

Chapter 2. EPCRA Section 302: Emergency Planning Notification

The purpose of EPCRA Section 302 is to establish and identify a list of substances of concern and gather information on the presence of these substances at each facility in the community for emergency planning and response. Specifically, this section of the law requires EPA to publish a list of extremely hazardous substances (EHSs) and their threshold planning quantities (TPQs) and requires facilities that handle these substances to notify their SERC or TERC and LEPC or TEPC that the facilities are subject to emergency planning.

Note: As in the previous chapter, the legislative language is provided in the text boxes.

2.1 List of Extremely Hazardous Substances

EPCRA Section 302(a)(2): List of extremely hazardous substances

Within 30 days after October 17, 1986, the Administrator shall publish a list of extremely hazardous substances. The list shall be the same as the list of substances published in November 1985 by the Administrator in Appendix A of the “Chemical Emergency Preparedness Program Interim Guidance”.

EPCRA Section 302(a)(3): Thresholds

- (A) At the time the list referred to in paragraph (2) is published the Administrator shall—
 - (i) publish an interim final regulation establishing a threshold planning quantity for each substance on the list, taking into account the criteria described in paragraph (4), and*
 - (ii) initiate a rulemaking in order to publish final regulations establishing a threshold planning quantity for each substance on the list.**
- (B) The threshold planning quantities may, at the Administrator’s discretion, be based on classes of chemicals or categories of facilities.*
- (C) If the Administrator fails to publish an interim final regulation establishing a threshold planning quantity for a substance within 30 days after October 17, 1986, the threshold planning quantity for the substance shall be 2 pounds until such time as the Administrator publishes regulations establishing a threshold for the substance.*

The list of EHSs was originally developed as part of EPA’s voluntary Chemical Emergency Preparedness Program (1985) to raise state and local awareness of the potential for accidents involving EHSs and foster development of state and local emergency plans. EPA identified 402 substances that could cause serious irreversible health effects from accidental releases. Congress established this list as the List of Extremely Hazardous Substances.

EPCRA Section 302 (a)(2) and (a)(3) requires the Administrator of EPA to publish the list of EHSs and their TPQs for each substance. As required, EPA published the list of EHSs and their TPQs in a *Federal Register* notice on November 17, 1986 (interim final rule), and on April 22, 1987, EPA published the final rule. EPA has since deleted several EHSs from the original 1987

list. Currently, there are 355 EHSs. <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-J/part-355#Appendix-A-to-Part-355>.

The TPQ established for each EHS triggers planning notification if the chemical is present **at any one time**, regardless of location, number of containers, or storage method.

Here are a few examples of the types of facilities in a community that may handle EHSs. EHSs and their TPQs are also provided.

Type of Facility	Ammonia (100 lbs)	Chlorine (100 lbs)	Sulfuric Acid (500 lbs)	Aldicarb* (100 lbs/10,000 lbs)
Farms	x			x
Frozen food processing facilities	x			
Pesticide distributors				x
Plumbing, heating, and air conditioning companies	x			
Pulp and paper plants		x	x	
Water treatment plants		x	x	
Swimming pools (county/city)		x		

* TPQ for aldicarb is 100 pounds for fine powders or solutions, otherwise, 10,000 pounds.

Figure 7. Types of facilities where certain EHSs might be present above their TPQs.

The list of EHSs and their TPQs are intended to help the local community focus on the chemicals and facilities of the most immediate concern from a community emergency planning and response perspective. While this list of EHSs includes many of the chemicals that may pose an immediate hazard to a community upon release, it is not considered a list of all chemicals that are hazardous enough to require community emergency response planning. There are thousands of chemicals and mixtures in commerce that, under certain circumstances, would pose danger to the community and the environment. Similarly, the TPQs established for EHSs are not absolute levels above which the EHSs are dangerous and below which they pose no threat at all. For this reason, many LEPCs currently use information received annually under EPCRA Section 312 of all Occupational Safety and Health Administration (OSHA) hazardous chemicals (including EHSs) to improve their community emergency response plan. The reporting requirements and the chemicals subject to EPCRA Section 312 are covered in Chapter 5.

An effective method to access information on EHSs and other chemicals is by using Computer-Aided Management of Emergency Operations (CAMEO) Chemicals, which can be downloaded on any electronic device. Details on CAMEO software are discussed in 16.27.

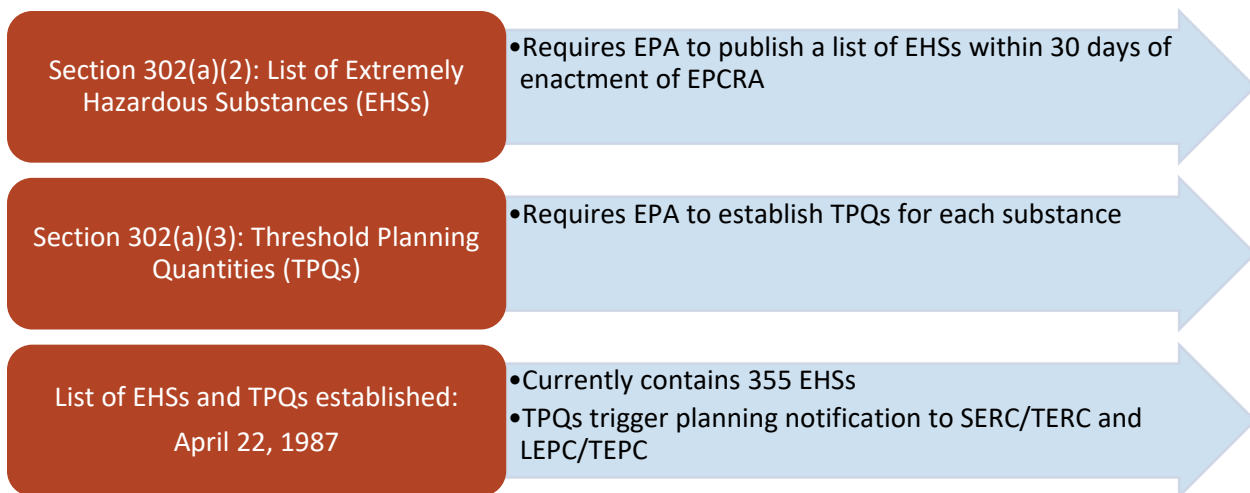


Figure 8. EPCRA Section 302 requires the EPA Administrator to publish the list of EHSs and TPQs as a first step to plan and protect communities from chemical accidents.

2.2 Emergency Planning Notification

The following is a summary of the requirements set out in the statute under Section 302 for each stakeholder—facilities, SERCs, TERCs, LEPCs and TEPCs.

2.2.1 Facility Responsibilities—Emergency Planning Notification

As stated in EPCRA Section 302(c), any facility (e.g., refineries, chemical manufacturing facilities, warehouses, federal facilities, farms) that has any EHS above its TPQ present **on-site at any one time** is required to notify their SERC or TERC and LEPC or TEPC. Facilities are also required to notify within 60 days if a new EHS becomes present at the facility at or above its TPQ. Facilities that conduct subsurface operations (e.g., mining) also would be subject to the emergency planning notification if EHSs are handled at these types of operations. LEPCs and TEPCs should also include these operations in emergency response plans. Details of emergency response plans will be covered in Chapter 3.

EPCRA Section 302(c): Emergency planning notification

Not later than seven months after October 17, 1986, the owner or operator of each facility subject to the requirements of this subchapter by reason of subsection (b)(1) shall notify the State emergency response commission for the State in which such facility is located that such facility is subject to the requirements of this subchapter. Thereafter, if a substance on the list of extremely hazardous substances referred to in subsection (a) first becomes present at such facility in excess of the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in excess of the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the State emergency response commission and the local emergency planning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this subchapter.

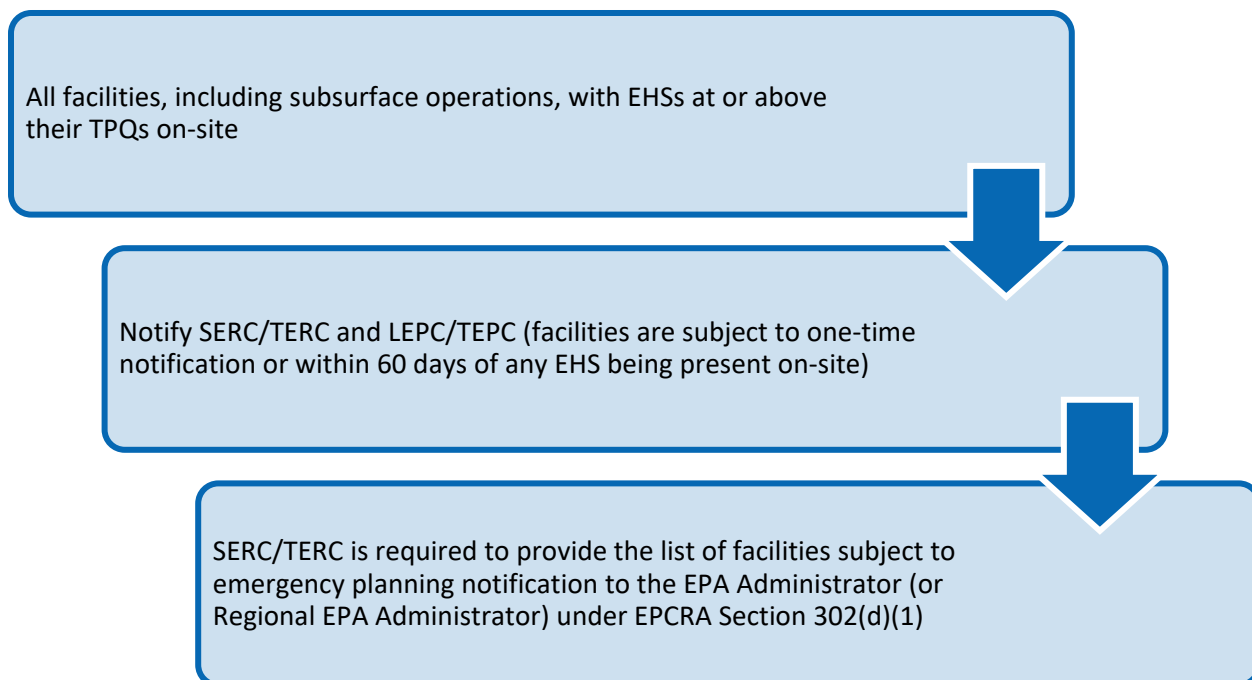


Figure 9. EPCRA Section 302(c): emergency planning notification process.

States may have additional requirements for the facility emergency planning notification process or require a certain format for providing this notification. LEPCs and TEPCs are encouraged to be well informed of state and tribal requirements.

Facilities covered under EPCRA Section 312 are required to indicate on their Tier II form (or format) if they are subject to emergency planning requirements. Details on EPCRA Section 312 requirements are covered in Chapter 5 of this document.

The implementing regulations and list of EHSs and their TPQs are codified in 40 CFR part 355, Appendices A and B: https://www.ecfr.gov/cgi-bin/text-idx?SID=ad07b8b3d1a87a3cefc46c709a3669bb&mc=true&node=ap40.30.355_161.a&rgn=div9.

The list of EHSs and their TPQs can also be found on EPA’s List of Lists: <https://www.epa.gov/epcra/consolidated-list-lists-under-epcracerclacaa-ss112r-august-2020-version>.

2.2.2 Additional Requirements for Facilities

Facilities with EHSs present on site above their TPQs are also required to:

- Designate a representative to be the facility emergency coordinator.
- Participate in the local emergency planning process.
- Provide any information to the LEPC or TEPC that is necessary for developing an emergency response plan.

- Notify the LEPC or TEPC of any changes that occur at the facility that would affect emergency planning.

These requirements are covered in detail in Chapter 3, “EPCRA Section 303: Comprehensive Emergency Response Plans.”

2.3 Exemptions

There are **no** exemptions under EPCRA Section 302, except for substances in transportation or stored incident to transportation, <https://www.epa.gov/epcra/section-302-notification-requirements-transportation-ehss>. Therefore, LEPCs and TEPCs are required to consider **all** facilities in their community that have EHSs present above their TPQs in the local emergency response plan.

2.4 Designation of Additional Facilities Subject to Emergency Planning

EPCRA Section 302(b)(2): Designate Additional Facilities

For purposes of emergency planning, a Governor or a State emergency response commission may designate additional facilities which shall be subject to the requirements of this subchapter, if such designation is made after public notice and opportunity for comment. The Governor or State emergency response commission shall notify the facility concerned of any facility designation under this paragraph.

EPCRA Section 302(b)(2) authorizes the governor of the state or the SERC or TERC to designate additional facilities subject to emergency planning notification. This means that, if the governor or the SERC or TERC designate facilities that have chemicals that are non-EHSs, these facilities would need to notify their SERC or TERC and their LEPC or TEPC of the presence of these chemicals.

Facilities with EHSs are not the only facilities that may pose hazards to a community, nor are EHSs the only chemicals of concern. For example, facilities that handle hazardous wastes may or may not have EHSs present on site, but these wastes may still pose significant risks to the community and emergency responders during an incident.

One example of an incident where a facility that did not have an EHS posed a significant risk to a community occurred on October 5, 2006, in Apex, North Carolina. A fire at the Environmental Quality Company (EQ) – a treatment, storage and disposal facility (TSDF)– caused 55-gallon drums of flammable hazardous waste to explode, sending fire balls in the air. The incident resulted in 30 people, including 13 first responders, sent to local hospitals for respiratory distress and nausea, but ultimately, no one was admitted to the hospital. However, approximately 3,300 residents were evacuated.



Photo: Wake County Fire/Rescue Services.

Figure 10. Environmental Quality Company after the October 5, 2006, fire at Apex, North Carolina.

TSDFs are also not covered under EPCRA Sections 311 and 312 (Hazardous Chemical Inventory Reporting) because of the exclusion under the OSHA Hazard Communication Standard (HCS). Therefore, SERCs or TERCs, LEPCs or TEPCs and fire departments would not be aware of any chemicals stored at these facilities, which could affect their ability to protect the community and first responders from potential chemical hazards.

EPA encourages SERCs and TERCs to designate facilities that do not handle EHSs but handle other chemicals, including hazardous wastes that may pose hazards to the community to be subject to emergency planning notification requirements. After such designation, LEPCs and TEPCs would also be able to include these facilities in their local emergency response plan.

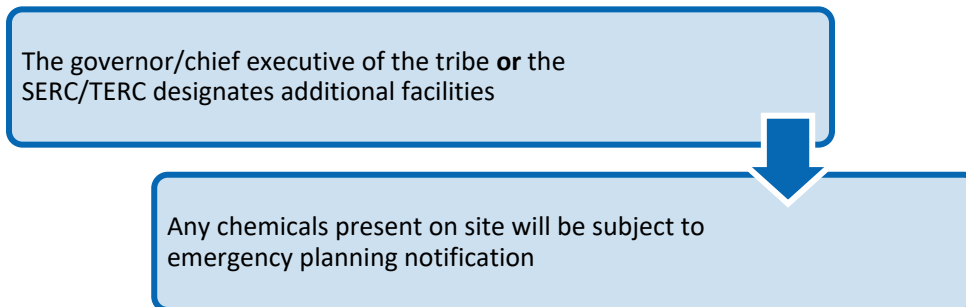


Figure 11. Designation of facilities storing and using non-EHS chemicals.

EPA was informed that some states already include TSDFs in their right-to-know program. Other states and tribes should also consider including these types of facilities.

In addition, two new hazards facing a community may be marijuana-growing operations and ethanol production. EHSs and other hazardous chemicals may also be handled at these types of facilities, which LEPCs and TEPCs should consider including in your emergency response plan.