

Virginia Department of Environmental Quality (DEQ)

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SARA Title III Program General Information

The provisions from the Superfund Amendments and Reauthorization Act (SARA) of 1986, Title III statute are also known as the Emergency Planning and Community Right-to-Know Act (EPCRA). This statute was enacted by U.S. Congress in 1986 largely in response to the fatal incident in Bhopal, India where deadly methyl isocyanate gas escaped from a Union Carbide chemical plant. The Bhopal community not knowing what chemicals were in their neighborhood and thus, unprepared to respond to the releases suffered 2,500 deaths. The purpose behind SARA Title III/EPCRA has been to create a cooperative relationship among government, business, and the public involving all of them in the effort to prevent, to plan, to prepare for, and to manage chemical emergencies.

The law sets the requirements for facilities that manufactured, processed, or stored certain hazardous or toxic chemicals, of certain threshold level, on-site to report annually to the state and local governments and to report any accidental releases on a timely basis. The information submitted by facilities provided the basis for community right-to-know and local emergency planning and preparedness.

EPCRA requires the states to:

- Promote outreach for developing local emergency preparedness programs to respond to chemical releases.
- Receive reports from the regulated community.
- Organize, analyze and disseminate the resulting information on hazardous chemicals to local governments and the public.

EPCRA required the establishment of State Emergency Response Council (SERC) and granted certain responsibilities and authorities to the state and local governments. This act was promulgated without the usual incentive of massive federal funding -leaving the burden of implementation to state and local governments.

The Virginia SERC - Virginia Emergency Response Council ([VERC](#)) was created in 1987 [Commonwealth of Virginia, Emergency Services and Disaster Laws, Chapter 3.5 - Virginia Hazardous Materials Emergency Response Program - Code of Virginia, Section 44-146.40, Virginia Emergency Response Council created; membership; responsibilities.]

The VERC was established as a policy, rule-making body, while Virginia Department of Environmental Quality (Virginia DEQ) received state funding to administer a majority of the day to day activities of SARA Title III program. In accordance with the federal laws, as its first responsibility, the VERC established and appointed members to 111 Local Emergency Planning Committees ([LEPCs](#)) in Virginia. The formation of VERC also designated the Virginia Dept. of Emergency Management (Virginia DEM) to serve as the contact for facility immediate/emergency notification in the event of a release, spill, etc. The VDEM also serves as the lead agency in facilitating communication among LEPCs and providing LEPCs with technical assistance.

Due to the dual purposes of the SARA Title III/EPCRA rule, the Virginia DEQ, SARA Title III Office mainly serves as administrative staff to the VERC; information clearing house and data evaluation for five facility reporting programs under SARA Title III (Sections 302, 304, 311, 312, and 313); support to VDEM and the LEPCs; technical resources to the regulated community; and liaison to the USEPA on this matter.

The Virginia SARA Title III / EPCRA Program is not a federally delegated program; therefore, it is strictly a federal program. The program was established to assist community in emergency planning and response and community's right-to-know. Commonwealth of Virginia does not have enforcement authority over the program.

The five EPCRA reporting programs that the Virginia SARA Title III Program Office oversees are:

- Sect. 302 - [Emergency Planning Notification](#)
- Sect. 304 - [Emergency Release Notification](#)
- Sect. 311 - [Material Safety Data Sheet Submission \(MSDS\)](#)
- Sect. 312 - [Emergency and Hazardous Chemical Inventory, a.k.a Tier II Reporting](#)
- Sect. 313 - [Toxic Chemical Release Inventory \(TRI\)](#)

Because of this activity businesses have reassessed their chemical inventories and their manufacturing processes. In addition, more businesses are working cooperatively with local governments to plan for and try to prevent an accidental chemical release. Businesses also are pursuing waste minimization and pollution prevention programs and realizing the benefits of actual dollar savings.

[Click here for access to the EPCRA regulations and statute](#)

SARA Title III Program Virginia Emergency Response Council (VERC) and Local Emergency Planning Committees (LEPCs)

Virginia Emergency Response Council

In Virginia, the State Emergency Response Commission may be reached in care of:

Virginia Department of Environmental Quality
SARA Title III Program
P.O. Box 1105
Richmond, Virginia 23218
(804) 698-4159

The Virginia Emergency Response Council is chaired by the Director of the Virginia Department of Emergency Management, and includes representatives from other state agencies: the Department of Environmental Quality; the Department of Fire Programs; the Department of Health; the Department of Labor and Industry; the Department of Mines, Minerals and Energy; and the State Police.

[Virginia Department of Emergency Management](#)

The SARA Title III Program at DEQ receives, processes and analyzes all the SARA Title III reporting data from the regulated community of business and industry. This office is the state point of contact for all "community right-to-know" information requests. Exception: In the event of emergency, immediate notification contact is Virginia Emergency Response Council (VERC) c/o Virginia Dept. of Emergency Management at 1-800-468-8892.

Local emergency planning committees

Virginia has 114 local emergency planning committees (LEPCs). These include cities or towns, counties or joint LEPCs (which include a cooperating group of a county and one or more cities or towns).

A committee is intended to broadly represent the community and must include members from each of five constituent groups:

- Elected state and local officials.
- Law enforcement officials, civil defense workers and firefighters.
- First aid, health, hospital, environmental and transportation workers.
- representatives of community groups and the news media.
- Owners and operators of industrial facilities, including other businesses using, storing, processing or distributing chemicals.

[Local emergency planning committee contacts in Virginia](#)

Role of LEPC:

- Appoint LEPC members.
- Prepare and distribute a comprehensive chemical emergency response plan.
- Review this plan at least once a year.
- Evaluate the local resources needed to implement the program. There is no funding from the State. LEPC may apply for federal grants.
- Provide for public participation in these SARA Title III emergency planning and preparedness activities.
- Publish an annual reminder to the public on the availability of a local, chemical emergency response plan for review.
- Establish procedures for receiving and processing facility reporting information related to EPCRA Sections 302, 303 (Chemical Emergency Release Contingency Plan), 304, 311, and 312.
- Establish procedures for processing request from the public for the aforementioned information.
- Note: Many of LEPCs have taken the Sect. 312 - Tier II reporting and downloaded into the Computer-Aided Management of Emergency Operations (CAMEO) program or the Emergency Information System (EIS) used in the field during emergency response.

SARA Title III Program Section 311 - Material Safety Data Sheet Submission, & Section 312 - Emergency and Hazardous Chemical Inventory Reporting

[What's New?](#) | [Section 311-MSDS](#) | [Section 312-Tier II](#)

What's New?

Federal EPA Tier II Reporting System (Tier2 Submit)

Virginia is a participant in the new Tier II Reporting Program (Tier2 Submit). The old Windows Tier II reporting system will no longer be supported. Please download the reporting software program by [clicking here](#). Please see [Virginia Tier II reporting program for Virginia reporting requirement](#).

New VA SARA Title III Tier-II Electronic Report Submittal e-mail address:

ndmcdaniel@deq.virginia.gov

A facility may submit the Tier II report to the Virginia Emergency Response Council (VERC) c/o Virginia DEQ using the above e-mail address or mail us a zip file on a diskette, and then do one of the two options listed below:

1. Mail us an original signed printed copy of a Tier II report from the TierIISubmit reporting software, or
2. Incorporate the content of this Virginia-specific sample certification letter ([sample certification letter](#)) in your facility's business cover letter, sign and mail it to us.

A facility's Tier II Report submittal will be deemed complete when this office receives both the electronic submittals and the original signed certification.

EPCRA Program, Compliance, Guidance, and Chemical Information

<http://www.epa.gov/emergencies/content/epcra/index.htm>

US EPA Office of Emergency Management

<http://www.epa.gov/emergencies/programs.htm>

Tier II Reporting Exemption for Retail Gas Stations

- Effective beginning for 1998 reporting

<http://www.epa.gov/emergencies/lawsregs.htm> - Regulatory summary and links
OR <http://www.epa.gov/fedrgstr/EPA-GENERAL/1999/February/Day-11/g3255.htm> -
Federal register- Retail Gas Stations Exemption

Regulatory relief

U.S. EPA provided regulatory relief for retail gas stations in Sections 311 and 312 reporting effective beginning for the 1998 reporting year. The regulatory relief exempts retail gas stations from reporting to Sections 311 and 312, if the tanks hold less than 75,000 gallons of gasoline or 100,000 gallons of diesel fuel and that the facility is in **full** compliance with the underground storage tank requirements. This change applies only if a facility stores its fuel **entirely** underground and is not subject to tougher state requirements.

Section 311 - Material Safety Data Sheet (MSDS)

A facility that stores, uses, or produces chemicals requiring Material Safety Data Sheets (MSDSs) under the Occupational Safety and Health Administration (OSHA) hazard communication standard must have copies of the MSDSs of all those chemicals requiring reporting; or a single list of all those chemicals requiring reporting, grouped by hazard category provided to the Virginia Emergency Response Council (VERC), and to the Local Emergency Planning Committee (LEPC), and to the local fire department with jurisdiction over the facility. The Virginia Emergency Response Council *prefers one list of all reportable chemicals, grouped by hazard category*. Regulated entities should contact the appropriate LEPC for their preference and that of the appropriate local fire department.

Hazardous chemicals subject to reporting:

1. MSDS hazardous chemicals
2. Extremely Hazardous Substances (EHSs)
3. Petroleum products (certain exemptions)

Hazardous chemicals exempt from reporting:

1. EPCRA-specific exemptions:
 - a. The FDA exemption
 - b. Solids in manufactured items
 - c. Consumer products
 - d. Laboratory chemicals
 - e. Agricultural chemicals
 - f. Retail gas stations in compliance with underground storage tank (UST) regulations storing gasoline and diesel fuel entirely underground
2. The OSHA exemptions:
 - a. Hazardous wastes regulated by RCRA.
 - b. Tobacco or tobacco products.
 - c. Wood or wood products.
 - d. Manufactured items.

- e. Foods, drugs, cosmetics or alcoholic beverage in a retail establishment which are packaged for sale to public.
 - f. Foods, drugs, cosmetics intended for personal consumption by employees while in the workplace.
 - g. Consumer products when used in the workplace.
 - h. Any drugs in solid, final form for direct administration to the patient.
3. No exposure hazardous chemicals.
 4. Transportation exemption*

Sect. 311 reporting threshold:

1. EHS - greater than or equal to 500 lbs. or the individual chemical's threshold planning quantity (TPQ) - whichever is less, at any one time.
2. For most MSDS hazardous chemicals - greater than or equal to 10,000 lbs. at any one time.
3. De minimis concentration: 1% by weight for hazardous chemicals and 0.1% for EHS carcinogen.
4. A facility must report within 3 mos. after the facility first handles a hazardous chemical required to have a MSDS by OSHA.

Section 312 - Virginia Tier II reporting requirements

[Section 312 Tier II software \(Tier2 Submit\)](#) is available online from EPA.

EPA and the Virginia Emergency Response Council encourage the use of the new Tier II reporting system and form.

1. Virginia EPCRA Section 312 - Tier II reporting program requires the use of federal Tier II form or electronic reporting system; does not assess a fee for report submittal; has the same requirements as the federal regulations; and accepts the electronic form or the hard copy Tier II reports.

2. All electronic (diskette or e-mail) Tier II report submittals to Virginia (VERC and LEPC) must be accompanied by a signed copy of the report or a (facility-specific) cover letter with appropriate Tier II certification language, signature and date. The cover letter should include facility name, its physical address, and the names of all chemicals reported. Any diskette or e-mail reporting received without a signed certification statement shall be deemed an incomplete submittal and non-compliant.

For e-mail submittal, please indicate in the e-mail the date of the mail-out and, if applicable, the certified/registered/express mail number of the signed certification. Upon receipt of the signed certification, the electronic submittal will be considered complete (see [Virginia sample certification letter](#)).

The recorded date for the electronic submittals is based on the certification date and the recorded date of receipt of the electronic submittals is based on the date the signed certification is received.

3. Virginia SARA Title III program office is no longer sending Section 312 - Tier II reporting reminders to regulated facilities due to staffing shortage. Affected facilities are expected to comply with the federal Tier II regulations and submit the report by March 1 of each year for the activities occurring in the preceding year.

4. All reporting facilities are required to submit a Tier II report to the Virginia Emergency Response Council (VERC) and a copy to the Local Emergency Planning Committee (LEPC) (please check the [LEPC](#) list for the appropriate contact), and to the local fire department with jurisdiction for the facility. The address for VERC is:

Virginia Emergency Response Council (VERC)
c/o Virginia DEQ
SARA Title III Program Office
PO Box 1105
Richmond, VA 23218

Physical Mailing Address:

Virginia Emergency Response Council (VERC)
c/o Virginia DEQ
SARA Title III Program
629 E. Main St.
Richmond, VA 23219

What is Considered Tier II Reporting Non-Compliance:

Omission of or Incomplete:

- Reporting year designation
- Name and signature
- Certification date
- Facility physical address
- 2 contact names (daytime and 24-hour emergency information)
- Chemical physical and hazard information
- Quantification information
- Chemical storage information. e.g.: "Building #333" or "the Old Warehouse" (without a site map or additional reference to guide emergency respondent to the exact where about or the storage nature or the chemical).

Warning: On March 1 of each year, a Tier II report is due for activities occurring in the preceding year. Please do not submit Tier II report with a reporting year designation referencing the present or future year, because it will not be filed nor processed by this office. If we receive a Tier II report that references a reporting year in the past, that Tier

II report will be treated as a revision (regardless of the date of the signature). A facility submitting an erroneous reporting year will be considered in non-compliance. This Office will not and does not make assumptions as to the correct reporting year submittal a facility is submitting, even if that submittal occurs during the March 1 reporting period.

As with Section 311, facility owners and operators responsible for this reporting requirement include manufacturing and non-manufacturing facilities subject to the OSHA hazard communication standard and maintaining "hazardous chemicals" at the facility in amounts above the established reporting thresholds:

The final reporting thresholds for Section 312 apply to:

- Non-extremely hazardous substances, or hazardous chemicals present at a facility in quantities equal to or greater than 10,000 pounds, and/or
- Extremely hazardous substances present at a facility in quantities equal to or greater than 500 pounds, or the "threshold planning quantity," whichever is less.