



Water Utilities Benefit from Amendments to EPCRA

Water utilities will receive notifications from the state primacy agency about spills and have the right to request information about what is stored upstream. This article covers the details of the changes which came about in October 2018 with the passage of the America's Water Infrastructure Act (AWIA).

AWIA Section 2018 amends the Emergency Planning and Community Right to Know Act, most commonly referred to as **EPCRA**. **These provisions:**

- Require emergency notifications to be forwarded to the state drinking water primacy agencies and for those primacy agencies to forward the notifications to affected community water systems.
- Require community water systems to be granted access to Tier 2 chemical data.
- Increase the resilience of the water sector and to mitigate effects from any hazardous chemical releases on a community's source of drinking water.

As background, EPCRA was created to help communities plan for chemical emergencies and address concerns regarding the environmental safety hazards posed by the storage and handling of toxic chemicals.

EPCRA Section 312 requires those facilities handling or storing the OSHA hazardous chemicals above certain threshold quantities to submit an annual (by March 1st) emergency and hazardous chemical inventory form to the State Emergency Response Commission (SERC) or Tribal Emergency Response Commission (TERC) and Local Emergency Planning Committee (LEPC) and local fire departments. These inventory forms include:

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

The other important provision of Section 2018 of AWIA which amends EPCRA Section 312(e)(4) requires the SERCs and LEPCs to provide community water systems with the chemical inventory data collected under Tier II for their source water area, upon request from the system. A community water system should be able to obtain Tier II chemical inventory data for its entire source water protection area, as defined by the delineations established under the requirements of SDWA Section 1453. If the source water protection area falls in multiple states, the community water system should request Tier II chemical inventory data from each state that contains a portion of its source water protection area.

This article is Part 3 in a series of articles outlining the requirements under the 2018 America's Water Infrastructure Act.

Water Utilities are strongly encouraged to join their LEPC to ensure the community ERP includes any chemicals at the water system and to ensure access to Tier II data and obtain emergency release notifications under EPCRA Section 304. Water systems are required to coordinate with their LEPC, to the extent possible, under Section 2013.

Gathering Tier II chemical data can inform the water utility's risk assessment required under AWIA Section 2013 and the results of the risk to a chemical spill can be incorporated into the ERP required under Section 2013, as well as procedures for notification in chemical release incidents.

In order for water systems to receive notification about spills in their source water area, AWIA amended EPCRA Section 304 which requires facilities to immediately (within 15 minutes) notify the LEPC and SERC (or TERC) if there is a release into the environment of a hazardous substance that is equal to or exceeds minimum reportable quantities set in regulation.

The emergency notification needs to include:

- The chemical name or identity of any substance involved;
- An indication of whether the substance is on the Extremely Hazardous Substance list;
- An estimate of the quantity released into the environment;
- The time and duration of the release;
- The medium or media into which the release occurred;
- Any known or anticipated acute or chronic health risks associated with the emergency and advice regarding medical attention necessary for exposed individuals;
- Proper precautions to take, including evacuation; and
- The name and telephone number of a contact person for further information.

As soon as practicable, a written follow-up notice must be provided to the SERC (or TERC) and LEPC. The written notice shall provide updates to the information provided in the original notification, as well as additional information with respect to:

- Actions taken to respond to and contain the release;
- Any known or anticipated acute or chronic health risks; and
- Where appropriate, advice regarding medical attention necessary for exposed individuals.

Failure of a person specifically in charge of a facility with knowledge of a reportable release who fails to comply with the EPCRA Section 304 immediate notification requirements, or submits information that he or she knows is false or misleading, may result in criminal penalties, per offense, of up to \$25,000 and prison sentences of up to two years (or up to \$50,000 and five years for second and subsequent convictions). This is specific to that facility only.

The amended EPCRA Section 304 requires SERCs, once they get that initial notification from a facility, to notify the agency in the state that is responsible for the implementation of the Safe Drinking Water Act (i.e., drinking water primacy agency) of a release of an EPCRA Extremely Hazardous Substance or a CERCLA Hazardous Substance. This includes both the initial, "prompt" notification as well as follow-up reporting.

The drinking water primacy agency receiving notice from a SERC (or TERC) shall then:

- Promptly forward the initial notice, and all information provided, to any community water systems whose source waters are affected by the release; and

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- Forward the written follow-up emergency notice provided to the affected community water systems.

Working with Local Emergency Management

Water suppliers can learn more about working with local emergency management by reviewing an EPA factsheet. This can be found at:

https://www.epa.gov/sites/production/files/2018-05/documents/water_emaconnection.pdf

For additional information, contact Patti Kay Wisniewski, EPA Region 3 Drinking Water Preparedness and Resilience Coordinator, at Wisniewski.patti-kay@epa.gov or 215-814-5668.