

TO: State Emergency Response Commission
Department of Environment and Natural Resources
523 East Capitol Street - Foss Building
Pierre, SD 57501

FROM:

DATE:

SUBJECT: SARA Title III Reporting Requirements

I have determined that during certain periods of the year I have present on my farm/property reportable quantities of substances as listed in Part 302 of the Act.

I request that you notify the Local Emergency Planning Committee (LEPC) in _____
County of the presence of these

I have _____ have not _____ attached a list of these substances, the time of year present and the quantities present.

I have designated the following individual as the representative to work with the LEPC.

NAME _____

ADDRESS _____

PHONE # _____

FARMERS AND SARA TITLE III

- Q. Are farmers covered by Title III? If so, why? What exactly do farmers have to do?
- A. There are four major reporting requirements under Title III: emergency planning notification (SS302); emergency release notification (SS304); community right-to-know (SS311 material safety data sheets and SS312 emergency and hazardous chemical inventory forms); and toxic chemical release forms (SS313 “emissions inventory”). Each reporting provision has different requirements for chemicals and facilities covered. Due to this complexity in the statute itself, each section must be read carefully to understand the chemicals covered and the facilities to which the section applies. Farmers may be subject to several of the reporting requirement of Title III.

Emergency Planning Notification (SS302)

Farm owners and operators are most likely to be subject to the emergency planning requirements of SS302. Farms were not exempted from this provision, since the law was designed to generally identify all facilities that have any of the listed 406 extremely hazardous substances present in excess of its threshold planning quantity (TPQ). The TPQ is based on the amount of any one of these substances which could, upon release, present human health hazards which warrant emergency planning. The TPQ emergency planning trigger is based on these public health concerns rather than the type of facility where the chemicals might be located. The type of facility and degree of hazard presented at any particular site, however, are relevant factors for consideration by the local emergency planning committees.

While many farms with such chemicals in such quantities may not present a significant hazard to their communities due to their rural location or short holding times, other farms may well present a potentially significant hazard if the chemicals are located in a suburban, populated area or near a school, hospital, or nursing home. Even in a rural area, large volume storage could also be a concern. Although these substances may only be stored or used periodically, there is always the possibility of accidents which could present a hazard to the community. Finally, in the event of a fire or other emergency on the farm, local responders should know what chemicals they might encounter in order to take appropriate precautionary measures. The assessment of the hazard posed by an individual farm or ranch must be made on a site specific basis. Communities must know which facilities may present a potential for chemical releases so they can determine the nature of the risk to the public and to emergency responders in the event of a release. Title III established State and local planning organizations and notification requirements to meet these needs. Local emergency planning committees can best address these concerns by working with farm representatives.

To meet the emergency planning requirements of Title III, farm owners and operators must:

1. Make a determination if they have any of the listed 406 substances in excess of the threshold planning quantity present on their farms at any one time at concentrations greater than one percent by weight. This requirement applies even if the chemicals to this requirement for farms or for substances used in routine agricultural operations.

2. If one or more of the 406 substances is present in excess of its TPQ, simply notify (preferably in writing) their State Emergency Response Commission (SERC), which in turn will notify the appropriate local emergency planning committee. The notification is not required to include the names and quantities of the substances (determined in 1 above), but we encourage the submission of such information, because it will be useful to the SERC and the local committees in organizing and prioritizing emergency planning activities. This notification was required by May 17, 1987 or 60 days after the threshold planning quantity is exceeded for at least one extremely hazardous substance, whichever is later. If such notification has not been made, farm owners and operators should do so immediately.

This is a one-time notification that the farm has any of these chemicals present in excess of its threshold planning quantity. Once such notification is made, the owner is not required to make additional notifications for other extremely hazardous substances that may become present on the farm during the year, but may be required to inform the local emergency planning committee of such changes.

Also, the Environmental Protection Agency (EPA) may revise the list of extremely hazardous substances. A facility which has present any substance added to the list but which has not previously notified must then make notification to the SERC and the local emergency planning committee within 60 days. EPA does not have immediate plans to add substances to this list.

3. If the farm was required to notify under paragraph 2, designate a representative to work with the local emergency planning committee to address the need, if any, for emergency planning around their farm. Local emergency planning committees are to be established by the SERC by August 17, 1987. There is no requirement for farm owners or operators to develop a farm emergency plan. A comprehensive emergency response plan is to be developed by the local emergency planning committee for the local emergency planning district it covers. This plan should address, to the extent possible, all potential chemical release hazards in the district including, where appropriate, chemicals on farms.

Emergency Release Notification 304

Farmers may also be covered by the emergency notification requirements (304) if they release any of the 406 listed extremely hazardous substances or Superfund hazardous substances in excess of its reportable quantity (RQ). Reportable quantities are the amounts of these substances, which, if released, must be reported. (RQs for Superfund hazardous substances are specified in EPA regulations found in 40 Code of Federal Regulations (CFR) Table 302.4, available in public libraries and EPA Regional Offices or by contacting EPA's Chemical Emergency Preparedness Hotline at 1-800-424-8802.) Section 304 requires reporting of such releases to the State Emergency Response Commission and local emergency planning committees in addition to reporting releases of Superfund hazardous substances to the National Response Center (1-800-424-8802), which has been required since 1980. Section 304 also requires a written follow-up emergency notice to the State Commission and local committee.

However, the release of a pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) when used generally in accordance with its intended purpose (e.g., during routine agricultural applications according to approved product label instructions) is exempted from this reporting. Also, normal application of fertilizer would not need to be reported. However, an accidental release of such substances (or other release not generally in accord with its intended purpose) in excess of the RQ must be reported.

Title III emergency release notification (304) has two limitations which are not present in Superfund release reporting. First, Title III (304) release reporting is only applicable at facilities which produce, use, or store a “hazardous chemical”. Because the definition of “hazardous chemical” in Title III specifically excludes substances used in routine agricultural operations and household or consumer products, some farms or ranches will not be subject to 304. Secondly, releases reportable under 304 include only those releases which have potential for off-site exposure (and also equal or exceed the applicable reportable quantity for that substance). Thus, spills of pesticides which would require release reporting to the National Response Center under Superfund, would not be subject to local and State reporting under 304 unless there were a potential for off-site exposure.

Community Right-to-Know (311 - 312)

Community right-to-know reporting (311-312), while currently limited to Standard Industrial Classification (SIC) Codes 20-39, (mainly manufacturers and importers) may cover some farms or ranches if they have manufacturing operations on-site (e.g., food processing, canning, winemaking).

Even if Sections 311 and 312 become applicable beyond the manufacturing sector as a result of any expansion of the Occupational Safety and Health Administration (OSHA) hazard communication standard (on which 311 - 312 reporting is based), chemicals used in routine agricultural operations and household or consumer products will not be subject to these reporting requirements. Chemicals used for such purposes are excluded from the Title III definition of “hazardous chemical” to which the reporting requirement applies.

Toxic Chemical Release Forms (313)

Toxic Chemical release reporting (313) is limited to facilities in SIC Codes 20 - 39 with 10 or more full time employees, but may, as indicated above, apply to farms or ranches with on-site manufacturing operations.

Title III also includes various provisions for civil, administrative and criminal penalties and citizen suits for failure to comply with the requirements of the law.

For assistance in meeting these requirements, farmers may call on their State and county offices of the USDA Agricultural Stabilization and Conservation Service, which have the rulemaking list of 406 chemicals, their TPQs and RQs and a list of SERCs. They may also call EPA’s Chemical Emergency Preparedness Program Hotline at 1-800-535-0202.