and disposal facilities (RCRA Subtitle C) (SIC = 4953);
 - Chemical and allied products - wholesale (SIC = 5169);
 - Petroleum bulk terminals and plants (SIC = 5171);
 - Solvent recovery facilities (SIC = 7389); or
 - Metal mines (none in Indiana);
2. Facilities must have the equivalent of 10 full-time employees;
3. The chemical must be on the TRI list of specific toxic chemicals or chemical categories; and
4. Facilities must either manufacture or process 25,000 pounds or more of the chemical or otherwise use 10,000 pounds or more during the year.

Toxic Chemicals and Reporting Thresholds

The most current TRI toxic chemical list contains 581 individual chemicals and 30 chemical categories (including three delimited categories containing 58 chemicals). If the members of the three delimited categories are counted as separate chemicals, then the total number of chemicals and chemical categories is 666 (581 + 27 + 58). These are listed in 40 CFR 372.65. For more information, please refer to www.epa.gov/tri.

Although a facility must report to TRI if it manufactures or processes 25,000 pounds or more of the chemical or otherwise uses 10,000 pounds or more during the year, if the chemical is persistent, bioaccumulative, and toxic (PBT), a lower threshold applies. Thresholds for PBT chemicals are lower because they are toxic, remain in the environment for long periods of time and build up or accumulate in body tissue. Thresholds for PBTs vary; see 40 CFR 372.28 for chemical-specific thresholds.

Toxic Release Inventory Report

If a facility meets the TRI criteria and thresholds, it must submit a Form R – Toxic Release Inventory Report Form by July 1. U.S. EPA mails a reporting packet, including forms, instructions, and software, to facilities that have previously reported. Facilities that have not previously reported should contact IDEM for reporting information. For more information, visit IDEM's Web site at www.epa.gov/tri.

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For More Information

Emergency Planning	Indiana Emergency Response Commission (317) 232-3830 www.IN.gov/dhs/2362.htm
Emergency Planning and Community Right-To-Know	U.S. Environmental Protection Agency (800) 424-9346 www.epa.gov/emergencies/content/epcra/index.htm U.S. EPA's List of Lists and Tier II Reporting Software are also available at the above Web address.
SARA Title III Reporting and Toxic Release Inventory (TRI)	IDEM - Office of Land Quality www.idem.IN.gov/5290.htm (317) 233-0066 or (800) 451-6027, ext. 3-0066 IDEM's SARA Title III Reporting Booklet is available at www.idem.IN.gov/5000.htm IDEM - Office of Pollution Prevention and Technical Assistance <i>TRI Program Manager</i> (800) 988-7901 www.epa.gov/tri U.S. Environmental Protection Agency (800) 424-9346 www.epa.gov/tri/report/index.htm
Site Investigations	IDEM - Office of Land Quality <i>Site Investigation Section</i> (317) 233-2773 or (800) 451-6027, ext. 3-2773 www.idem.IN.gov/4143.htm

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