



LEPC meeting information

The County of Lavaca LEPC meets quarterly (January, April, July, and October). Meeting date, time, and location are determined at the previous meeting. Any changes to the locations or times will be posted on the home page scroll. Our meetings are open to the public and we encourage your attendance.

What is a LEPC?

A LEPC is a voluntary organization that is established in an Emergency Planning District designated by the State Emergency Response Commission (SERC). Both SERC and LEPCs were established to meet the requirements of the federal Emergency Planning and Community Right-to-Know Act (EPCRA). LEPCs are required to receive the annual Texas Tier Two (Chemical Inventory) Reports from facilities in their jurisdictions. The LEPCs use this information to perform hazard assessments for their communities. In addition, the LEPCs must make information from these reports available to the public, upon request. Under EPCRA and the Texas Community Right-to-Know Act, LEPCs may also request additional hazardous chemical information from facilities for emergency planning purposes.

Are the members paid to be part of the committee?

Members of the LEPC are non-paid volunteers.

How do I become a member of the LEPC?

Members are selected annually from the community that show a regular attendance at the monthly LEPC meetings. Complete an application and submit your request to any of the LEPC officers.

May I request a representative of the LEPC to address my organization?

Yes, contact anyone of the of the LEPC Officers on the contact page and request a representative/presentation.

What is a Tier Two Report?

A. The Texas Tier Two Report is an annual hazardous chemical inventory which provides detailed information on chemicals which meet or exceed specified reporting thresholds at any time during a calendar year. There are two types of thresholds that determine whether a hazardous chemical will be included on the Texas Tier Two Report: There are very low thresholds for any of the listed Extremely Hazardous Substances (500 pounds or the Threshold Planning Quantity in pounds for the specific listed chemical, whichever amount is less). For all other "generally hazardous chemicals" [products which require a Material Safety Data Sheet (MSDS) under the federal Occupational Safety and Health Administration's (OSHA's) Hazard Communication Standard], the threshold for reporting is 10,000 pounds. The Texas Tier Two Report includes facility tracking information, as well as information on the hazardous chemicals being reported, including common and chemical names of products, hazard classifications, reporting ranges, days on site, container types, and storage locations. Under a new state rule, effective August 1, 2006, Tier Two Reports must be submitted to DSHS in electronic format, using the Tier2 Submit software program to prepare the electronic file. Please see the new options for submitting your electronic Tier Two data file and filing fee at the following link: <http://www.dshs.state.tx.us/tiertwo/publications.shtm#SubmitHelp>

Are government products unavailable to the public exempt?

Executive Order 12856 required federal facilities to comply with all aspects of EPCRA (58 FR 41981; August 6, 1993). Prior to this action, EPCRA did not apply to federal facilities. Consequently, interpretive language previously issued as guidance for non-federal facilities often does not address issues specific to federal facilities. For example, the federal government produces many of its own products (i.e., scouring powder, bleach) for use by its own service people. These products are similar in form and concentration to analogous products manufactured by private companies for distribution to the general public. Many of the federal government's products are packaged in comparable quantities to those produced in the private sector. EPCRA provides an exemption at 40 CFR 370.66 for consumer products present in the same form and concentration as products packaged for distribution and use by the general public. The federal government's products, however, are not available to the general public.

Would the federal products be exempt under the consumer product exemption if they are packaged in the same form and concentration as those manufactured in the private sector, even though they are not available for



purchase by the general public?

Yes. Products manufactured by the federal government that are packaged in the same form (i.e., package size) and concentration as products manufactured by private industry are exempt from EPCRA 311/312 reporting requirements. The federal products need not be available to the general public to meet this exemption. The exemption applies either to the extent a product is used for personal, family, or household purposes, or is present in the same form and concentration as a product used by the

general public (whether or not it is actually used by the general public (40 CFR 370.66)). For further guidance on specific scenarios, federal agencies should look to their respective Executive Order implementing offices to determine the extent of reporting. Some federal agencies have agreed to disregard certain exemptions even though their facilities may qualify for them in order to demonstrate the federal government's leadership role in source reduction and pollution prevention.

Are manufacturers of household products exempt from reporting under Sections 311 and 312?

Section 311(e) exempts from the definition of "hazardous chemical" 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. 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 public. It also applies to these products when they are in the same form and concentration prior to distribution to the consumer, even when the substance is not intended for use by the general public. The term "form" refers to the packaging, rather than the physical state of the substance. However, the manufacturer is exempt from reporting the manufactured product only when the product is in the final consumer form. The manufacturer is not exempt from reporting the raw or processing materials.

Does a lease agreement exempt a facility owner from Tier II reporting?

No. Private parties cannot by contract exempt themselves from liability created by the statutory provisions of EPCRA. Note, however, that the law assigns the responsibility for reporting under Sections 311 and 312 to "the owner or operator of any facility which is required to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations under that act." In some instances, both the owner/lessor and operator/lessee may have the responsibility for MSDS requirements, even for the same chemicals. In other instances, only one party is assigned responsibility for MSDS preparation or availability under the OSHA Hazard Communication Standard.

May I list multiple facilities' addresses in the "locations" field of the Tier2Submit/Chemicals in Inventory/Storage Location screen?

A: No. A separate Facility Name and corresponding Facility Address must be completed for each facility location that has hazardous chemicals on site in quantities equal to or greater than the reporting thresholds. In the Tier2 Submit software program, you can create Tier Two data records for multiple facilities IF all of these facilities are under the same Owner/Operator. When you click on the View List hot button in Tier2 Submit's Facilities/Address screen, you will be able to see a table containing each individual record for each facility that you have entered. Multiple facilities under the same Owner/Operator may be zipped into a single electronic file in Tier2 Submit for submission to the Tier II Chemical Reporting Program.

Consumer Product exemption and batteries.

Sections 311 and 312 apply to owners or operators of any facility that is required to prepare or have available a material safety data sheet (MSDS) for an OSHA defined hazardous chemical present at the facility at any one time in amounts equal to or greater than established thresholds. Facility owners or operators must file MSDSs and Tier inventory forms for each hazardous chemical which meets the reporting criteria. A facility purchases non-industrial batteries in the same form as those packaged for use by the general public.

Must the facility consider the batteries when calculating whether Sections 311/312 thresholds have been triggered?



No. Section 311(e)(3) exempts "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 for the general public." Because the public is generally familiar with the hazards posed by such materials, the disclosure of such substances is unnecessary for right-to-know purposes. The exemption extends to any substance packaged in the same form or concentration as a consumer product whether or not it is used for the same purpose as the consumer product

(October 15, 1987, 52 FR 38344).

Are research laboratories and medical facilities exempt under Sections 311 and 312?

Research laboratories and medical facilities are not exempt from 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 a "research laboratory." 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.

What are the federal record keeping requirements under EPCRA Sections 311 and 312?

Facilities subject to EPCRA §§311 and 312 must submit a material safety data sheet (MSDS) and an inventory form annually to the state emergency response commission (SERC), local emergency planning committee (LEPC), and local fire department. Are there federal recordkeeping requirements for facilities subject to EPCRA §§311 and 312? There are no federal recordkeeping requirements for facilities that are subject to reporting under EPCRA §§311 and 312. However, some states may have guidelines regarding retention of information submitted under state regulations.

How long am I legally required to keep my Tier 2 report(s) at my facility?

A: Each of the Texas Community Right-to-Know Acts (TCRA's) requires the facility operator to keep at the facility a copy of the most current Tier Two Report that has been filed with DSHS, the fire department, and the LEPC. The Program recommends that you keep your current year's Tier Two Report (both hard copy and electronic) on hand at the facility. Under the current TCRA's rules, an electronic Tier Two file is equivalent to a hard copy Tier Two Report. These rules help to ensure that facility operators will not have to maintain hard copies of Tier Two Reports at their facilities if they have maintained electronic files of these reports. Under the TCRAs' requirements, the Texas Department of State Health Services must keep copies of the Tier Two reports for 30 years.

What about Forklift and other large commercial type batteries?

EPCRA section 311(e)(3) exempts from the definition of hazardous chemical any 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 (40 CFR 370.13(c)(1)).

Does this exemption apply to forklift batteries?

This exemption would not apply to the type of batteries normally contained in electric forklift vehicles or other large commercial type batteries for facilities such as telephone switching stations. Chemicals present in this form must be counted towards the chemical's threshold quantity under sections 311 and 312, and reported for section 311 MSDS reporting and section 312 Tier II inventory reporting if the facility has a hazardous chemical present at or above the threshold quantity

What about Hazardous chemicals used for medical or research purposes?

A medical facility uses liquid nitrogen for the nuclear magnetic resonance spectrometer. The spectrometer is used for



medical diagnostic purposes. In addition, the facility is required by OSHA to have an MSDS available for the liquid nitrogen. Is the liquid nitrogen at the facility considered a hazardous chemical for purposes of Sections 304 and 311/312? No. Section 311(e)(4) of and 40 CFR 370.66 and 355.61 of the regulations exclude 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. For purposes of Sections 304 and 311/312, EPA considers this exemption to apply to chemicals that are used in machines or instruments

that are directly used for medical or research purposes (e.g., medical diagnostic equipment, incubators, and oxygen at a hospital or in an ambulance). This exemption does not apply to chemicals used in machines or instruments that serve an ancillary function to the medical or research machines or instruments (e.g., fuel to run a hospital operating room emergency power generator). The exemption would also not apply to chemicals used in machines or instruments that do not have a direct medical or research purpose (e.g., fuel to run an ambulance or other facility vehicles or an autoclave used to sterilize instruments). This exemption would also not apply to building cleaning supplies used in research or medical facilities even though they may be used under the supervision of qualified individuals. It is important to note that the exemption applies to the substances rather than the facility. Under Sections 311 and 312, only those substances which are used for medical or research purposes are exempt. Medical or research facilities may have other hazardous chemicals which are subject to reporting. These medical and research facilities may also be subject to reporting under Section 304 if there is a release of any of these other hazardous chemicals at or above the reportable quantities.

How can I tell if a chemical or chemical product is "hazardous" and therefore reportable on the Tier 2 Report?

A: The Material Safety Data Sheet (MSDS) for a product is the most reliable source of information to help in determining whether that product is considered "hazardous." There are several facts you need to know before you start evaluating MSDSs to determine what products you will need to report: Chemicals and chemical products classified by the federal Occupational Safety and Health Administration's (OSHA's) Tier II Chemical Reporting Program Standard (HCS) as "hazardous" are reportable on the Tier Two Report. Being an "OSHA hazardous chemical" is equivalent to saying that the chemical product is regulated under law the federal Emergency Planning & Community right-to-Know Act, (EPCRA), Sections 311 and 312 (the Tier Two reporting requirement sections). Many product manufacturers choose to publish MSDS's on all of their products, regardless of their hazard classification under the OSHA HCS, so issue of an MSDS does not necessarily mean that the chemical product is classified as an "OSHA hazardous chemical." Many MSDS's contain regulatory information on both the federal worker right-to-know law (OSHA HCS) and the federal community right-to-know, EPCRA, the latter of which is often referenced on MSDS's under its original name, the "Superfund Amendments & Reauthorization Act (SARA), Title III." (In other words, EPCRA = SARA Title III.) There are several sections of the MSDS that will give clues to help determine whether a chemical product is considered an OSHA hazardous chemical: Regulatory Information Section: If the MSDS says the chemical product is regulated under EPCRA, Sections 302, 311, 312 and/or 313, then it is considered an OSHA hazardous substance. If the MSDS provides the EPCRA hazard categories (Acute, Chronic, Fire, Pressure, and Reactivity) and indicates that one or more of the hazard categories are applicable (example: a hazard category box or blank is checked), then the product is considered an OSHA hazardous substance. However, if these hazard categories are provided and none of the hazard categories' boxes or blanks are checked, then the chemical product is not considered an OSHA hazardous substance. If the MSDS says the chemical product is not reportable under EPCRA, Sections 311 and 312, then the chemical is exempt from Tier Two reporting requirements. If the MSDS indicates that the chemical product is exempt from EPCRA, Section 313, but does not indicate that it is exempt from Section 311

Do I need to report lead-acid batteries on the Tier 2 Report?

A facility has few lead-acid batteries (non-consumer type) on site. How does the facility report these batteries on the Tier II form? The facility must first determine if there are any hazardous chemicals or extremely hazardous substances (EHSs) in the batteries. Most batteries contain sulfuric acid, an EHS, and then some non-EHSs. The facility must evaluate if sulfuric acid should be reported on the Tier II form by aggregating the amount of sulfuric acid in each battery and determine if the total quantity meets the threshold level. The threshold level for EHSs established in 40 CFR part 370 is 500 lbs or the TPQ, whichever is lower. The threshold planning quantity for sulfuric acid is 1,000 lbs (40 CFR part 355, Appendix A and B). Therefore, if the total amount of sulfuric acid is at or above 500 lbs, which is the reporting threshold under sections 311 and 312, then the facility may choose to report the



batteries indicating that sulfuric acid, an EHS is present above the threshold. The facility also has the option to report sulfuric acid on the form if the total amount in all batteries is above 500 pounds. Although the options for reporting are provided in the statute and the regulations in 40 CFR part 370, the statute and the regulations also state that reporting under EPCRA Section 311 (MSDS reporting) and Section 312 (inventory reporting) should be consistent (40 CFR 370.14(b)). It is important for emergency responders to obtain accurate information that the facility has batteries that contain sulfuric acid above the reporting threshold. The

preamble to the final rule, July 26, 1990, (55 FR 30632) provides instructions on how to fill out the Tier II form for the two options. Since the batteries also contain some non-EHSs such as lead, EPA has provided in the preamble to the final rule of July 26, 1990, that the facility is not required to aggregate the amount of lead in each battery. If the facility chooses to aggregate the non-EHSs in the batteries, however, it may do so.

How do I report lead-acid batteries on the Tier 2 Report?

A: First, determine the total weight of all the lead-acid batteries at the facility. If the sum is greater than 10,000 pounds, the batteries must be reported as one chemical entry under the Chemicals in Inventory screens. Then open the Mixture Components screen and enter each hazardous chemical ingredient, including Sulfuric Acid, on this screen, along with each ingredient's corresponding CAS number, as listed on the battery's MSDS. Second, Determine the total weight of Sulfuric acid in the batteries. This is done by using the following formula: Weight of Battery x % Electrolyte in battery x % sulfuric acid in electrolyte = weight of sulfuric acid If the percentage of electrolyte in the battery or the percentage of sulfuric acid in the electrolyte is unknown you may use the following formula: Weight of battery x 0.18 = estimated weight of sulfuric acid If the total amount of sulfuric acid in all the batteries is above 500 pounds, the sulfuric acid must be reported as a separate chemical entry under the Chemicals in Inventory screens. For this entry, you may note on the Storage Locations screen / Locations field(s) that the sulfuric acid is stored in lead acid batteries, and then you can provide the storage location description of those batteries.

How should locations be identified on Tier I/II forms?

Tier I forms provide for listing the general location for all applicable chemicals in each hazard category, including the names and identifications of buildings, tank fields, lots, sheds, or other such areas. Tier II forms provide for reporting buildings, at a minimum, and allow facilities to describe briefly the location of hazardous chemicals on the form itself or to submit site plans or site coordinates. Submitting additional information, such as site plans and site coordinate system may be useful on a site-by-site basis but is not necessary for every facility.

I store the same chemical in various sections of my facility. Should I report each location separately?

A: You should report the chemical on the Chemicals in Inventory/Physical State & Quantity screen in Tier2 Submit. Then list each of the chemical's physical storage locations separately under the Chemicals in Inventory/Storage Locations screen under the "Locations" fields (using one line for each storage code and location). However, if your facility is storing a hazardous chemical in small quantities at numerous locations throughout the facility, you may report the location description under Chemicals in Inventory/Storage Locations/Locations as "throughout facility" (with just a single line entry). Storage location descriptions for large quantities of the chemical (such as a primary storage tank, a warehouse storage location for original containers, etc.) should still be provided as separate line entries under the Chemicals in Inventory/Storage Locations screen, in the Locations fields (one description per line under "Locations").

Is customized paint exempted under the consumer product exemption?

A store sells paint in five-gallon cans to the general public. Customers may purchase the paint as received from the manufacturer, or they may request a custom shade of paint. To attain the customer's desired shade, store employees will mix two or more base colors. This process involves opening the cans, mixing the colors together, and pouring the custom-made shade into a five-gallon can. Sections 311 and 312 require facility owners and operators to report all hazardous chemicals as defined by 29 CFR section 1910.1200(c) that exceed the applicable thresholds found in 40 CFR 370.10. Section 311(e)(3) of EPCRA excludes from the definition of hazardous chemical 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. For reporting under Sections 311 and 312, will this paint qualify for the consumer product exemption found in Section 311(e)(3), or must the store owner or operator report on the custom-mixed paint since it is processed to achieve the final form purchased by the consumer? The paint is exempt from the definition of hazardous chemical under the consumer product exemption in 40 CFR section 370.66 regardless of whether it is mixed on the premises or purchased by the

consumer in the same form the store received it. Any substance that is found in the same form and concentration as a product packaged for general distribution qualifies for this exemption (October 15, 1987, 52 FR 38344). Since both the manufacturer's premixed paint and the store's custom-made shades are in the same form and concentration as products packaged for distribution by the general public (indeed, they are in such products), none of the chemicals found in either type of paint are reportable under Sections 311 and 312.

What are the MSDS requirements for mixtures made on-site and not distributed into commerce?

A facility owner/operator brings on-site two components that he blends into a mixture for on-site use. Since the mixture is not distributed to commerce, the facility owner/operator claims that Occupational Safety and Health Administration (OSHA) does not require him to develop a new Material Safety Data Sheet (MSDS) for the mixture. Rather he simply uses the MSDSs for the two components. When the facility owner/operator submitted his list under Section 311, he reported on the mixture rather than on the components. If his Local Emergency Planning Committee (LEPC) requests a copy of the MSDS for the mixture reported on his list, is the facility owner/operator required to develop a MSDS for the mixture? Or, can he submit the copies of the MSDSs for the components, since no new MSDS is required under OSHA's Hazard Communication Standard (HCS)? In satisfying the reporting obligations of Sections 311 and 312 and 40 CFR Section 370.30 (material safety data sheet (MSDS) reporting) and Section 370.40 (inventory form reporting), the statute and the regulations allow an owner or operator the option of reporting on the hazardous components in the mixture or on the mixture as a whole (see Section 311(a)(3) and 40 CFR 370.14). The statute and regulations require, however, that when an owner or operator reports on the mixture as a whole, that he or she have available an MSDS for that mixture. For example, under Section 311(c), the statute requires that when an owner or operator of a facility submits a list of chemicals to satisfy the reporting requirement of Section 311, he or she submit the material safety data sheet for the chemicals or the list upon the request of the local emergency planning committee. In addition, under Section 312(d)(2)(A), a Tier II inventory form must provide "the chemical name or the common name of the chemical as provided on the material safety data sheet." Thus EPA interprets the statutory and regulatory provisions to allow reporting on mixtures for which owner or operator has available a material safety data sheet. The Agency recognizes that OSHA does not require the preparation or availability of MSDS for all mixtures an owner or operator may wish to report as a mixture under EPCRA. Nevertheless, because of the statutory and regulatory requirements of EPCRA, the Agency is limiting the reporting of mixtures, as a whole, to only those mixtures for which the owner or operator has available a MSDS, regardless of whether the preparation of such an MSDS is required by OSHA. If no material safety data sheet exists for a given mixture, the owner or operator should report the hazardous components of the mixture under Section 311 (40 CFR 370.30) so that he or she is able to respond to a LEPC request for the MSDS of the mixture under Section 311(c).

What are the rules for Oxygen used at a hospital by technically qualified individuals?

A hospital stores oxygen in a large outside bulk storage tank and delivers the material, as needed, throughout the hospital using a piping system (the oxygen is used only in the treatment of patients). The bulk storage tank is routinely maintained by hospital maintenance people but the oxygen itself is administered to patients by nurses, doctors, nurses aides, and other persons trained in the medical field. Furthermore, the hospital is required by OSHA to have available an MSDS for the oxygen. Is the oxygen a "hazardous chemical" pursuant to EPCRA Sections 304 and 311/312?

No. Section 311(e)(4) of EPCRA and 40 CFR 370.66 and 355.61 of the regulations exclude 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. EPA believes that this exemption is intended to include substances which are used or will be used at these facilities under the direct supervision of technically qualified individuals for medical or research purposes (October 15, 1987, 52 FR 38347). The exemption would include the storage of the substances at these facilities prior to the use of the substance. [Note: the term "technically qualified" is interpreted (for purposes of EPCRA Sections 304 and 311/312) to refer to individuals who are adequately trained in the research or medical fields, as appropriate (for example, doctors, nurses,

research professionals).]

In the above example, the oxygen at the hospital is not considered a hazardous chemical because it is used for medical purposes and its administration is carried out by medical professionals (i.e., doctors, nurses, etc.). The amount stored at the hospital is also exempt from being a hazardous chemical since it will be used for medical purposes (even though the actual storage is supervised by non-medical persons). [Note: if medical or research facility stores a material, some of which will be used for medical or research purposes and some of which will not be used for medical or research purposes, only the amount stored for medical or research purposes is exempt from the definition of a hazardous chemical.]

Therefore, this exemption would not apply to building cleaning supplies used at research or medical facilities even though they may be used under the supervision of qualified individuals, because they are not used for medical purposes. It is important to note that the exemption applies to the substances rather than the facility. Under Sections 311 and 312, only those substances which are used for medical or research purposes in medical or research facilities are exempt. Medical or research facilities may have other hazardous chemicals which are subject to reporting. These medical and research facilities may also be subject to reporting under Section 304 if there are any release of these other hazardous chemicals above their reportable quantities.

What are the Reporting responsibilities for hazardous chemicals brought on-site by contractor?

A construction company is contracted by a manufacturing company to perform work at the manufacturer's site. The construction company brings hazardous chemicals onto the site to perform its construction activities. During normal conditions of use as well as in foreseeable emergencies, only employees of the construction company will be exposed to any of the hazardous chemicals brought to the site by the construction company. Is the manufacturing company responsible for reporting, under Sections 311 and 312, on hazardous chemicals brought onto its site by the construction company? No. It is the responsibility of an owner or operator who is required by the Occupational Safety and Health Administration (OSHA) to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical to report on those chemicals under Sections 311 and 312. In the above scenario, the employer of the construction workers is the person who is required by OSHA to prepare or have available a MSDS for the hazardous chemicals that are brought onto the manufacturer's site to perform the contracted work. The employer of the construction workers operates a facility during the construction phase and should, therefore, report on these hazardous chemicals if applicable thresholds are met. For purposes of Sections 311/312, the manufacturing company is not required to factor into threshold calculations or report on any amounts of hazardous chemicals brought on site by the construction company because the manufacturer is not required to prepare or have available an MSDS for these chemicals under OSHA regulations.

What are the threshold calculations for acid mixtures?

Do you apply the whole weight of an acid mixture towards the threshold under EPCRA Sections 311 and 312 or just the percentage of acid stated on the material safety data sheet (MSDS)? Aqueous acids are considered mixtures under EPCRA Sections 311 and 312. The acid itself is the hazardous chemical mixed with water when in solution. If the MSDS for a hazardous chemical which is not an EHS provides percent concentration information, the facility may use the percentage of acid stated to determine if thresholds have been met for that component. If no information is given, or if the facility is applying the threshold to the mixture as a whole, it must apply the entire amount of the mixture towards the threshold. For acids which are extremely hazardous substances (e.g., sulfuric acid), the facility must determine if the thresholds have been met for that component.

Why Two threshold planning quantities (TPQs)?

Several substances on the list of extremely hazardous substances (EHSs) have two threshold planning quantities (TPQs) listed in 40 CFR Part 355, Appendix A. When would a facility use the higher TPQ? EHSs that are in solid form



are subject to one of two different TPQs. A facility should use the lower TPQ if the solid is in powdered form and has a particle size less than 100 microns; is in solution; is in molten form; or meets the criteria for a National Fire Protection Association rating of 2, 3 or 4 for reactivity (§355.15(a)). If the solid does not meet one of these criteria, then the TPQ is 10,000 pounds (§355.15(b)).

A facility would only apply the 10,000 pound TPQ for an EHS when complying with the EPCRA Section 302 emergency planning notification requirements. For the purposes of EPCRA Section 311 or 312 reporting

requirements (for example, Tier II reporting), a facility would use the threshold of 500 pounds or the designated TPQ in Part 355, Appendix A, whichever one is lower (§370.10(a)(1)).

Update / correct MSDS submission or Tier II report

Facilities that have threshold amounts of hazardous chemicals are required to submit an MSDS for each hazardous chemical and Tier II information annually to their SERC, LEPC, and local fire department (40 CFR 370.10(a)). Are there any requirements to update or correct MSDS reporting or a Tier II report if the facility discovers new information? There are no regulatory requirements to correct or update submitted Tier II information from prior years. Part 370 only requires facilities to update MSDS information. Facilities must submit a revised MSDS upon the discovery of significant new information concerning a hazardous chemical for which an MSDS was previously submitted, for any new hazardous chemical for which a facility becomes subject to the reporting requirements of Part 370, or as requested by the LEPC (§370.31).

How would a facility report a hazardous chemical that they acquired above the reporting threshold after the October 17, 1987, deadline for Section 311?

An update must be submitted within three months anytime there is discovery of significant new information, or if an unreported hazardous chemical is present in a quantity exceeding the reporting thresholds. This update can be the MSDS for the new hazardous chemical, an updated list of hazardous chemicals, or an addendum to the original MSDS list submitted.

What is considered cryogenic conditions?

The Tier II Hazardous Chemical Inventory form, used to meet annual EPCRA §312 reporting requirements, requires facility owners or operators to note whether reported hazardous chemicals are present at, above, or below ambient temperature. For temperatures below ambient, the form distinguishes between "less than ambient temperature but not cryogenic" and "cryogenic conditions." What is considered cryogenic conditions? Some gases are stored under "cryogenic conditions," which means that they are stored at very low temperatures (-130 degrees Fahrenheit or less). Examples of gases that may be stored this way include air, argon, carbon monoxide, ethylene, fluorine, helium, hydrogen, methane, nitrogen, and oxygen.

When can I consolidate facilities under one filing fee?

A: To consolidate filing fees, you **must** meet all of the following conditions, as appropriate:

- Each facility must have the same operator
- Each facility must have no more than 24 reportable chemicals
- Each facility must have the same Owner/Operator name and address
- Two manufacturing facilities can be consolidated under one \$100 fee
- Up to seven non-manufacturing or public facilities can be consolidated under one \$50 fee

Fees can be consolidated for facilities with different chemicals and different LEPC jurisdictions. If you are reporting multiple facilities that meet the criteria above, you may want to use the Fee Calculator on this website to determine the total filing fee owed.



Why are all compressed gases considered hazardous?

A: As defined by the [OSHA HCS](#), compressed gases are "those gases or mixtures of gases that have an absolute pressure of 40 pounds per square inch (psi) at 70° F or an absolute pressure exceeding 104 psi at 130 deg. F, regardless of the pressure at 70 deg. F." All compressed

gases are considered hazardous since they pose a sudden release of pressure or explosion hazard due to the fact that their contents are under very high pressure. Therefore, even compressed gas cylinders of breathing air are considered "hazardous" because of their physical hazard. Many compressed gases also pose health threats when their contents are released because the gases in the containers are classified as "hazardous" by [OSHA](#), based on the gases' toxicity, irritant properties, ability to displace oxygen, etc.