

Chapter 5. EPCRA Sections 311 and 312: Hazardous Chemical Inventory Reporting

Sections 311 and 312 of EPCRA are known as community right-to-know reporting. Under these requirements, facilities report on all hazardous chemicals present on site, which include extremely hazardous substances established under Section 302 of EPCRA (*see Chapter 2 of this document*). Specifically, facilities are required to provide information on the physical and health hazards, as well as the amount and location of all hazardous chemicals, which can be useful for local emergency planning.

EPA is aware that some states adopted the federal EPCRA statute as their state right-to-know program. Other states have additional requirements. LEPCs and TEPCs should contact their state or tribe to be informed of specific requirements. This chapter only discusses federal EPCRA Sections 311 and 312 reporting requirements for facilities and the entities that receive information, SERC or TERC, LEPC or TEPC and the local fire department.

Here is the link to the SERCs: <https://www.epa.gov/epcra/state-emergency-response-commissions-contacts>. To find out what your state's Tier II reporting requirements are, visit <https://www.epa.gov/epcra/state-tier-ii-reporting-requirements-and-procedures>.

5.1 Facilities: Criteria for Reporting under Sections 311 and 312

The reporting requirements of Sections 311 and 312 apply to the owner or operator of any facility required to prepare or have available a Material Safety Data Sheet (MSDS) (or Safety Data Sheet (SDS)) for any hazardous chemical defined under the Occupational Safety and Health Act (OSH Act) and its implementing regulations. The requirements for MSDS (or SDS) can be found in the OSHA Hazard Communication Standard (HCS) in 29 CFR Part 1900.

Although OSHA currently uses the term "Safety Data Sheets," the EPCRA statute refers to the term "Material Safety Data Sheets." This document will use their acronyms, MSDS (SDS) to represent both.

OSHA does not have a list of hazardous chemicals, but they are defined as any chemical that is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified. OSHA estimates that there are approximately 800,000 hazardous chemicals and/or products used in the United States (March 26, 2012, final rule, 77 FR 17574) to which workers can be exposed while handling these chemicals at their workplace. As stated above, OSHA hazardous chemicals include EPCRA EHSs defined under EPCRA Section 302. *See Figure 20.*

EPCRA mainly focuses on protecting the community and emergency responders from accidental releases of hazardous chemicals. Although workers can be exposed when handling hazardous chemicals, the community or emergency responders may not be affected until an incident occurs, so LEPCs and TEPCs may need to focus only on planning for those hazardous chemical that go beyond the facility's boundary. Sections 311 and 312 require reporting of OSHA hazardous chemicals but EPCRA provides certain exemptions, detailed later.

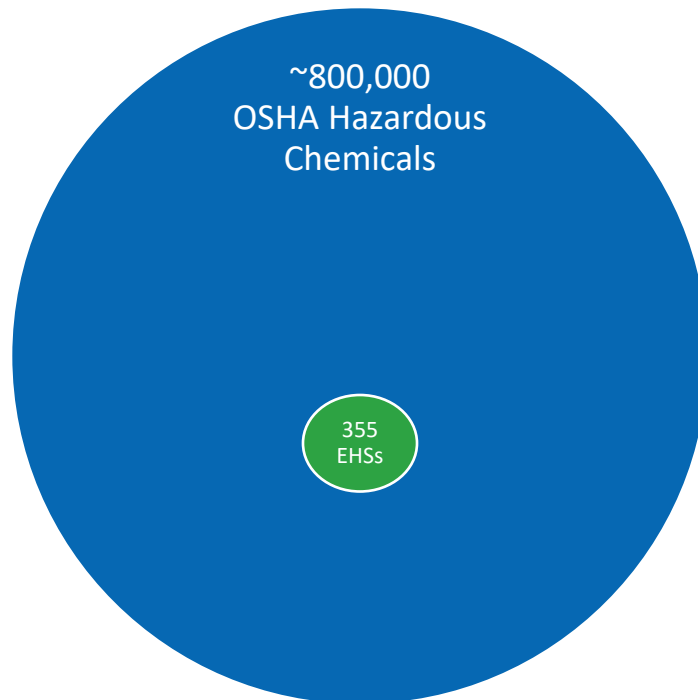


Figure 20. Chemicals subject to EPCRA Sections 311 and 312.

Under EPCRA Sections 302 and 303 (*see Chapter 2 & Chapter 3 of this document*), emergency planning initially focused on extremely hazardous substances (EHSs).. EHSs are a subset of hazardous chemicals subject to Sections 311 and 312 that will be captured in the hazardous chemical inventory reporting requirements.

Hazardous chemical reporting is a two-part requirement: 1) submission of MSDSs (or SDSs) or a list of hazardous chemicals and 2) submission of a hazardous chemical inventory form. This chapter covers facilities’ reporting requirements, entities that receive the reports under EPCRA Sections 311 and 312, and information management by state and local implementing agencies. *See Figure 21.*

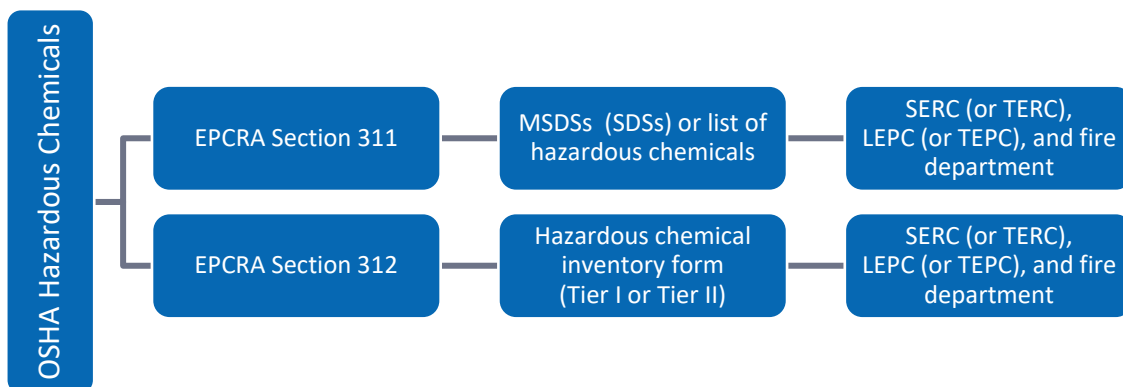


Figure 21. OSHA hazardous chemicals, which include EHSs, are reported under EPCRA Sections 311 and 312.

5.2 EPCRA Section 311: Material Safety Data Sheets (or Safety Data Sheets)

EPCRA Section 311(a): Basic requirement

(1) Submission of MSDS or list

The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act shall submit a material safety data sheet for each such chemical, or a list of such chemicals as described in paragraph (2), to each of the following:

- (A) The appropriate local emergency planning committee.*
- (B) The State emergency response commission.*
- (C) The fire department with jurisdiction over the facility.*

(2) Contents of list

- (A) The list of chemicals referred to in paragraph (1) shall include each of the following:
 - (i) A list of the hazardous chemicals for which a material safety data sheet is required under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act, grouped in categories of health and physical hazards as set forth under such Act and regulations promulgated under such Act, or in such other categories as the Administrator may prescribe under subparagraph (B).*
 - (ii) The chemical name or the common name of each such chemical as provided on the material safety data sheet.*
 - (iii) Any hazardous component of each such chemical as provided on the material safety data sheet.**
- (B) For purposes of the list under this paragraph, the Administrator may modify the categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency.*

(3) Treatment of mixtures

An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:

- (A) Submitting a material safety data sheet for, or identifying on a list, each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one material safety data sheet, or one listing, of the element or compound is necessary.*
- (B) Submitting a material safety data sheet for, or identifying on a list, the mixture itself.*

EPCRA Section 311 requires facilities that handle any OSHA hazardous chemical at or above the reporting thresholds to submit an MSDS (SDS) to their SERC or TERC, LEPC or TEPC and the local fire department with jurisdiction of the facility. Facilities may also choose to submit a list of hazardous chemicals in lieu of submitting MSDSs (SDSs). Certain chemicals are excluded from these requirements, which will be discussed later in this chapter.

Under the OSHA Hazard Communication Standard (HCS), manufacturers and importers are required to develop an MSDS (SDS) for any chemical that meets the definition of a hazardous chemical. Employers must maintain an MSDS (SDS) for any hazardous chemical that is used or stored in the workplace.

Facilities that are subject to EPCRA community right-to-know reporting are required to submit MSDSs (SDSs) to the state and local agencies. *See the statutory text provided above.*

Check with your state for the specific requirements regarding list of hazardous chemicals and MSDS/SDS reporting.

5.2.1 Reporting Thresholds

EPCRA Section 311(b): Thresholds

The Administrator may establish threshold quantities for hazardous chemicals below which no facility shall be subject to the provisions of this section. The threshold quantities may, in the Administrator's discretion, be based on classes of chemicals or categories of facilities.

For facilities to comply with the reporting requirements, the following reporting thresholds were established by EPA as required by Section 311(b). *See legislative language above.*

- For an EHS defined under EPCRA Section 302, the threshold is 500 pounds or the threshold planning quantity, whichever is lower (EHSs and their TPQs are listed in 40 CFR Part 355, Appendix A and Appendix B).
- For gasoline (all grades combined⁸) at a retail gas station, the threshold level is 75,000 gallons (or approximately 283,900 liters), if the tank(s) was stored entirely underground and was in compliance at all times during the preceding calendar year with all applicable Underground Storage Tank (UST) requirements at 40 CFR Part 280 or requirements of the state UST program approved by the Agency under 40 CFR Part 281.
- For diesel fuel (all grades combined⁹) at a retail gas station, the threshold level is 100,000 gallons (or approximately 378,500 liters), if the tank(s) was stored entirely underground and the tank(s) was in compliance at all times during the preceding calendar year with all applicable UST requirements at 40 CFR Part 280 or requirements of the state UST program approved by the Agency under 40 CFR Part 281.
- For all other hazardous chemicals for which facilities are required to have or prepare an MSDS (SDS), the minimum reporting threshold is 10,000 pounds (or 4,540 kilograms).

These reporting thresholds are codified in the regulations at 40 CFR 370.10:

<https://www.ecfr.gov/cgi-bin/text->

⁸ This threshold does not apply to E-85, M-85, or E-95. The reporting threshold for these is 10,000 pounds (February 11, 1999, 64 FR 7032): <https://www.govinfo.gov/content/pkg/FR-1999-02-11/html/99-3255.htm>.

⁹ As discussed in the previous note, this threshold does not apply to E-85, M-85, or E-95, which have a reporting threshold of 10,000 pounds.

[idx?SID=dc62dd3413b3490a101679e6db4b9c41&mc=true&tpl=/ecfrbrowse/Title40/40cfr370_main_02.tpl](https://www.ecfrbrowse/Title40/40cfr370_main_02.tpl).

5.2.2 Submission of MSDSs (SDSs)

As specified under Section 311(a), facilities that have MSDSs (SDSs) for chemicals held above these reporting thresholds are required to submit either copies of their MSDSs (SDSs) or a list of hazardous chemicals to the SERC or TERC, LEPC or TEPC, and the local fire department with jurisdiction over the facility.

The following information can be typically found on an MSDS (or SDS):

- Product identification.
- Hazard identification.
- Composition of ingredients.
- Physical hazard information.
- Health hazard information.
- First-aid measures.
- Fire-fighting measures.
- Spill, leak, and disposal procedures.
- Personal protection, etc.

Here is a brief summary of SDS contents posted on OSHA’s “Hazard Communication Standard: Safety Data Sheets” website:

<https://www.osha.gov/sites/default/files/publications/OSHA3514.pdf>.

5.2.3 Submission of List of Hazardous Chemicals

If the facility owner or operator chooses to submit a list of hazardous chemicals in lieu of MSDSs (SDSs), the list is required to include the chemical name that appears on the MSDS (SDS) and identify the applicable hazard categories. *See statutory text provided in the beginning of this chapter.*

5.2.4 Availability of MSDS (SDS) upon Request by LEPC (or TEPC)

EPCRA Section 311(c): Availability of MSDS on request

(1) To local emergency planning committee

If an owner or operator of a facility submits a list of chemicals under subsection (a)(1), the owner or operator, upon request by the local emergency planning committee, shall submit the material safety data sheet for any chemical on the list to such committee.

As stated in section 311(c)(1), LEPCs and TEPCs may request MSDSs (SDSs) from facilities that submitted list of chemicals.

5.2.5 Provide MSDS (SDS) to the Public upon Request

If a member of the public requests an MSDS (SDS) for any hazardous chemical, then the LEPCs and TEPCs are required to provide it as required by EPCRA Section 311(c)(2). (*See legislative text provided above*). If the LEPC or TEPC does not have the MSDS (SDS), then the LEPC or TEPC may request it from the facility owner or operator and then make it available to the public.

(2) To public

EPCRA Section 311(c): Availability of MSDS on request

(2) To public

A local emergency planning committee, upon request by any person, shall make available a material safety data sheet to the person in accordance with section 324 of this title. If the local emergency planning committee does not have the requested material safety data sheet, the committee shall request the sheet from the facility owner or operator and then make the sheet available to the person in accordance with section 324 of this title.

5.2.6 Initial Submission and Updating of MSDS (SDS)

As provided in EPCRA Section 311(d), if a facility acquires a **new** hazardous chemical that exceeds its reporting threshold, the facility is required to submit the MSDS (SDS) within three months to their SERC or TERC, LEPC or TEPC and the local fire department with jurisdiction over the facility. *See Section 311(d)(1)(B)*.

If a facility discovers any **significant new information** about a chemical, then the facility is required to provide a revised MSDS (SDS) to replace the original MSDS (SDS) within three months. *See Section 311(d)(2)*.

EPCRA Section 311(d): Initial submission and updating

- (1) *The initial material safety data sheet or list required under this section with respect to a hazardous chemical shall be provided before the later of—*
 - (A) *12 months after October 17, 1986, or*
 - (B) *3 months after the owner or operator of a facility is required to prepare or have available a material safety data sheet for the chemical under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act.*
- (2) *Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted to the local emergency planning committee under subsection (a), a revised sheet shall be provided to such person.*

5.2.7 Trade Secrets and MSDS (SDS)

If a manufacturer is making a trade secret claim for a hazardous chemical (pure or mixture) in accordance with trade secret provisions under EPCRA Section 322, the downstream user of the chemical may not be able to provide the MSDS (SDS) with the trade secret chemical identity revealed upon request to the LEPC or TEPC. However, the downstream user may provide the MSDS/SDS for the hazardous chemical to the LEPC or TEPC as it will contain a generic name as well as potential hazards, which would still be useful for planners and responders. Facilities are required to file trade secret claims with EPA. You may contact EPA to determine which facilities in your planning district submitted trade secret claims.

EPCRA Trade Secret provisions (Section 322) are covered in Chapter 6.

5.2.8 Exemptions from the Definition of “Hazardous Chemical”

EPCRA Section 311(e): “Hazardous chemical” defined

For purposes of this section, the term ‘hazardous chemical’ has the meaning given such term by section 1910.1200(c) of title 29 of the Code of Federal Regulations, except that such term does not include the following:

- (1) *Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.*
- (2) *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.*
- (3) *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.*
- (4) *Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.*
- (5) *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.*

Although OSHA HCS may require an MSDS (SDS) for a hazardous chemical, EPCRA Section 311(e) provides five exemptions from the definition of “hazardous chemical.” These exemptions

apply to specific substances only—how they are present or used at the facility. They are not for an entire facility, unless the only substances present at the facility are the ones noted in these exemptions. The five exemptions, as well as a few scenarios on how these exemptions may apply, are provided below. These and other frequently asked questions (FAQs) are posted on EPA’s website at <https://www.epa.gov/epcra/emergency-planning-and-community-right-know-act-frequent-questions>.

<p>Exemption 1: Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration</p>	<p>Question: Is FDA-regulated flour bleaching exempt? A facility owner/operator uses chlorine to bleach flour at his/her facility. Would this facility owner/operator be exempt from reporting the chlorine used to bleach flour under EPCRA Section 311/312?</p> <p>Answer: EPCRA Section 311(e)(1) exempts any food, food additive, drug, or cosmetic regulated by the FDA. EPA considers a substance to be regulated by the FDA as long as the substance is used in a manner that is consistent with the FDA regulations. FDA regulations (21 CFR part 137) regulate the bleaching of flour with chlorine. Chlorine, therefore, is exempt from reporting under EPCRA Sections 311/312 when its use at a facility is consistent with this FDA regulation (i.e., the bleaching of flour). However, if the facility uses part of the chlorine stored on site for other purposes, such as wastewater treatment or for cleaning process equipment, then that amount of chlorine should be considered for threshold determination.</p> <p>https://www.epa.gov/epcra/fda-regulated-flour-bleaching-exempt</p>
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<p>Exemption 2: 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</p>	<p>Question: Under EPCRA Section 311(e)(2), 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 is exempt from the definition of hazardous chemical and therefore need not be reported under EPCRA Sections 311 and 312. However, modifying any portion of the solid manufactured item where exposure to a hazardous chemical can occur negates the exemption. How does the facility determine compliance?</p> <p>Answer: Facilities only must include and count the amount of fumes or dust emitted or released from a piece of metal, brick, or any other manufactured solid item that undergoes a modification process (e.g., cutting, welding, etc.) to determine whether the EPCRA Sections 311 and 312 reporting thresholds have been reached.</p> <p>EPA believes it is unnecessary to count the weight of the entire solid manufactured item for emergency planning and community right-to-know purposes. (July 13, 2010, guidance and interpretations <i>Federal Register</i> notice (75 FR 39852).)</p> <p>https://www.epa.gov/epcra/determining-epcra-311-312-compliance-after-modifying-solid-manufactured-item</p>
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Exemption 3: 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	Question: A facility sells automobile batteries wholesale. Are these batteries at the wholesaler's facility exempt from reporting under EPCRA Sections 311/312 due to the household product exemption under EPCRA Section 311(e)(3)?
	Answer: Section 311(e)(3) exempts from the definition of hazardous chemical “(a)ny substance to the extent 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.” This exclusion applies to household or consumer products either in use by the general public or in commercial or industrial use when the product has the same form and concentration as that intended for use by the general public. The term “form” refers to the packaging, rather than the physical state of the substance. Therefore, car batteries held for sale by a wholesaler are exempt from reporting since the hazardous chemicals contained are in the same form and concentration as batteries sold for use by the general public. https://www.epa.gov/epcra/are-automobile-batteries-wholesaler-exempted-epcra-311-and-312

Exemption 4: Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual	Question: There are exemptions for research laboratories and medical facilities under Sections 311 and 312. Are research laboratories and medical facilities exempt from reporting under Sections 311 and 312?
	Answer: Research laboratories and medical facilities are not exempt from the reporting requirements under Sections 311 and 312; rather, Section 311(c)(4) of Title III excludes from the definition of hazardous chemical “any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.” The exclusion applies to research laboratories, as well as quality control laboratory operations, located within manufacturing facilities. Laboratories that produce chemical specialty products or full-scale pilot plant operations are considered to be part of the manufacturing facility and therefore would not be “research laboratories.” With respect to hospitals or medical facilities, the exemption applies only to hazardous chemicals that are used at the facility for medical purposes under the supervision of a “technically qualified individual.” Veterinary facilities are included. https://www.epa.gov/epcra/exemption-research-laboratories-and-medical-facilities-under-311-and-312

**Exemption 5:
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**

Question: Agricultural use exemption and fuels.

Does the agricultural use exemption, Section 311(e)(5), apply to fuels used by harvesting services to transport crops from the farm to the market or the food processor? Does the agricultural use exemption apply to the fuel used by the farmer to transport crops from the farm to the market or the food processor?

Answer: The exemption for routine agricultural use under Sections 311 and 312 is designed to eliminate the reporting of fertilizers, pesticides, and other chemical substances when applied, administered, or otherwise used as part of routine agricultural activities (October 15, 1987, 52 FR 38344). In other words, the agricultural exemption is intended primarily to cover hazardous chemicals used or stored at the farm facility. The term “agricultural” is a broad term encompassing a wide range of growing operations, farms, nurseries and other horticultural operations (52 FR 38344). Harvesting service is not considered to be part of the growing operation. Therefore, the fuel used by the harvesting service must be reported under Sections 311 and 312 if it exceeds the reporting threshold. However, fuel used by the farmer and that is located at the farm itself would be exempt.

[https://www.epa.gov/faqs/search/topics/emergency-planning-and-community-right-know-304487?search_api_views_fulltext=agricultural+use.](https://www.epa.gov/faqs/search/topics/emergency-planning-and-community-right-know-304487?search_api_views_fulltext=agricultural+use)

EPA was informed that the second portion of the exemption provided in Section 311(e)(5), “routine agricultural operations or is a fertilizer held for sale,” is the most confusing to the regulated community. We have several FAQs on this exemption on our website at https://www.epa.gov/faqs/search/topics/emergency-planning-and-community-right-know-304487?search_api_views_fulltext=section+311%28e%29%285%29.

Planners and responders are encouraged to review these FAQs to be better informed about how certain activities and/or substances are covered and/or not covered under this exemption. If you believe that certain facilities—particularly retailers of fertilizers in your planning district—are not complying with Sections 311 and 312 reporting requirements, you should reach out to these facilities to ensure they comply so you can include these facilities in the emergency response plan.

5.3 EPCRA Section 312—Hazardous Chemical Inventory Forms

Sections 311 and 312 require reporting on the OSHA hazardous chemicals present at the facility. The reporting thresholds, and the entities that receive those reports, are the same for both Sections 311 and 312; however, the information reported and the reporting timelines are different for these sections.

The five exemptions provided in EPCRA Section 311(e), discussed in section 5.2.8 of this chapter, are also applicable to Section 312.

EPCRA Section 312: Emergency and hazardous chemical inventory forms

(a) Basic requirement

- (1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act shall prepare and submit an emergency and hazardous chemical inventory form (hereafter in this chapter referred to as an "inventory form") to each of the following:
 - (A) The appropriate local emergency planning committee.*
 - (B) The State emergency response commission.*
 - (C) The fire department with jurisdiction over the facility.**
- (2) The inventory form containing tier I information (as described in subsection (d)(1)) shall be submitted on or before March 1, 1988, and annually thereafter on March 1, and shall contain data with respect to the preceding calendar year. The preceding sentence does not apply if an owner or operator provides, by the same deadline and with respect to the same calendar year, tier II information (as described in subsection (d)(2)) to the recipients described in paragraph (1).*
- (3) An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:
 - (A) Providing information on the inventory form on each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one listing on the inventory form for the element or compound at the facility is necessary.*
 - (B) Providing information on the inventory form on the mixture itself.**

(b) Thresholds

The Administrator may establish threshold quantities for hazardous chemicals covered by this section below which no facility shall be subject to the provisions of this section. The threshold quantities may, in the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(c) Hazardous chemicals covered

A hazardous chemical subject to the requirements of this section is any hazardous chemical for which a material safety data sheet or a listing is required under section 311 of this title.

(d) Contents of form

- (1) Tier I information
 - (A) Aggregate information by category*

An inventory form shall provide the information described in subparagraph (B) in aggregate terms for hazardous chemicals in categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act.
 - (B) Required information*

The information referred to in subparagraph (A) is the following:

 - (i) An estimate (in ranges) of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding calendar year.**

- (ii) *An estimate (in ranges) of the average daily amount of hazardous chemicals in each category present at the facility during the preceding calendar year.*
- (iii) *The general location of hazardous chemicals in each category.*
- (C) *Modifications*
For purposes of reporting information under this paragraph, the Administrator may—
 - (i) *modify the categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency, or*
 - (ii) *require reporting on individual hazardous chemicals of special concern to emergency response personnel.*
- (2) *Tier II information*
An inventory form shall provide the following additional information for each hazardous chemical present at the facility, but only upon request and in accordance with subsection (e):
 - (A) *The chemical name or the common name of the chemical as provided on the material safety data sheet.*
 - (B) *An estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year.*
 - (C) *An estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.*
 - (D) *A brief description of the manner of storage of the hazardous chemical.*
 - (E) *The location at the facility of the hazardous chemical.*
 - (F) *An indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 324 of this title.*

5.3.1 Tier I and Tier II Forms

EPCRA Section 312 requires facilities covered by Section 311 to submit an emergency and hazardous chemical inventory form (“Tier I” or “Tier II”) to the SERC or TERC, LEPC or TEPC, and the local fire department, annually, by March 1.

As required by the statute, EPA first published Tier I and Tier II forms in 1987, which have been revised a few times since. The current forms are posted on EPA’s website at

<https://www.epa.gov/epcra/tier-i-forms-and-instructions>

<https://www.epa.gov/epcra/tier-ii-forms-and-instructions>.

The Tier I inventory form only requires aggregate information for each applicable hazard category:

- An estimate (in ranges) of the maximum amount of hazardous chemicals for each category present at the facility at any time during the preceding calendar year.
- An estimate (in ranges) of the average daily amount of hazardous chemicals in each category.
- The general location of hazardous chemicals in each category.

The Tier II inventory form contains basically the same information as Tier I, but it lists the specific chemicals. The Tier II inventory form provides the following information for each chemical:

- The chemical name or the common name as indicated on the MSDS (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.
- An indication of whether the owner elects to withhold location information from disclosure to the public.

Although the statute requires owners or operators to prepare both Tier I and Tier II forms, all states require detailed information in Tier II forms using a state-developed electronic format or Tier2 Submit (software developed by EPA and NOAA) (see section 5.3.4 of this chapter). The current Tier II form is shown below.

Check if information below is identical to the information submitted last year. Reporting Period: January 1 to December 31, 20__

Tier Two				For Official Use Only		
Emergency and Hazardous Chemical Inventory				State ID#:		
<i>Specific Information by Chemical</i>				Date Received		
Facility Identification						
Name	Maximum No. of Occupants:		<input type="checkbox"/> Manned <input type="checkbox"/> Unmanned			
	<input type="checkbox"/> N/A					
Street	County	City	State	Zip		
Latitude	Longitude	NAICS Code	Phone Number (optional)			
			()			
Dun & Bradstreet Number	TRI Facility ID:	RMP Facility ID:				
	<input type="checkbox"/> N/A	<input type="checkbox"/> N/A				
Subject to Emergency Planning under Section 302 of EPCRA (40 CFR part 355)?				<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Subject to Chemical Accident Prevention under Section 112(r) of CAA (40 CFR part 68, Risk Management Program)?				<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Owner or Operator Information			Parent Company Information (optional)			
Name			Name			
Address			Dun & Bradstreet Number:			
Phone Number			Phone Number			
()			()			
Email			Email			
()			()			
Facility Emergency Coordinator (if applicable)			Tier II Information Contact			
Name			Name			
Title			Title			
Email Address			Email Address			
Phone Number			Phone Number			
()			()			
24-hour Phone			24-hour Phone			
()			()			
Email Address			Email Address			
()			()			
Emergency Contacts						
Name			Name			
Title			Title			
Phone Number			Phone Number			
()			()			
24-hour Phone			24-hour Phone			
()			()			
Email Address			Email Address			
()			()			
Certification (Read and sign after completing all sections)			Reporting Ranges			
<p>I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through _____, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.</p> <p>Name and official title of owner/operator OR owner/operator's authorized representative _____</p> <p>Signature _____ Date Signed _____</p>			Weight Range in pounds			
			Range Code	From	To	
			01	0	99	
			02	100	499	
			03	500	999	
			04	1,000	4,999	
			05	5,000	9,999	
			06	10,000	24,999	
			07	25,000	49,999	
			08	50,000	74,999	
			09	75,000	99,999	
			10	100,000	499,999	
			11	500,000	999,999	
12	1,000,000	9,999,999				
13	10,000,000	Greater than 10 million				
<p>The public reporting and recordkeeping burden for this collection of information is estimated to range from 6 to 120 hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.</p>						

Figure 22. Tier II form.

Chemical Description	Physical Hazards	Health Hazards	Inventory	Type of Storage	Storage Conditions (Pressure, Temperature)	Storage Locations	Additional Reporting Information (Optional)
<input type="checkbox"/> Check if information below is identical to the information submitted last year. Chemical Name: CAS No. EHS: Yes <input type="checkbox"/> No <input type="checkbox"/> <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas <input type="checkbox"/> Trade Secret	<input type="checkbox"/> Explosive <input type="checkbox"/> Flammable (gases, aerosols, liquids, or solids) <input type="checkbox"/> Oxidizer (liquid, solid or gas) <input type="checkbox"/> Self-reactive <input type="checkbox"/> Pyrophoric (liquid or solid) <input type="checkbox"/> Pyrophoric Gas <input type="checkbox"/> Self-heating <input type="checkbox"/> Organic peroxide <input type="checkbox"/> Corrosive to metal <input type="checkbox"/> Gas under pressure (compressed gas) <input type="checkbox"/> In contact with water emits flammable gas <input type="checkbox"/> Combustible Dust <input type="checkbox"/> Hazard Not Otherwise Classified	<input type="checkbox"/> Acute toxicity (any route of exposure) <input type="checkbox"/> Skin corrosion or irritation <input type="checkbox"/> Serious eye damage or eye irritation <input type="checkbox"/> Respiratory or skin sensitization <input type="checkbox"/> Germ cell mutagenicity <input type="checkbox"/> Carcinogenicity <input type="checkbox"/> Reproductive toxicity <input type="checkbox"/> Specific target organ toxicity (single or repeated exposure) <input type="checkbox"/> Aspiration hazard <input type="checkbox"/> Simple Asphyxiant <input type="checkbox"/> Hazard Not Otherwise Classified	Maximum Amount Range Code: Average Daily Amount Range Code: No. of days on site:			Confidential: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Below Reporting Thresholds (optional) <input type="checkbox"/> State or Local Requirements
<input type="checkbox"/> Check if information below is identical to the information submitted last year. Mixture or Product Name: CAS No. <input type="checkbox"/> Not Available <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas <input type="checkbox"/> Trade Secret EHS: Yes <input type="checkbox"/> No <input type="checkbox"/> EHS(s) Name (if applicable): CAS No. Non-EHS(s) Name (optional):	<input type="checkbox"/> Explosive <input type="checkbox"/> Flammable (gases, aerosols, liquids, or solids) <input type="checkbox"/> Oxidizer (liquid, solid or gas) <input type="checkbox"/> Self-reactive <input type="checkbox"/> Pyrophoric (liquid or solid) <input type="checkbox"/> Pyrophoric Gas <input type="checkbox"/> Self-heating <input type="checkbox"/> Organic peroxide <input type="checkbox"/> Corrosive to metal <input type="checkbox"/> Gas under pressure (compressed gas) <input type="checkbox"/> In contact with water emits flammable gas <input type="checkbox"/> Combustible Dust <input type="checkbox"/> Hazard Not Otherwise Classified	<input type="checkbox"/> Acute toxicity (any route of exposure) <input type="checkbox"/> Skin corrosion or irritation <input type="checkbox"/> Serious eye damage or eye irritation <input type="checkbox"/> Respiratory or skin sensitization <input type="checkbox"/> Germ cell mutagenicity <input type="checkbox"/> Carcinogenicity <input type="checkbox"/> Reproductive toxicity <input type="checkbox"/> Specific target organ toxicity (single or repeated exposure) <input type="checkbox"/> Aspiration hazard <input type="checkbox"/> Simple Asphyxiant <input type="checkbox"/> Hazard Not Otherwise Classified	Maximum Amount (Total Mixture) Range Code: Average Daily Amount (Total Mixture) Range Code: No. of days on site: Maximum Amount of each EHS in the Mixture Range Code:			Confidential: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Below Reporting Thresholds (optional) <input type="checkbox"/> State or Local Requirements

Optional Attachments: I have attached a site plan I have attached a list of site coordinate abbreviations I have attached a description of dikes and other safeguard measures

Figure 22 (continued). Tier II form.

EPA learned that many LEPCs use the annual information received on the Tier II inventory form to modify or implement the local emergency response plan. The Tier II form contains up-to-date information on EHSs, as well as all other OSHA hazardous chemicals.

EPA adopted the hazard categories from OSHA HCS at 29 CFR 1900.10 to be used for reporting on the Tier II inventory form. *See Figure 23.*

The Tier II inventory form also requires facilities to provide contact information for the following individuals at each facility: Tier II information contact; facility emergency coordinator; and 24-hour emergency contacts. This information should be included in the local emergency response plan.

Physical Hazards	Health Hazards
<ul style="list-style-type: none"> • Flammable (gases, aerosols, liquids, or solids) • Gas under pressure • Explosive • Self-heating • Pyrophoric (liquid or solid) • Oxidizer (liquid, solid or gas) • Organic peroxide • Self-reactive • In contact with water emits flammable gas • Corrosive to metal • Hazard not otherwise classified (HNOC) 	<ul style="list-style-type: none"> • Carcinogenicity • Acute toxicity (any route of exposure) • Reproductive toxicity • Skin corrosion or irritation • Respiratory or skin sensitization • Serious eye damage or eye irritation • Specific target organ toxicity (single or repeated exposure) • Germ cell mutagenicity • Aspiration hazard • Hazard not otherwise classified (HNOC)

Figure 23. Hazard categories for the Tier II inventory form, from OSHA HCS.

5.3.2 Reporting Thresholds

The reporting thresholds for chemicals subject to reporting under EPCRA Section 312 are the same as those covered by Section 311, discussed in section 5.2.1 of this chapter. The implementing regulations for Sections 311 and 312 are codified in 40 CFR Part 370.

<https://www.ecfr.gov/cgi-bin/text-idx?SID=b7c6bd9a09aa6969f5cb41d43efc3371&mc=true&node=pt40.30.370&rgn=div5>

5.3.3 Exemptions from the Definition of “Hazardous Chemical”

The five exemptions provided in EPCRA Section 311(e) are also applicable to Section 312, *hazardous chemical inventory reporting (Tier II)*. These exemptions and their examples are provided in section 5.2.8 of this chapter.

Note: These exemptions do not apply to EPCRA Section 302, Emergency Planning Notification. As noted in Chapter 2, there are no exemptions in EPCRA Section 302, except for substances in transportation or stored incident to transportation.

5.3.4 Electronic Reporting: Tier2 Submit and State-Developed Reporting Software

Most states require facilities to submit the federal Tier II inventory form as a hard copy or using the Tier2 Submit software (<https://www.epa.gov/epcra/tier2-submit-software>). Others require facilities to use state-developed reporting software. See <https://www.epa.gov/epcra/state-tier-ii-reporting-requirements-and-procedures> for links to state reporting requirements.

5.3.5 Tier II Information Availability to State, Tribal and Local Officials and the Public

EPCRA Section 312(e): Availability of Tier II information

(1) Availability to State commissions, local committees, and fire departments

Upon request by a State emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (d), to the person making the request. Any such request shall be with respect to a specific facility.

(2) Availability to other State and local officials

A State or local official acting in his or her official capacity may have access to tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the official.

(3) Availability to public

(A) In general

Any person may request a State emergency response commission or local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.

(B) Automatic provision of information to public

Any tier II information which a State emergency response commission or local emergency planning committee has in its possession shall be made available to a person making a request under this paragraph in accordance with section 324 of this title. If the State emergency response commission or local emergency planning committee does not have the tier II information in its possession, upon a request for tier II information the State emergency response commission or local emergency planning committee shall, pursuant to paragraph (1), request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds present at the facility at any time during the preceding calendar year and make such information available in accordance with section 324 of this title to the person making the request.

(C) Discretionary provision of information to public

In the case of tier II information which is not in the possession of a State emergency response commission or local emergency planning committee and which is with respect to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds present at the facility at any time during the preceding calendar year, a request from a person must include the general need for the information. The State emergency response commission or local emergency planning committee may, pursuant to paragraph (1), request the facility owner or operator for the tier II information on behalf of the person making the request. Upon receipt of any information requested on behalf of such person, the State emergency response

commission or local emergency planning committee shall make the information available in accordance with section 324 of this title to the person.

(D) Response in 45 days

A State emergency response commission or local emergency planning committee shall respond to a request for tier II information under this paragraph no later than 45 days after the date of receipt of the request.

In addition to preparing the community for a chemical incident, EPCRA also requires SERCs, TERCs, LEPCs and TEPCs to provide public access to the information received on hazardous chemicals handled at each facility in their community. You may establish procedures for handling such requests from the public, such as setting up reading rooms as stated in EPCRA Section 301.

While all states require facilities to submit Tier II information (via electronic or hard copy), SERCs or TERCs, LEPCs or TEPCs, and fire departments may request Tier II information from facilities that have not complied with the reporting requirements.

The public can also request Tier II information from their SERC or TERC or LEPC or TEPC for a specific facility. If the facility in question had less than 10,000 pounds of the chemical at their facility in the preceding year, the requestor must include why the information is needed. The SERC or TERC and LEPC or TEPC must respond to these requests within 45 days.

Public access to EPCRA information is discussed in Chapter 8.

EPCRA Section 312(e) provides that any person may request Tier II information concerning a specific chemical at a facility through the LEPC or TEPC or SERC or TERC. If a facility has not submitted Tier II information for any hazardous chemical stored above the reporting thresholds, you may request it from the facility and provide it to the requestor (state or local official or to the public).

5.3.6 Confidential Location Information

EPCRA Section 312 allows the owner or operator of facilities to withhold the specific locations of hazardous chemicals on their Tier II inventory form if they submit a confidential location information sheet to their SERC or TERC and LEPC or TEPC. The confidential location information sheet must be submitted by facilities at the time they submit the Tier II inventory form (https://www.epa.gov/sites/production/files/2018-02/documents/t2_confidential_location_info_form_020818.pdf).

SERCs, TERCs, LEPCs, and TEPCs should not release the confidential location information of hazardous chemicals to the public if facilities submit the confidential location information sheet along with their Tier II report.

Chemical Description	Physical Hazards	Health Hazards	Inventory	Type of Storage	Storage Conditions (Pressure, Temperature)	Storage Locations	Additional Reporting Information (Optional)
<input type="checkbox"/> Check if information below is identical to the information submitted last year. Chemical Name: CAS No. EHS: Yes <input type="checkbox"/> No <input type="checkbox"/> <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas <input type="checkbox"/> Trade Secret	<input type="checkbox"/> Explosive <input type="checkbox"/> Flammable (gases, aerosols, liquids, or solids) <input type="checkbox"/> Oxidizer (liquid, solid or gas) <input type="checkbox"/> Self-reactive <input type="checkbox"/> Pyrophoric (liquid or solid) <input type="checkbox"/> Pyrophoric Gas <input type="checkbox"/> Self-heating <input type="checkbox"/> Organic peroxide <input type="checkbox"/> Corrosive to metal <input type="checkbox"/> Gas under pressure (compressed gas) <input type="checkbox"/> In contact with water emits flammable gas <input type="checkbox"/> Combustible Dust <input type="checkbox"/> Hazard Not Otherwise Classified	<input type="checkbox"/> Acute toxicity (any route of exposure) <input type="checkbox"/> Skin corrosion or irritation <input type="checkbox"/> Serious eye damage or eye irritation <input type="checkbox"/> Respiratory or skin sensitization <input type="checkbox"/> Germ cell mutagenicity <input type="checkbox"/> Carcinogenicity <input type="checkbox"/> Reproductive toxicity <input type="checkbox"/> Specific target organ toxicity (single or repeated exposure) <input type="checkbox"/> Aspiration hazard <input type="checkbox"/> Simple Asphyxiant <input type="checkbox"/> Hazard Not Otherwise Classified	Maximum Amount Range Code: Average Daily Amount Range Code: No. of days on site:			Confidential: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Below Reporting Thresholds (optional) <input type="checkbox"/> State or Local Requirements

Figure 24. Section 312 allows facility owners or operators to withhold specific locations of hazardous chemicals on the Tier II Confidential Location Form located on the EPCRA website.

5.3.7 Fire Department Access

EPCRA Section 312(f): Fire department access

Upon request to an owner or operator of a facility which files an inventory form under this section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an on-site inspection of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.

EPCRA Section 312(f) states that the owner or operator of any facility subject to the Section 312 reporting requirements must provide access to the local fire department to conduct inspections. The facility is also required to provide the specific location information of the hazardous chemicals stored on site. This requirement does not modify or preempt any fire codes that may apply.

LEPCs and TEPCs should encourage fire departments in their community to use their authority to conduct inspections of facilities in their jurisdiction so they may prepare and protect themselves and the community when responding to an emergency situation. LEPC and TEPC members may accompany fire department inspectors to learn more about the facilities in their community and the risks.

5.4 Amendments to EPCRA Section 312 under the America’s Water Infrastructure Act of 2018

EPCRA Section 312(e)(4): Availability to community water systems

(A) In general

An affected community water system may have access to tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the affected community water system.

(B) Definition

In this paragraph, the term “affected community water system” means a community water system (as defined in section 300f(15) of this title) that receives supplies of drinking water from a source water area, delineated under section 300j–13 of this title, in which a facility that is required to prepare and submit an inventory form under subsection (a)(1) is located.

In addition to amending EPCRA Section 304 (*see Chapter 4 of this document*), the America’s Water Infrastructure Act (AWIA) also amended EPCRA Section 312 by adding paragraph (4) to Section 312(e).

These amendments require SERCs, TERCs, LEPCs and TEPCs to provide Tier II information to community water systems upon request. As stated in Chapter 4, community water systems should be encouraged to join the LEPC to ensure collaboration for protecting the community.

A fact sheet on AWIA requirements and answers to frequently asked questions are located on EPA’s website at <https://www.epa.gov/epcra/amendments-epcra-americas-water-infrastructure-act>.

5.5 Summary of Sections 311 and 312: Reports, Chemical Covered, Entities Receiving the Reports

	Section 311	Section 312
Reports	MSDSs (or SDSs)	Annual Report of Chemical Inventory (Tier I or Tier II)
Chemicals Covered	Approximately 800,000 OSHA hazardous chemicals, which includes EPCRA EHSs	Approximately 800,000 OSHA hazardous chemicals, which includes EPCRA EHSs
Reporting Thresholds	<ul style="list-style-type: none"> • EHS: 500 pounds or the TPQ, whichever is less • Gasoline:* 75,000 gallons (or about 283,900 liters) • Diesel:* 100,000 gallons (or about 378,500 liters) • All other hazardous chemicals: 10,000 pounds. 	<ul style="list-style-type: none"> • EHS: 500 pounds or the TPQ, whichever is less • Gasoline:* 75,000 gallons (or about 283,900 liters); • Diesel:* 100,000 gallons (or about 378,500 liters) • All other hazardous chemicals: 10,000 pounds.
How and When to Notify	MSDSs (SDSs) or list of chemicals within 3 months on site	Tier II Inventory Report annually by March 1
Whom to Notify	<ul style="list-style-type: none"> • SERC (or TERC) • LEPC (or TEPC) • Fire department with jurisdiction over facility 	<ul style="list-style-type: none"> • SERC (or TERC) • LEPC (or TEPC) • Fire department with jurisdiction over facility

* Note: These thresholds are only applicable for gasoline and diesel that was present at retail gas stations in tank(s) that were entirely underground and were in compliance at all times during the preceding calendar year with all applicable UST requirements at 40 CFR part 280 or requirements of the state UST program approved by the Agency under 40 CFR part 281.

Figure 25. Summary of Sections 311 and 312.