

**A FACILITY GUIDE TO THE
EMERGENCY PLANNING
AND
COMMUNITY RIGHT TO KNOW ACT**



**IN
MAINE**

NOVEMBER 2007

How-to-Comply Manual

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APPENDICES

- A - MRSA Title 37B Chapter 13 Section 791-806
- B - Reporting Forms and Instructions Package
- C - Section 302 Notification Form
- D - AR-1 Form

Cross Reference Federal EPCRA to State EPCRA

Federal Law	State Equivalent
Section 304 - Emergency Release Notification	MRSA 37B Section 798
Section 311 - Material Safety Data Sheets (MSDSs)	MRSA 37B Section 796
Section 312 - Chemical Inventory	MRSA 37B Section 797
Section 313 - Toxic Chemical Release Forms Fees	MRSA 37B Section 799
Section 322 - Trade Secret Protection	MRSA 37B Section 800
Section 323 - Information for Health Professionals	
Section 324 - Public Availability of Information	MRSA 37B Section 805
Section 325 - Federal Enforcement Penalties	MRSA 37B Section 806
Section 326 - Civil Actions	MRSA 37B Section 806

INTRODUCTION

This document is designed to help a facility owner or operator comply with the reporting requirements of the Emergency Planning and Community Right-To-Know Act (EPCRA), Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. s. 11001, et seq. (SARA) and the Maine Hazardous Materials Emergency Response and Community Right-to-Know Act of 1988, MRS A Title 37B Chapter 13. Any facility, public or private, that has present hazardous materials at or above established threshold amounts may potentially be subject to this law. Because EPCRA is complex and has multiple reporting requirements, the State Emergency Response Commission (SERC), a policy board appointed by the Governor, developed this manual to assist facilities in meeting the state and federal requirements.

EPCRA is administered by the U.S. Environmental Protection Agency (EPA) and implemented by the Maine Emergency Management Agency (MEMA). The purpose of this law is to encourage emergency planning efforts at the state and local levels and to increase the public's access to information about the potential chemical hazards that may exist in their communities. The data collected is used by 16 Local Emergency Planning Committees (LEPCs) to develop hazardous materials emergency plans to use in responding to and recovering from a release or spill of hazardous or toxic substances. These plans are reviewed and approved by the SERC. All of the chemical data collected, as well as the plans, are available for the general public to review upon request.

EPCRA is divided into three subtitles:

- 1) SUBTITLE A: Deals with emergency planning and notification of a hazardous materials incident (*Sections 301 through 304*).
- 2) SUBTITLE B: Deals with the reporting of hazardous chemical inventories and toxic releases (*Sections 311 through 313*).
- 3) SUBTITLE C: Deals with administration, enforcement, and trade secret protection (*Sections 321 through 330*).

NOTE: It is important to review each section independently of one another to determine whether your facility needs to comply with a particular section.

EPCRA utilizes the following three chemical lists and one chemical grouping:

- 1) the list of **Extremely Hazardous Substances** (EHSs);
- 2) the list of Comprehensive Environmental Response, Compensation, and Liability Act (**CERCLA**) hazardous substances; and
- 3) the Toxic Chemicals.

These three lists are found in the "Title III List of Lists," and may be requested from MEMA.

The referenced grouping of chemicals is those hazardous chemicals for which the Occupational Safety and Health Administration (OSHA) requires a Material Safety Data Sheet (MSDS) to be maintained. There is no list of these chemicals because approximately 500,000 chemicals and mixtures are covered. OSHA defines a hazardous chemical under the Hazard Communication

Standard as any chemical (element, compound, or mixture of elements and/or compounds) which is a "Physical Hazard" or "Health Hazard". These four chemical groups were developed by the EPA and the United States Department of Labor. There is nothing in EPCRA which pre-empts any federal, state, or local law. The EPCRA reporting requirements are in addition to the requirements of any other laws to which you are subject. Additional information on hazardous chemicals and the Hazard Communication Standard can be found in 29 CFR 1910.1200 and the August 24, 1987, Federal Register, 52 FR 31852.

In order to complete the reporting requirements under Sections 312 and 313, you will need to provide each facility's Standard Industrial Classification (SIC) Code and Dunn and Bradstreet number. These can be obtained from the financial officer of your facility. The SIC Code can also be found by searching for it on the Internet at www.osha.gov/pls/imis/sicsearch.html or by calling MEMA, at (800) 452-8735 (Maine only) or 207-624-4400. If your firm does not have a Dunn and Bradstreet number, you may contact Dunn and Bradstreet to have a number assigned.

NOTE: Since current rules and regulations regarding additions, deletions and other requirements manifest legislative changes, it is the responsibility of the facility owner or operator to adjust reporting procedures to reflect any changes in the law.

LIST OF ACRONYMS

CAS Number - Chemical Abstract Service Number
CERCLA - Comprehensive Environmental Response, Compensation and Liability Act
CFR - Code of Federal Regulations
EHS - Extremely Hazardous Substance
EMA - Emergency Management Agency
EPA - Environmental Protection Agency
EPCRA - Emergency Planning and Community Right-To-Know Act
LEPC - Local Emergency Planning Committee
MEMA - Maine Emergency Management Agency
MSDS - Material Safety Data Sheet
NFPA - National Fire Protection Association
NRC - National Response Center
OSHA - Occupational Safety and Health Administration
RCRA - Resource Conservation and Recovery Act
RQ - Reportable Quantity
SARA - Superfund Amendments and Reauthorization Act of 1986
SERC - State Emergency Response Commission
SIC Code - Standard Industrial Classification Code
TPQ - Threshold Planning Quantity
TQ - Threshold Quantity

EPCRA TELEPHONE NUMBERS AND/OR ADDRESSES
(Telephones answered during business hours, Monday - Friday)

State Emergency Response Commission

72 State House Station
Augusta, Maine 04333-0072
(800) 452-8735 (Maine only)
(207) 624-4400
Web Site Address: <http://www.maine.gov/mema/>

U.S. Environmental Protection Agency

P.O. Box 70266
Washington, DC 20024-0266
(800) 424-9346
Web Site Address: <http://www.epa.gov/swercepp/>
[for information on EPCRA and Clean Air Act, Section 112(r)]

U.S. Environmental Protection Agency, Region I

1 Congress Street, Suite 1100
Boston, MA 02114-2023
<http://www.epa.gov/region01/>
Phone: (617) 918-1111
Fax: (617) 918-1809
Toll free within Region: 1 (888) 372-7341

Emergency Telephone Numbers

(Telephones answered 24 hours a day, seven days a week)

FOR REPORTING EMERGENCY RELEASES OR SPILLS ONLY:

National Response Center

(800) 424-8802

Maine State Police

(To notify Department of Environmental Protection [DEP] and MEMA)

(207) 624-7000
(800) 452-4664
(In state only)

For oil spills only

Calls within Maine (24 hours)	800-482-0777
Calls from outside Maine (8 a.m. - 5 p.m.)	207-822-6300
Calls from outside Maine (nights, weekends, holidays)	207-657-3030

LOCAL EMERGENCY PLANNING COMMITTEES

Androscoggin Unified EMA
2 College Street
Lewiston, Maine 04240-7101
Tel: 784-0147

Cumberland County EMA
22 High Street
Windham, Maine 04062
Tel: 892-6785

Hancock County EMA
County Courthouse
50 State Street, Suite 4
Ellsworth, Maine 04605
Tel: 667-8126

Knox County EMA
62 Union Street
Rockland, Maine 04841
Tel: 594-5155

Oxford County EMA
County Courthouse
P.O. Box 179
26 Western Avenue
South Paris, Maine 04281
Tel: 746-6336

Piscataquis County EMA
163 East Main Street
Dover-Foxcroft, Maine 04426
Tel: 564-8660

Somerset County EMA
8 County Drive
Skowhegan, Maine 04976
Tel: 474-6788

Washington County EMA
P.O. Box 297
Machias, Maine 04654
Tel: 255-3931

Aroostook County EMA
158 Sweden Street
Caribou, Maine 04736
Tel: 493-4328

Franklin County EMA
140 Main Street, Suite 1
Farmington, Maine 04938
Tel: 778-5892

Kennebec County EMA
125 State Street
Augusta, Maine 04330
Tel: 623-8407

Lincoln County EMA
P.O. Box 249
Wiscasset, Maine 04578
Tel: 882-7559

Penobscot County EMA
97 Hammond Street
Bangor, Maine 04401
Tel: 945-4750

Sagadahoc County EMA
County Courthouse
P.O. Box 246
752 High Street
Bath, Maine 04530
Tel: 443-8210

Waldo County EMA
45A Congress Street
Belfast, Maine 04915
Tel: 338-3870

York County EMA
P.O. Box 399 (mailing address)
5 Swetts Bridge Road (physical address)
Alfred, Maine 04002
Tel: 324-1578

SECTION 302 CHEMICAL NOTIFICATION

Your facility must report under Section 302 if it has present an amount that meets or exceeds the threshold planning quantity (TPQ) of any of the EHSs. The EHSs can be found in the "Title III List of Lists" and is available from MEMA or on-line at <http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/chemicalinfo.htm#title>. The EHSs are any of the chemicals listed under the column titled "Section 302".

The TPQ is the amount, in pounds, found under the column titled "Section 302 - (EHS) TPQ". An EHS that is a solid in its natural chemical state is assigned two TPQs. The first TPQ applies only if the solid exists in powdered form and has a particle size of less than 100 microns, or is handled in solution or molten form, or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3, or 4 for reactivity. If the solid does not meet any of these criteria, it is subject to the second TPQ.

The list of EHSs may be revised by EPA. It is the facility's responsibility to be aware of the changes made to the list and make any necessary notifications. A facility has sixty days to make a notification after acquiring an EHS that meets or exceeds the TPQ. A separate notification must be made for each facility. This is a one-time notification.

To determine whether the facility has an EHS that meets or exceeds the TPQ, the owner or operator must determine the **total amount** of that substance present at any one time at the facility, regardless of location, duration, number of containers, or method of storage. The amount of an EHS present in mixtures or solutions in excess of one percent must be included in the determination.

The calculation of the amount of any EHS in a mixture can be done in two ways:

- 1) The total mixture weight can be counted as the amount of EHS; or
- 2) The actual amount of the EHS in the mixture can be determined. The concentration of the EHS (in weight percentage) is multiplied by the mass (in pounds) of the mixture to determine the actual quantity of the EHS.

Add together all sources of the EHS (pure form and mixtures, in all locations at the facility) and compare this to the TPQ.

SECTION 303 FACILITY REPRESENTATIVE DESIGNATION

Any facility subject to Section 302 must send the SERC and LEPC the name and telephone number of a contact person (facility representative) at the facility. The name of the facility representative must be kept current. The purpose for reporting under Section 302 is to alert the LEPC to which facilities have EHSs and, therefore, must be included in emergency response plans. The role of the facility representative is to provide the LEPC with the necessary data to develop emergency response plans.

Reporting Procedures for Sections 302 and 303

To report under Sections 302 and 303, use your company letterhead or use the form entitled, Section 302 - Notification Form. If you use your letterhead, the contents of the notification must include:

- 1) name of business;
- 2) business address or mailing address;
- 3) physical address of the facility, if different from the mailing address; and
- 4) name and telephone number of a facility representative.
- 5) name and CAS # for chemical

This notification must be sent to:

- 1) the SERC; and
- 2) the appropriate LEPC.

The list which shows the LEPCs and their addresses can be found on Page 7.

The SERC's address is:

State Emergency Response Commission
72 State House Station
Augusta, Maine 04333-0072

NOTE: Any change in the identity of the owner/operator of a facility requires a new notification.

EPA's current rules implementing Sections 302 and 303 are in 40 CFR Parts 300 and 355.

SECTION 304 EMERGENCY RELEASE NOTIFICATION

Section 304 requires certain releases of chemicals to be reported by the facility owner or operator. There are two types of chemicals that require reporting under this section:

- 1) EHSs; and
- 2) CERCLA hazardous substances.

Both the EHSs and the CERCLA hazardous substances are found in the "Title III Consolidated List of Chemicals".

If an amount equal to, or greater than, the reportable quantity (RQ) is released or spilled from a fixed facility, notification must be made immediately to the DEP and SERC by calling the Maine State Warning Point (SWP) at **(800) 452-4664** (this telephone is answered 24 hours a day and is an EMERGENCY number only). An RQ is the amount which requires notification if released into the environment (air, water, or land). Additionally, the closest local Fire Department and LEPC must be called as well as any CERCLA spills must also be reported to the National Response Center at **(800) 424-8802**. In the event that the incident is transportation related, Section 304 requirements can be met by calling 911 or, in the absence of a 911 system, contacting the local telephone operator.

This emergency notification must include:

- 1) the chemical name;
- 2) an indication of whether the substance is an EHS;
- 3) an estimate of the quantity released into the environment;
- 4) the time and duration of the release;
- 5) the medium into which the release occurred;
- 6) any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals;
- 7) proper precautions, such as evacuation; and
- 8) the name and telephone number of a contact person.

Under Maine law MRSA Title 38 Section 548 all oil spills and Title 38 Section 1318B all hazardous matter spills are required to be reported to the Maine Department of Public Safety who will notify DEP.

EHS/CERCLA releases of greater than or equal to the RQ that occur under normal operations and are stable in quantity and rate are to be reported under "Continuous Release" reporting guidelines only if the release does not qualify as a "Federally Permitted Release".

The AR-1 form was developed by the SERC to familiarize a facility with the information that will be needed when reporting a release over the telephone. Use of the form is not mandatory, and the form should not be mailed in. It is recommended that the form be reviewed and then filed for use if a release occurs.

As soon as practicable (within fourteen days) after a release which requires notification, the owner or operator of the facility must provide one or more written follow-up emergency notice(s). The written follow-up emergency notice(s) must include:

- 1) information setting forth and updating the information required for the initial emergency notification;
- 2) actions taken to respond to and contain the release;
- 3) any known or anticipated acute or chronic health risks associated with the release; and
- 4) advice regarding medical attention necessary for exposed individuals.

This follow-up notice must be sent to:

- 1) the SERC; and
- 2) the appropriate Community Emergency Coordinator for the LEPC, at the LEPC mailing address on Page 7.

The SERC's address is:

State Emergency Response Commission
72 State House Station
Augusta, Maine 04333-0072

EXEMPTION: Section 304 does not apply to any release of an EHS which results in exposure to persons solely within the site on which the facility is located. However, caution dictates that notification be made anyway, unless you are certain that the release will not result in exposure to persons outside the site.

NOTE: Releases of CERCLA hazardous substances are also subject to the release reporting requirements over their respective RQs of CERCLA Section 103 (40 CFR, Part 302).

EPA regulations implementing Section 304 are set out in 40 CFR Part 355.

SECTION 311 MATERIAL SAFETY DATA SHEET/CHEMICAL LIST SUBMITTAL

The chemicals covered under Section 311 are:

- 1) any of the EHSs that meet or exceed the TPQ, or 500 pounds, at any one time, whichever is less; and
- 2) any of the **hazardous chemicals** that meet or exceed 10,000 pounds at any one time for which OSHA requires an MSDS to be maintained.

The list of EHSs is found in the "Consolidated List of Chemicals".

There are over 500,000 chemicals and mixtures for which OSHA requires an MSDS to be maintained. There is no list of OSHA regulated chemicals. Refer to the OSHA Hazard Communication Standard, 29 CFR 1910.1200, to determine which chemicals OSHA defines as hazardous.

The SERC encourages facilities to submit a list of the covered chemicals in lieu of the MSDSs; however, the list must be grouped by the five EPA physical and health hazard categories.

EPA Physical and Health Hazard Categories:

- 1) fire hazard;
- 2) sudden release of pressure hazard;
- 3) reactive hazard;
- 4) immediate (acute) health hazard; and
- 5) delayed (chronic) health hazard.

These five categories are not mutually exclusive; a chemical can fall under more than one category.

See the "Hazard Category Comparison for Reporting Under Sections 311 and 312" for assistance in converting the information on the MSDS into the five EPA physical and health hazard categories.

The MSDSs, or list, must be submitted to:

- 1) the SERC;
- 2) the appropriate LEPC; and
- 3) the local fire department.

This is a one-time reporting requirement; however, within 90 days of discovering significant new information on a chemical, or upon acquiring a new chemical that is covered, a facility must submit an MSDS or a list of those chemicals. A facility must submit a revised list, or an addition to the list, if the new information about that chemical changes the hazard category under which it falls, or if the facility acquires a new substance that meets or exceeds the threshold that was not

included on the initial list. EPA may lower the threshold of 10,000 pounds for hazardous chemicals. If this happens, information will have to be submitted on the chemicals at or above the new threshold.

To obtain an MSDS, contact the supplier of your chemicals. A sample letter requesting an MSDS can be found on the next page.

EPA's rules regarding Section 311 are in 40 CFR Part 370.

NOTE: There are exemptions for reporting under Sections 311 and 312. Refer to "Sections 311 and 312 - Exemptions from Reporting" to determine if any of your chemicals are exempt from reporting under Sections 311 and 312 or if your facility is affected by the recent reporting changes under those sections of EPCRA.

All facilities must submit a MSDS, or a list of the chemicals, for certain chemicals present at each facility.

SAMPLE MSDS REQUEST LETTER

XYZ Chemical Corporation
55 Main Street
Anytown, Maine 01234

(Supplier Address)

Dear Supplier:

In connection with our purchase of your product, we require a Material Safety Data Sheet (MSDS) for that product which meets the standards prescribed by the Occupational Safety and Health Administration in that agency's Hazard Communication Standard.

We at XYZ Chemical take pride in our efforts with respect to the health and safety of our employees and with regard to appropriate disposal of materials and environmental protection. Your cooperation in promptly supplying us with the most recent MSDS for the product(s) we are purchasing with the Purchase Order would be most appreciated.

If a MSDS is not required on this product, please indicate below and return a copy of this correspondence.

MSDS is not required on product(s) requested:

Signature/Date

Please send the MSDS and/or this letter to:

MSDS Coordinator (name)
XYZ Chemical Corporation
P.O. Box 999
Anytown, Maine 12345

Very truly yours,

(NAME)

**SECTION 312
TIER II EMERGENCY AND
HAZARDOUS CHEMICAL INVENTORY FORM**

The facilities and chemicals covered by Section 312 are the same as in Section 311. Refer to this section for this information.

The SERC requires all facilities subject to Section 312 reporting requirements in Maine to submit a Maine specific Annual Emergency and Hazardous Chemical Inventory Tier Two Report. This form contains information on the quantities and locations of chemicals. For information on filing Tier II reports electronically, contact the SERC at (800) 452-8735 (Maine only) or (207) 624-4400.

This is an **annual** reporting requirement due every March 1 for reporting hazardous chemicals inventories on site at any one time during the previous calendar year. The Tier Two Report must be sent to:

- 1) the SERC;
- 2) the appropriate LEPC; and
- 3) the local fire department.

Fees are assessed on facilities subject to Section 312. See Page 22 for an explanation of fees.

EPA's rules regarding Section 312 are in 40 CFR Part 370.

NOTE: There are exemptions for reporting under Sections 311 and 312, and there have been recent reporting changes under Sections 311 and 312 for certain qualified facilities. Refer to "Section 311 and 312 - Exemptions from Reporting" to determine if any of your chemicals are exempt from reporting under Sections 311 and 312 or if your facility is affected by the recent reporting changes under those sections of EPCRA.

**HAZARD CATEGORY COMPARISON
FOR REPORTING UNDER SECTIONS 311 AND 312**

<u>EPA's Hazard Categories</u>	<u>OSHA's Hazard Categories</u>
Fire Hazard	Flammable Combustible Liquid Pyrophoric Oxidizer
Sudden Release of Pressure	Explosive Compressed Gas
Reactive	Unstable Reactive Organic Peroxide Water Reactive
Immediate (Acute) Health Hazard	Highly Toxic Toxic Irritant Sensitizer Corrosive Other hazardous chemicals with an adverse effect on a target organ that generally occurs rapidly as a result of short term exposure and with a short duration.
Delayed (Chronic) Health Hazard	Carcinogens Other hazardous chemicals with an adverse effect on a target organ that generally occurs as a result of long term exposure and with a long duration.

Blood Toxin, Eye Hazard, Kidney Toxin (Nephrotoxin), Liver Toxin (Hepatotoxin), Lung Toxin, Nervous System Toxin (Neurotoxin), Reproductive Toxin, and Skin Hazard may be classified as either Immediate or Delayed Health Hazards depending on how quickly the target organ is affected.

**EPCRA
SECTIONS 311 AND 312
EXEMPTIONS FROM REPORTING**

OSHA regulations [29 CFR Section 1910.1200(b)] currently provide the following exemptions:

- 1) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that Act;
- 2) Tobacco or tobacco products;
- 3) Wood or wood products;
- 4) "Articles" - defined under Section 1910.1200(b) as a manufactured item:
 - a) which is formed to a specific shape or design during manufacture;
 - b) which has end use functions(s) dependent in whole or in part upon the shape or design during end use;
 - c) which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.
- 5) Food, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers;
- 6) Food, drugs, or cosmetics intended for personal consumption by employees while in the work place;
- 7) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 1251 et seq.) respectively, where the employer can demonstrate it is used in the work place in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers;
- 8) Any drug, as that term is defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (i.e., tablets or pills).

In addition, Section 311(e) of EPCRA excludes the following substances:

- 9) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;
- 10) 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;
- 11) 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;
- 12) Any substance to the extent it is used in a research laboratory, a hospital, or other medical facility under the direct supervision of a technically qualified individual;
- 13) 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.

Reporting Changes for Retail Petroleum Facilities

The following amendment to the Sections 311 and 312 reporting requirements applies to qualified retail petroleum facilities and was passed by final rule on February 11, 1999 [**Federal Register: February 11, 1999 (Volume 64, Number 28, Pages 7031-7047)**]:

Retail gas stations that store gasoline and diesel fuel entirely underground **and** are in compliance with Underground Storage Tank (UST) requirements are subject to new reporting thresholds under Sections 311 and 312 of EPCRA: 75,000 gallons for all grades of gasoline combined and 100,000 gallons for diesel fuel. Convenience stores and truck stops that sell gasoline or diesel fuel to the public also meet the definition of retail gas stations. Beginning with the 1998 reporting year, facility owners/operators of facilities whose gasoline and diesel fuel inventories do not exceed the new reporting thresholds and who meet the above referenced criteria are no longer required to submit MSDSs/chemical lists or file Tier Two inventory reports for these substances. For additional information on these requirements, please refer to the above referenced Federal Register citation.

SECTION 313 TOXIC CHEMICAL RELEASE FORMS

This section applies to manufacturing facilities (facilities with a SIC Code between 20 and 39) and beginning January 1, 1998, facilities that fall within the following industry sectors:

Coal Mining (SIC code 12)
Metal Mining (SIC code 10)
Electric Utilities (SIC code 4911)
Commercial Hazardous Waste Treatment (SIC code 4953)
Chemicals and Allied Products - wholesale (SIC code 5169)
Petroleum Bulk Terminals (SIC code 5171)
Solvent Recovery Services (SIC code 7389)

In 2006 the use of SIC codes was changed to reflect the newer NAICS. Information on these and to identify the appropriate sector for your facility please refer to:

<http://www.census.gov/epcd/www/naics.html>

In order to be covered under Section 313, a facility must have ten or more full-time employees and must manufacture, process, or otherwise use a listed **toxic chemical** that meets or exceeds specified threshold quantities, which are cumulative for the calendar year.

Federal facilities, per Executive Order 12856 issued in 1993, are also required to comply with Section 313 if they manufacture, process, or otherwise use a listed toxic chemical that meets or exceeds specified threshold quantities, which are cumulative for the calendar year. The requirement for federal facilities to report under Section 313 went into effect beginning with the 1994 reporting year.

The Toxic Chemicals and the chemical categories regulated under Section 313 are marked with an "X" or a "313" in the column titled "313" in the "Consolidated List of Chemicals".

A Toxic Chemical Release Form, Form R or Form A, must be filled out for each toxic chemical above the threshold amount. The form reflects releases during the preceding calendar year and is due **annually** on **July 1**. Beginning in 2006, facilities that release less than 2000 pounds of a listed toxic chemical and that also do not use, produce, or manufacture in excess of one million pounds of that substance over the annual reporting period have the option of submitting an abbreviated Certification Form (Form A) in lieu of the more detailed Form R. All reports must be submitted to the SERC and EPA at the addresses below:

State Emergency Response Commission
72 State House Station
Augusta, Maine 04333-0072

U.S. Environmental Protection Agency
EPCRA Reporting Center
P.O. Box 3348
Merrifield, Virginia 22116-3348
ATTN: Toxic Chemical Release Inventory

Additionally under MRSA 37B Section 799 copies are to be provided to your LEPC.

To obtain reporting forms and instructions, contact the EPA Hotline at (800) 424-9346.

You may also obtain forms, reporting requirements, guidance documents, and information on training by accessing the EPA Web Site at the following address: <http://www.epa.gov/tri/>

TRI Thresholds. Reporting under EPCRA Section 313 is triggered by the quantity of a chemical that is manufactured, processed, or otherwise used during the calendar year. For most TRI chemicals, the thresholds are 25,000 pounds manufactured or processed or 10,000 pound otherwise used. EPA has recently lowered the reporting thresholds for certain chemicals and chemical categories that meet the criteria for persistence and bioaccumulation. The following list provides the thresholds for these chemicals (in pounds unless otherwise noted):

Chemical Name or Category	CAS Number	Threshold (lbs)
Aldrin	309-00-2	100
Benzo(g,h,i)perylene	191-24-2	10
Chlordane	57-74-9	10
Dioxin and dioxin-like compound category (manufacturing and processing or otherwise use of dioxin and dioxin-like compounds if they are present as contaminants in a chemical and if they were created during the manufacture of that chemical)	NA	0.1 gram
Heptachlor	76-44-8	10
Hexachlorobenzene	118-74-1	10
Isodrin	465-73-6	10
Lead and lead compounds except lead contained in stainless steel, brass, and bronze alloys (applies to reporting for 2001 (due July 2002 and later)	NA	100
Methoxychlor	72-43-5	100
Octachlorostyrene	29082-74-4	10
Pendimethalin	40487-42-1	100
Pentachlorobenzene	608-93-5	10
Polycyclic aromatic compounds category	NA	100
Polychlorinated biphenyls (PCBs)	1336-36-3	10
Tetrabromobisphenol A	79-94-7	100
Toxaphene	8001-35-2	10
Trifluralin	1582-09-8	100
Mercury	7439-97-6	10
Mercury compounds	NA	10

Thresholds are different for certain persistent bioaccumulative toxic (PBT) chemicals; see EPA's "PBT Final Rule Summary".

If you use any listed chemical in any other way (without incorporating it into any product or producing it at the facility), the threshold amount is **10,000** pounds in calendar year 1987 and subsequent years.

EPA's rules regarding Section 313 are contained in 40 CFR Part 372.

Fees are assessed on facilities (except federal facilities) subject to Section 313. See Page 22 for an explanation of fees.

On October 29, 1999, the U.S. EPA issued a final ruling (64 FR 58666) that establishes much lower reporting thresholds for certain PBT chemicals. The PBT chemicals and reporting thresholds are shown on EPA's "PBT Final Rule Summary". This rule went into effect starting with the 2000 reporting year.

For the most recent TRI changes and further information please refer to the EPA's TRI website at: <http://www.epa.gov/tri/>

Fees

The Maine Hazardous Materials Emergency Response and Community Right-to-Know Act of 1988, M.R.S.A. 37-B Chapter 13 Section 801 provides a funding mechanism to support emergency planning and training efforts and the extensive community right-to-know requirements. The following summary outlines the three fees:

- 1) Annual Registration Fee - Pursuant to M.R.S.A. 37-B Chapter 13 Section 801, any facility subject to either **Section 311, 312, or 313** must pay an annual registration fee of \$50.00 and complete the necessary worksheet. This is due every October 1.
- 2) Annual Inventory Fee - The inventory fee is based upon the sum of the average daily amounts of each chemical you report stored during the previous calendar year. There are three schedules used in determining those fees based upon the classification of that chemical and the nature of business at your facility. Please refer to APPENDICE B for fee schedules.
- 3) Toxic Release Inventory Fee - The toxic release fee is based on information you supply each year for the Toxic Chemical Release Inventory. On EPA's Form R, the amount upon which the fee is based is equal to the total amount released to the environment, to publicly-owned treatment works, and transferred off-site as a waste reported per toxic chemical or chemical category.

On EPA's Form A, the mean of 250 pounds is assumed for fee calculation purposes.

Once "TOTAL RELEASE" is calculated, apply that weight to the schedule below and determine the fee amount.

Toxic Release Fees

Total released amounts of:	Fee
0 lbs	\$ 0
1 - 499 lbs	\$ 20
500 - 999 lbs	\$ 50
1,000 - 9,999 lbs	\$ 70
10,000 - 99,999 lbs	\$100
100,000 - 999,999 lbs	\$150
Greater than 1,000,000 lbs	\$200

Repeat the calculation process for as many toxic chemicals or chemical categories as you are reporting on Form R's or Form A's to U.S. EPA. Remember to include the name of the chemical and the fee amount on the Toxic Chemical Release Fee Work Sheet.

Checks for fee payments must be made out to "Treasurer, State of Maine," and mailed to:

State Emergency Response Commission
108 State House Station
Augusta, Maine 04333-0108

Who must pay the annual registration fee? Every October 1, any facility subject during the current calendar year to Section 311, 312, or 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, EPCRA, must pay the annual registration fee.

Who is subject to Section 302? The owner or operator of any facility that has present at any one time an amount that meets or exceeds the TPQ of any of the EHSs.

Must a facility have EHSs present for a specified period of time before Section 302 reporting requirements are triggered? No, if EHSs are present in amounts equal to or in excess of established TPQs, the facility must comply with Section 302 regardless of the amount of time those substances were present in those amounts.

Who is subject to Section 312? The owner or operator of any facility that has either of the following:

- 1) any of the EHSs that meet or exceed the TPQ, or 500 pounds, whichever is less; or
- 2) any of the hazardous chemicals that meet or exceed 10,000 pounds for which OSHA requires an MSDS to be maintained.

How do I determine the amount of the fee? See APPENDICE B for fee schedules.

When do I pay the annual inventory fees? The annual inventory fees are due by March 1 of each year for the previous year.

How do I submit the annual registration fee? You must submit the annual registration fee along with your Registration Form Worksheet to the SERC.

How do I make out my check? Checks must be made out to the

"Treasurer, State of Maine."

Where do I send my check? Checks must be mailed to:

State Emergency Response Commission
108 State House Station
Augusta, Maine 04333-0108

Are there any exemptions to the annual registration fee? There are three exemptions:

- 1) Retail marketers of petroleum products with a storage capacity of 75,000 pounds or less per product shall be exempt.

- 2) Owners and operators of commercial agricultural operations shall be exempt from the fee requirements under this section for registering agricultural facilities and for hazardous materials used in the commercial production of farm products as defined in Title 17, Section 2805, Subsection 1, Paragraph C. Farm product processing facilities are not exempt from the fee requirements.
- 3) Federal Facilities

Is there a fee for Section 313 Form R Reports? Yes, a fee based on the amount of each chemical released is assessed for each chemical reported on a Toxic Chemical Release Inventory Report, due July 1 of each year.

Under Section 313, is there a fee for the Certification Form (Form A)? Yes, fee applies for each chemical reported on the Certification Form (Form A).

What are the statutory authorities for the fees? MRSA 37B Section 801 of the Maine

Whom do I call if I have additional questions? The Maine Emergency Management Agency at (800) 452-8735 or (207) 624-4400 (between 8:00 a.m. and 4:30 p.m., Monday through Friday) is available to respond to questions. They also have available, at no charge, reporting forms, chemical lists, and other information about EPCRA and the state law. This information may also be obtained from the SERC's Web Site.

General Provisions

The general provisions of EPCRA address trade secret protection, provision of information to health professionals, public availability of information, enforcement, citizen suits, and the exemption for transportation.

SECTION 322 TRADE SECRETS

Specific chemical identity of a trade secret chemical can be withheld from an MSDS, Emergency Inventory Reporting Form, or Toxic Chemical Release Form. Applications for trade secret protection are made to EPA. There are penalties for frivolous claims for trade secret protection. The withholder must show each of the following:

- 1) the information has not been disclosed to any other person other than a member of the LEPC, a government official, an employee of such person, or someone bound by a confidentiality agreement, that measures have been taken to protect the confidentiality, and that the withholder intends to continue to take such measures;
- 2) the information is not required to be disclosed to the public under any other federal or state law;
- 3) the information is likely to cause substantial harm to the competitive position of the person; and
- 4) the chemical identity is not readily discoverable through reverse engineering.

SECTION 323
PROVISION OF INFORMATION TO HEALTH PROFESSIONALS,
DOCTORS, AND NURSES

This section requires disclosure of information including trade secret chemical identity information to health professionals, doctors, and nurses, in certain specified situations.

SECTION 324
PUBLIC AVAILABILITY OF INFORMATION

Each emergency response plan, MSDS, MSDS list, Chemical Inventory Form (Tier Two), Toxic Chemical Release Form, and follow-up emergency notice shall be made available to the general public upon request.

NOTE: To cover printing and copy charges, MEMA may charge \$.10/page for all photocopies and \$1.00/page for computer printouts. This charge should be paid in advance either by cash or check made out to "Treasurer of State of Maine". Requests received either by mail or by telephone will be notified of their charges and must forward a check for the correct amount to MEMA prior to the request being filled.

Right to Know information will also be available on diskette for \$5.00/diskette when the requestor supplies the diskette and \$10.00/diskette when no diskette is supplied.

You may schedule an appointment to view our files by calling (800) 452-8735 or (207) 624-4400 between 8:00 a.m. and 4:00 p.m., Monday through Friday.

SECTION 325 FEDERAL ENFORCEMENT PENALTIES

Section 325 provides for administrative, civil and criminal penalties for violations under the following sections:

<u>Requirement</u>	<u>Section</u>	<u>Administrative</u>	<u>Civil</u>	<u>Criminal</u>
Emergency Planning Notification	302		\$27,500	
Facility Representative	303		\$ 27,500	
Emergency Release Notification	304	\$27,500 or \$82,500	\$27,500 or \$82,500	\$27,500/2Y or \$55,000/5Y
MSDS Submission	311	\$11,000	\$11,000	
Chemical Inventory	312	\$27,500	\$27,500	
Toxic Release Inventory	313	\$27,500	\$27,500	
Frivolous Trade Secret Claim	322	\$27,500	\$27,500	

M R S A Title 37B Section 806 allows for the State of Maine to bring forth two types of actions:

Civil penalties: Except as provided in Subsection 3 for a violation of Section 798, a person who violates any provision of Section 795 or 798 shall be subject to a civil penalty not to exceed \$25,000, payable to the Emergency Response Commission Fund, to be recovered in a civil action. A person who violates Section 796 or 797 shall be subject to a civil penalty not to exceed \$1,000, payable to the Emergency Response Commission Fund, to be recovered in a civil action. Minimum penalties under this subsection shall be \$100 per day. Each day of violation constitutes a separate violation.

Criminal penalties: A person who intentionally, knowingly, or recklessly fails to comply with the reporting requirements of Section 798, Subsection 1, commits a Class C crime and, notwithstanding Title 17-A, Section 1301, is subject to a fine of not more than \$25,000 for the first offense and not more than \$50,000 for a subsequent offense. For purposes of determining a subsequent offense, the date of a conviction shall be deemed to be the date the sentence is imposed even though an appeal was taken.

SECTION 326 CIVIL ACTIONS

This section authorizes citizen suits, and civil suits by state or local governments, against owners or operators of a facility, for failure to comply with specific provisions of the Act. It also authorizes citizen suits against the EPA Administrator and state officials for failure to comply with the obligations imposed on them by the Act.

**MRSA TITLE 37B SECTION 795
FACILITY EMERGENCY RESPONSE PLANS**

The operators of any facility where any extremely hazardous substance is present in a quantity above the TPQ are subject to the following:

- 1) **Written plans.** A written plan in accordance with MEMA guidelines to protect public health and safety in the event of an accidental release must be prepared and submitted by the facility operators to the SERC, LEPC and fire department with jurisdiction over the facility.

Emergency response plans required pursuant to other state or federal laws may be used to fulfill these requirements if the plans contain the provisions required by this section.

- 2) **Annual test.** An annual test demonstration and annual review must be held by the facility owners or operators to ensure public health and safety.
- 3) **Emergency response equipment.** Operators of facilities covered under this subchapter shall, through mutual aid agreements with a committee or local emergency response officials, provide for use by emergency personnel, primary response equipment which shall at a minimum include protective clothing and breathing apparatus necessary to contain or extinguish releases of substances handled by their facility. Facilities may coordinate the provision of equipment with other facilities in the locality as well as the appropriate municipal public safety agencies.

MEMA has a number of model plans available upon request. Additionally your local LEPC will be able to provide assistance with any additional questions you may have regarding plans or how to conduct an exercise.