



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 370

[EPA-HQ-OLEM-2025-0299; FRL-12698-06-OLEM]

RIN 2050-AH40

EPCRA Hazardous Chemical Inventory Reporting Requirements: Conformity with the 2024 OSHA Hazard Communication Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is conforming the Emergency Planning and Community Right-to-Know Act hazardous chemical inventory reporting regulations to the Occupational Safety and Health Administration's Hazard Communication Standard amendments of 2012 and 2024. The Emergency Planning and Community Right-to-Know Act (EPCRA) and its regulations rely on the Occupational Safety and Health Administration's (OSHA's) Hazard Communication Standard for the definition of a hazardous chemical and for the categories of health and physical hazards that must be reported under the hazardous chemical inventory regulations. This action conforms the terminology used and information that must be reported on the hazardous chemical inventory forms to the Hazard Communication Standard amendments. As a result, this action improves first responder and community safety, reduces discrepancies and confusion, prevents interpretation burdens on facilities when using (Material) Safety Data Sheets to complete annual hazardous chemical inventory reports, and enhances clarity.

DATES: *Effective date:* This final rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Compliance date: The compliance date for the use of the new hazard categories is

January 1, 2028. The EPA expects these changes to be reflected in 2027 EPCRA section 312 annual reports, due March 1, 2028.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OLEM-2025-0299. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Jennifer Barre, Office of Resource Conservation and Recovery, Oil Spills and Chemical Accident Requirements Branch, Environmental Protection Agency, 1200 Pennsylvania Ave NW, Mail Code: 5304T, Washington, DC 20460; telephone number: (202) 564-9026 or (240) 644-4559; email address: barre.jennifer@epa.gov; websites: <https://www.epa.gov/epcra/emergency-planning-and-community-right-know-act-non-section-313-regulations-and-amendments>.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information

- A. Summary of this final rule
- B. Who does this regulation apply to?
- C. What does this regulation require from facilities?
- D. Why is the Agency taking this action?
- E. What is the Agency's authority for taking this action?
- F. What are the incremental costs and benefits of this action?

II. Background

- A. History of EPCRA hazard categories
- B. Proposed rule

III. Revisions to 40 CFR part 370

- A. EPCRA hazard categories
- B. Definitions
- C. Other revisions to 40 CFR part 370
- D. Burdens, Economics, and the Regulatory Process
- E. Summary of revisions to 40 CFR part 370

IV. Statutory and Executive Orders Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Executive Order 14192: Unleashing Prosperity Through Deregulation
- C. Paperwork Reduction Act (PRA)
- D. Regulatory Flexibility Act (RFA)
- E. Unfunded Mandates Reform Act (UMRA)
- F. Executive Order 13132: Federalism
- G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
- J. National Technology Transfer and Advancement Act (NTTAA)
- K. Congressional Review Act (CRA)

List of Acronyms

APA	Administrative Procedure Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
CRA	Congressional Review Act
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
FR	<i>Federal Register</i>
GHS	United Nations Globally Harmonized System of Classification and Labelling of Chemicals
HCS	Hazard Communication Standard
HNOC	Hazard Not Otherwise Classified
ICR	Information Collection Request
LEPC	Local Emergency Planning Committee
NTTAA	National Technology Transfer and Advancement Act
MSDS	Material Safety Data Sheet
OMB	Office of Management and Budget
OSH Act	Occupational Safety and Health Act of 1970 [Public Law 91-596]
OSHA	Occupational Safety and Health Administration
PRA	Paperwork Reduction Act
RIA	Regulatory Impact Assessment
RFA	Regulatory Flexibility Act
SARA Title III	Title III of the Superfund Amendments and Reauthorization Act
SDS	Safety Data Sheet
TEPC	Tribal Emergency Planning Committee
SERC	State Emergency Response Commission
TERC	Tribal Emergency Response Commission
UMRA	Unfunded Mandates Reform Act
U.S.C.	United States Code

I. General Information

A. Summary of this final rule

The Environmental Protection Agency (EPA or the Agency) is promulgating this final action to amend the hazardous chemical inventory reporting regulations at 40 CFR part 370 to conform to OSHA's Hazard Communication Standard (HCS) updates of 2012 and 2024 and to make minor updates for plain language, clarity, and consistency.

In 2012, the OSHA HCS, codified at 29 CFR 1910.1200, was amended to adopt the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS) [77 FR 17574; March 26, 2012]. Among these 2012 OSHA HCS amendments, OSHA replaced the term *Material Safety Data Sheet (MSDS)* with the term *Safety Data Sheet (SDS)* and also stated that these two terms mean the same thing. In alignment, EPA amended its hazardous chemical reporting regulations at 40 CFR part 370 to conform to these changes [81 FR 38104; June 13, 2016, and 81 FR 47311; July 21, 2016]. The EPA 2016 amendments included adding the term SDS to the regulation so that both terms are used together throughout 40 CFR part 370. In this action, EPA is removing use of the term MSDS and revising the definition of *safety data sheet* to conform to the OSHA HCS and to improve readability of the regulation in the following sections: §§ 370.1, 370.3, 370.10, 370.12, 370.13, 370.14, 370.20, centered heading, 370.30, 370.31, 370.32, 370.33, 370.60, 370.62, 370.63, and 370.64.

In 2024, the OSHA HCS, codified at 29 CFR 1910.1200, was further amended to conform to revisions of the United Nations Globally Harmonized System of Classification and Labelling of Chemicals [89 FR 44144; May 20, 2024, and 89 FR 81829; October 9, 2024]. This update improves awareness of chemical hazards by instituting changes as to how chemical hazards are reported on SDSs. Hazards reported on SDSs are used for reporting hazardous chemical inventories under EPCRA sections 311 and 312 [42 U.S.C. 11021 and 11022]. In this action, EPA is amending the EPCRA hazard categories and the definition of *hazard category* to conform with the 2024 OSHA HCS and make conforming amendments to the following sections: §§ 370.3, 370.30,

370.41, and 370.42. The Agency is also noting that OSHA codified the following definition of combustible dust at 29 CFR 1910.1200(c): “Combustible dust means finely divided solid particulates of a substance or mixture that pose a flash-fire hazard or explosion hazard when dispersed in air or other oxidizing media.” [89 FR 44272-44274; May 20, 2024] This definition is applicable to 40 CFR part 370 by the existing reference to the OSHA HCS within the definition of hazardous chemical at 40 CFR 370.66. EPA is not making amendments to further incorporate this definition.

The Agency is also making minor plain language, clarifying, and consistency updates in the following sections: §§ 370.1, 370.2, 370.3, 370.10, 370.14, 370.30, 370.32, 370.33, 370.40, 370.41, 370.42, 370.43, 370.44, 370.45, 370.60, 370.61, 370.62, 370.64, 370.65, and 370.66. Of note, this includes capitalizing each letter of the term *Extremely Hazardous Substance* at § 370.66 to differentiate the term from its other uses. Additionally, the Agency is moving the definitions for this part from §§ 370.66 to 370.3, amending the title of § 370.3 to be *Definitions*, and amending the title of § 370.66 to be *[Reserved]*. These adjustments add clarity to the regulation by providing definitions of key words prior to the requirements. Further, EPA is removing the historic compliance dates from §§ 370.33 and 370.45, as well as removing the historic clarifications for electronic reporting from §§ 370.41 and 370.42. These removals improve the readability of the regulation by removing irrelevant information.

B. Who does this regulation apply to?

Sections 311 and 312 of the EPCRA statute [42 U.S.C. 11021 and 11022], and its implementing regulations at 40 CFR part 370, apply to the owners and operators of facilities that are required to prepare or have an SDS for any hazardous chemical defined under the Occupational Safety and Health Act of 1970 (OSH Act) and its implementing regulations (i.e., the HCS). EPCRA section 311(e) defines the term *hazardous chemical* to have the same meaning as in OSHA’s regulations found at 29 CFR 1910.1200(c),

except for certain substances exempted in EPCRA section 311(e) [42 U.S.C. 11021(e)]. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

C. What does this regulation require from facilities?

The regulations found at 40 CFR part 370 codify the statutory requirements of EPCRA sections 311 and 312. These EPCRA hazardous chemical inventory reporting requirements were first promulgated in 1987 [53 FR 38344; October 15, 1987].

Section 311 requires that facilities submit SDSs of hazardous chemicals or a list of hazardous chemicals grouped into categories of health and physical hazards as defined in OSHA's HCS to the State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC), and local fire department with jurisdiction over the facility. This is a one-time submittal with resubmission requirements if there is significant new information for existing hazardous chemicals, new hazardous chemicals present at the facility, or upon request by the LEPC as required at 40 CFR 307.31. Section 312 requires that facilities submit an emergency and hazardous chemical inventory form to the SERC, LEPC, and local fire department, by March 1st annually. The inventory form provides the health and physical hazards of each hazardous chemical as well as the locations and quantities present at the facility during the previous calendar year. There are two reporting tiers, Tier I and Tier II.

SERCs provide direction for facilities in their states for whether a Tier I or a Tier II form is required to be submitted. Currently, all states require use of the Tier II inventory form, which provides specific information on each hazardous chemical for developing and maintaining local emergency response plans. The Tier I inventory form provides only general information on hazardous chemicals and is currently not accepted by any state for reporting under the EPCRA section 312.

Note that the term SERC includes Tribal Emergency Response Commissions

(TERCs) and the term LEPC includes any Tribal Emergency Planning Committees (TEPCs). Facilities on Tribal lands need to verify with their Tribe which SERC or TERC, LEPC or TEPC, and fire department to submit the EPCRA 311 and 312 hazardous chemical inventory reports to. [55 FR 3062; July 26, 1990]

D. Why is the Agency taking this action?

EPA is taking this action to ensure that the hazardous chemical inventory reporting requirements of EPCRA sections 311 and 312 are in conformance with the OSHA HCS SDS requirements, to publish a uniform format for inventory forms using OSHA SDS hazard categories, and to improve plain language use in the regulations. EPA anticipates that coordination with the OSHA HCS and with the GHS will provide greater clarity to the regulated community and facilitate emergency planning.

E. What is the Agency's authority for taking this action?

- 42 U.S.C. 11021(a)(2)(A)(i) states that the EPCRA section 311 list of hazardous chemicals report shall be grouped into categories of health and physical hazards as set forth under the OSH Act and the OSHA HCS, or in other categories as EPA may prescribe under subparagraph (B).
- 42 U.S.C. 11021(a)(2)(B) states that, for the EPCRA section 311 list of hazardous chemicals report, EPA may modify the categories of health and physical hazards as set forth under the OSH Act and the OSHA HCS by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency.
- 42 U.S.C. 11022(d)(1)(C) states that, for the EPCRA section 312 annual hazardous chemical inventory forms, EPA may modify the OSH Act and OSHA HCS categories of health and physical hazards by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency.

- 42 U.S.C. 11022(g) states that for the EPCRA section 312 annual hazardous chemical inventory forms, EPA shall publish a uniform format for inventory forms.
- 42 U.S.C. 11049(1) states that the term *Administrator* used throughout the statute means the Administrator of the Environmental Protection Agency.

F. What are the incremental costs and benefits of this action?

This action does not create any additional requirements for affected facilities. EPA also anticipates that this action will improve first responder and community safety; prevent interpretation burdens for facilities, states, local agencies, and fire departments; and improve clarity without increasing the regulatory burden. Incremental cost savings due to the final rule reflect changes in respondent labor burden associated with EPA's regulatory changes conforming to the updated OSHA categorization. EPA estimates the final rule will result in annual cost savings of \$12.83 million (\$2025) for the approximately 463,000 affected facilities.

II. Background

A. History of EPCRA hazard categories

The EPCRA statute specifies that the hazardous chemical inventory reporting under sections 311 and 312 should be based on the health and physical hazard categories established under the OSH Act and the OSHA HCS regulations and that EPA may modify those hazards. Accordingly, in 1987, EPA modified OSHA's 23 health and physical hazards into five hazard categories (two health and three physical hazard categories) for facilities to use for reporting and codified the requirements at 40 CFR part 370. Facilities used the following five categories for EPCRA hazardous chemical inventory reporting from 1987 through 2016: (1) *Immediate (acute) health hazard*, including highly toxic, toxic, irritant, sensitizer, corrosive, and other hazardous chemicals that cause an adverse effect to a target organ and which effect usually occurs rapidly as a

result of short-term exposure and is of short duration; (2) *Delayed (chronic) health hazard*, including carcinogens and other hazardous chemicals that cause an adverse effect to a target organ and which effect generally occurs as a result of long-term exposure and is of long duration; (3) *Fire hazard*, including flammable, combustible liquid, pyrophoric, and oxidizer; (4) *Sudden release of pressure*, including explosive and compressed gas; and (5) *Reactive*, including unstable reactive, organic peroxide, and water reactive. [53 FR 38344; October 15, 1987]

In 2016, EPA conformed the EPCRA regulations at 40 CFR part 370 with the 2012 OSHA HCS. The 2012 OSHA HCS adopted the GHS to establish consistent and standardized hazard communications and required the development of SDSs with a uniform 16-section format. The EPA’s conforming action included replacing the five 1987-2016 EPCRA hazard categories established in 1987 with the 2012 OSHA HCS hazard classes, as listed within the definitions of *health hazard* and *physical hazard*, as well as the four hazards that the GHS did not address (simple asphyxiant, combustible dust, pyrophoric gas, and hazard not otherwise classified) but are included in the 2012 OSHA HCS definition of a hazardous chemical. In the 2016 direct final rule preamble, EPA discussed that the 2012 OSHA HCS divides the OSHA hazard classes into categories, stating that the detailed criteria would be valuable for emergency planners and first responders, but did not incorporate the hazard categories into the EPCRA hazardous chemical inventory reports. [81 FR 47311; July 21, 2016] The following table lists the 2017-2026 EPCRA hazard categories, as was published in 40 CFR 370.66 from 2016 until the compliance date of this action (January 1, 2028):

EPCRA Hazard Categories Based on OSHA Definitions (Used from 2017 through 2026)	
Health hazards	Physical hazards

• Acute toxicity (any route of exposure) • Aspiration hazard • Carcinogenicity • Germ cell mutagenicity • Reproductive toxicity • Respiratory or skin sensitization • Serious eye damage or eye irritation • Simple asphyxiant • Skin corrosion or irritation • Specific organ toxicity (single or repeat exposure) • Hazard not otherwise classified (HNOC)	• Combustible dust • Corrosive to metal • Explosive • Flammable (gases, aerosols, liquids, or solids) • Gas under pressure • In contact with water emits flammable gas • Organic peroxide • Oxidizer (liquid, solid, or gas) • Pyrophoric (liquid or solid) • Pyrophoric Gas • Self-heating • Self-reactive • Hazard not otherwise classified (HNOC)
--	--

B. Proposed rule

In 2024, OSHA amended the HCS to conform with the GHS (primarily to GHS Revision 7, published in 2017). The 2024 OSHA HCS modifications that affect EPCRA include revised criteria for the classification of certain physical hazards to better capture and communicate the hazards to downstream users and amended contents for *Section 2.*

Hazard Identification of SDSs. [89 FR 44144; May 20, 2024]

The following is a list of the revised criteria affecting EPCRA: (1) replacement of the hazard class *Flammable Aerosols* with *Aerosols and Chemicals Under Pressure*; (2) addition of the hazard class *Desensitized Explosives*; (3) inclusion of pyrophoric and chemically unstable gases within the definition of *Flammable Gases*; and (4) removal of pyrophoric gases from the definition of hazardous chemical. These modifications also affect the definitions of *health hazards* and *physical hazards* at 40 CFR 370.66, which EPA proposes to move to 40 CFR 370.3 in this action. The following discusses these changes to the OSHA hazard classes and the proposed conforming amendments to the EPCRA regulation at 40 CFR part 370.

The 2024 OSHA HCS replaces the *Flammable Aerosols* hazard class with two

hazard classes: *Aerosols* and *Chemicals Under Pressure*. These two hazard classes are both divided into three hazard categories (two for flammables and one for non-flammable) [89 FR 44321-44324; May 20, 2024]. This HCS modification groups substances with different hazards for first responders into the same hazard class. For example, non-refillable fire extinguishers would be classified as *Aerosol - Category 3*, where highly flammable paints would be *Aerosols - Category 1*. So, although substances with these hazard classifications are in the same OSHA hazard class (i.e., *Aerosols*), they do not present the same hazards in an emergency, as is required by sections 311 and 312 of the EPCRA statute [42 U.S.C. 11021(a)(2)(B) and 11022(d)(1)(C)(i)].

On November 17, 2025, to align with this modification while ensuring the protection of first responders and communities, the EPA published the now withdrawn direct final rule [90 FR 51187] and the parallel proposed rule [90 FR 51266]. On January 9, 2026, due to the receipt of adverse comment regarding the hazard categories, EPA withdrew the direct final rule [91 FR 918]. Because the direct final rule did not become effective, the Agency is proceeding with a final rule based on the parallel proposed rule [90 FR 51266] which was published separately. The Agency considered all comments submitted to the docket [EPA-HQ-OLEM-2025-0299] for both the now withdrawn direct final rule and the parallel proposed rule. Discussions are in section III. of this final rule.

The intent of the proposed rule was to directly incorporate the OSHA hazard categories into the EPCRA regulation, as opposed to the approach EPA adopted in the 2016 final rule [81 FR 38104; June 13, 2016] which included summaries of hazard classes as provided in the OSHA definitions at 29 CFR 1910.1200(c) for hazardous chemical, health hazard, and physical hazard into the EPCRA regulation. This method used for reporting from 2017 through 2026 grouped together similarly named OSHA hazard classes rather than using the OSHA hazard categories. These groupings of multiple OSHA hazard classes were acute toxicity (any route of exposure), flammable

(gases, aerosols, liquids, or solids), gas under pressure (compressed gas), oxidizer (liquid, solid or gas), and pyrophoric (liquid or solid), resulting in 24 EPCRA hazard categories. Instead of this grouping approach, the Agency proposed [90 FR 51266; November 17, 2025] to incorporate the OSHA hazard categories as the EPCRA hazard categories. The proposed rule stated that these more detailed hazard categories provide more accurate hazard information. This increased specificity in hazard information is invaluable to emergency planners and responders, while allowing facilities to simply copy the hazard categories from the SDSs to the EPCRA inventory reports. The proposed modification to the EPCRA regulations to use the OSHA hazard categories is in direct alignment with the statutory sections 42 U.S.C. 11021(a)(2)(A)(i) and 11022(d)(1)(A), which state that the EPCRA hazardous chemical inventory reporting should be based on the categories of health and physical hazards as set forth under the OSH Act and its regulations. During the 30-day public comment period for this action, EPA received nine comments on the modification of the hazard categories. The discussion and final hazard categories are in section III.A. below.

EPA also proposed to adjust the definitions for 40 CFR part 370 to amend the definitions of *hazard category* and *safety data sheet* and remove the definition of *Material Safety Data Sheet*. Further, the Agency proposed to move the definitions for 40 CFR part 370 from §§ 370.66 to 370.3 to ensure clarity and consistency within the EPCRA regulations. Additionally, the Agency noted that OSHA codified the following definition of combustible dust at 29 CFR 1910.1200(c): “Combustible dust means finely divided solid particulates of a substance or mixture that pose a flash-fire hazard or explosion hazard when dispersed in air or other oxidizing media.” [89 FR 44272-44274; May 20, 2024] This definition is applicable to 40 CFR part 370 by the existing reference to the OSHA HCS within the definition of hazardous chemical at 40 CFR 370.66. EPA is not making amendments to further incorporate this definition. During the 30-day public

comment period for these actions, only supporting comments were received for definition portions of the proposal. The discussions and final definitions are in section III.B. below.

Further, EPA also proposed to make minor plain language, clarifying, and consistency edits in the following sections: §§ 370.1, 370.2, 370.3, 370.10, 370.14, 370.30, 370.32, 370.33, 370.40, 370.41, 370.42, 370.43, 370.44, 370.45, 370.60, 370.61, 370.62, 370.64, 370.65, and 370.66. These proposed changes include capitalizing each letter of the term *Extremely Hazardous Substance* to add clarity between the distinct set of substances listed in the appendices of 40 CFR part 355 and other uses of the term, removing the historic compliance dates from §§ 370.33 and 370.45, as well as removing the historic clarifications for electronic reporting from §§ 370.41 and 370.42. No comments were received for these edits, during the 30-day public comment period for these actions. The discussion is in section III.C. below.

III. Revisions to 40 CFR part 370

In this final action, consistent with the proposal, EPA is amending its hazardous chemical inventory reporting regulations at 40 CFR part 370 by directly incorporating the 118 OSHA hazard categories as the EPCRA hazard categories, amending the definitions for *hazard category* and *safety data sheet*, removing the use of the term *Material Safety Data Sheet (MSDS)*, noting that 2024 OSHA HCS includes a definition for combustible dusts which is applicable to 40 CFR part 370, and making the proposed corrections for plain language, clarity, and consistency. These changes were made to conform with the most recent version of 29 CFR 1910.1200. EPA engaged in discussions with OSHA in finalizing this rule. Additionally, EPA is providing a thirteen-month extension to the proposed rule's compliance date (i.e., December 1, 2027); the final rule compliance date is January 1, 2028. The rationale for these revisions is discussed below:

A. EPCRA hazard categories

As explained above in section II.A. of this final rule, the EPCRA statute specifies

that the hazardous chemical inventory reporting under sections 311 and 312 should be the health and physical hazard categories established under the OSH Act and the OSHA HCS regulations, and that EPA may modify those OSHA hazard categories to be reported in groups which present similar hazards in an emergency [42 USC 11021(a)(2) and 11022(d)]. As the Agency explained in the proposed rule and discussed further below in this section, the updates to the OSHA HCS [89 FR 81829; October 9, 2024] leave the 2017-2026 EPCRA hazard categories out of alignment with the OSHA hazard categories. To remedy this, the EPA published a proposed rule [90 FR 51266; November 17, 2025] to directly incorporate the OSHA hazard classes and their categories as the EPCRA hazard categories, consistent with the statutory provisions that the EPCRA hazard categories are to be the health and physical hazards as set forth under the OSHA HCS [42 U.S.C. 11021(a)(2)(A)(i) and 11021(d)(1)(A)]. In this final action and for the reasons explained below, the Agency is finalizing the direct incorporation of the OSHA hazard classes with their hazard categories as the EPCRA hazard categories.

1. Conformance to OSHA hazard categories

EPA received nine comments on the proposal to directly incorporate the OSHA hazard categories into the EPCRA regulation as the EPCRA hazard categories. EPA agrees with commenters who supported the proposed rule's direct incorporation of the OSHA hazard categories as the EPCRA hazard categories for the ability to streamline reporting, reduce the time burden for completing the reports, reduce confusion between Federal and international chemical hazard classifications, and allow direct data transfer from the OSHA HCS required SDSs to the EPCRA hazardous chemical inventory forms. Some commenters criticized the expansion of the 2017-2026 EPCRA hazard categories and were unclear as to how they would be implemented. Some of these commenters were unclear regarding how they would complete the new form with so many options for the hazard categories, some commenters expressed concern regarding whether the hazard

categories are comprehensible by small facilities and the public, one commenter stated that the expansion of hazard categories exceeds what is necessary for harmonization and that the revised categories are simply a more granular version of the existing categorizations, and one commenter stated that the OSHA hazard categories create a false sense of accuracy and that the hazard categories give the illusion that a more precise description implies that something is more true. Some of these commenters requested that EPA retain the current 2017-2026 EPCRA hazard categories, while another commenter stated that the EPA's original five 1987-2016 hazard categories should be reinstated. In addition to considering these comments, EPA also evaluated other approaches. The discussions are below in this section.

In response to the commenters who expressed confusion as to how to complete the EPCRA section 312 Tier II forms and, in agreement with supporting commenters, EPA has determined that the updated approach removes the current interpretation burden and simply requires the selection of the hazard category on the Tier II Form that matches the hazard category present on the SDS. The updated approach requires no interpretation burden or chemical hazard expertise, rather it simply requires the facilities use the hazard category from the SDS to report on the Tier II Form. The 1987-2016 and 2017-2026 hazard category methods required that facilities use the OSHA hazard classes and categories to then interpret which EPCRA hazard category was relevant for each. Also, the 2024 OSHA HCS updates created a misalignment for twelve OSHA hazard categories that do not fit into a 2017-2026 EPCRA hazard category or will cause confusion if reported in a 2017-2026 hazard category (i.e., Aerosols – Categories 1, 2, and 3; Chemicals Under Pressure – Categories 1, 2, and 3; Flammable Gases – Chemically Unstable Category 1A/A and 1A/B; Desensitized Explosives – Categories 1, 2, 3, and 4). Therefore, facilities will now incur a data entry and interpretation burden when completing their 2026 Tier II Form. The timeliness of the rule is to prevent these

additional burdens for all facilities (especially small facilities). This final action removes these added burdens for the 2027 and subsequent reporting years. Further, the hazard categories appear individually on the SDS. And, for every hazard category listed on the SDS, the facilities have always been required to select one hazard category on the Tier II Form. Therefore, EPA disagrees that the expansion of the hazard categories will make it more difficult to complete the annual Tier II Form because facilities are still only required to use each hazard category from the SDS to select one hazard category on the Tier II Form. The changes with this final rule remove the burdens for interpreting which EPCRA hazard category to use for each OSHA hazard category, since these two sets of hazard categories are now the same.

EPA understands the importance of using hazard categories that effectively convey the hazard information, as well as the concerns expressed regarding whether small facilities and the public will be able to understand the hazard information affiliated with the expanded hazard categories. In agreement with supporting commenters, the Agency finds that the alignment of EPCRA hazard categories with the OSHA hazard categories, which are in accordance with international standards, will provide one set of chemical hazard information for people to understand and this will inherently increase comprehension while resolving confusion. Note that in the 2012 OSHA HCS [52 FR 38344] which conformed to the GHS, OSHA stated that ensuring comprehensibility of the GHS was a key principle in its development [77 FR 17584; March 26, 2012]. Further, the hazard class information is still included in the EPCRA hazard categories, so the EPCRA section 312 Tier I and Tier II forms will continue to provide people with a basic understanding of the hazard (e.g., carcinogenicity, serious eye damage, explosives, oxidizing gases, etc.). Importantly, these revisions also allow people the opportunity to more clearly understand the hazards in their communities if they choose to. The Agency finds that it is appropriate to allow people the option to learn and understand, instead of

assuming that they are incapable of comprehending the hazard categories. For the reasons stated above, the Agency disagrees that using the OSHA hazard categories will less effectively convey hazard information and instead finds that directly incorporating the OSHA hazard categories as the EPCRA hazard categories will ensure that people are informed of the hazards effecting them, whether they achieve full understanding of the hazard categories or retain only the basic hazard class information.

EPA disagrees with the commenter positing that the expansion of the EPCRA hazard categories exceeds what is necessary for harmonization, that the 2017-2026 EPCRA hazard categories are sufficient, and that the expanded categories are simply a more granular version of the 2017-2026 hazard categories. As was discussed in section IV.B. of the proposed rule, the 2024 OSHA HCS amendments: (1) replaced the hazard class *Flammable Aerosols* with *Aerosols* and *Chemicals Under Pressure*; (2) added the hazard class *Desensitized Explosives*; (3) includes pyrophoric and chemically unstable gases within the definition of *Flammable Gases*; and (4) removes pyrophoric gases from the definition of hazardous chemical. In fact, there are now thirteen OSHA hazard categories which appear on the 2024 complaint SDSs which do not appear on the 2012 SDSs. Problematic for facilities in 2026, there will be twelve OSHA hazard categories that do not fit into a 2017-2026 EPCRA hazard category, or will cause confusion for the emergency planners and responders if reported in a 2017-2026 hazard category (i.e., Aerosols – Categories 1, 2, and 3; Chemicals Under Pressure – Categories 1, 2, and 3; Flammable Gases – Chemically Unstable Category 1A/A and 1A/B; Desensitized Explosives – Categories 1, 2, 3, and 4). EPA also considered the feasibility of modifying the OSHA hazard categories by using the OSHA hazard classes to group hazards, consistent with the Agency’s approach for the 2017-2026 hazard categories. However, as was explained in section IV.A. of the proposed rule, EPA has determined that using the OSHA hazard classes as a method of grouping hazards may misstate the hazard

information and the related risks for communities, for example the new OSHA hazard class for *Aerosols*, which clearly groups substances with different hazards for first responders and communities into the same hazard class. For example, non-refillable fire extinguishers would be classified as Aerosol – Category 3, where highly flammable paints would be Aerosols – Category 1. If EPA continues to rely on the OSHA hazard classes for the EPCRA hazard categories, both non-refillable fire extinguishers and highly flammable paints would be reported as the same hazard despite not actually being the same hazard in an emergency. Therefore use of the OSHA hazard classes (or mergers of hazard classes) as the EPCRA hazard categories would be inconsistent with the statutory provision that authorizes EPA to modify the categories of health and physical hazards as set under the OSHA HCS, by requiring that the information be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency [42 USC 11021(a)(2)(B) and 11022(d)(1)(C)(i)].

EPA disagrees with the commenter who posits that the OSHA hazard categories create a false sense of accuracy and that the hazard categories give the illusion that a more precise description implies that something is truer. OSHA hazard categories use defined criteria to compare the severity of the hazards in each hazard class [29 CFR 1910.1200(c) *Hazard category*]. While all of the chemicals in an OSHA hazard class have similar properties, the hazard categories provide an increased awareness of what the hazard truly is. For example, the OSHA HCS hazard class *Chemicals Under Pressure* is divided into categories with different severities: Category 1 is for the more flammable chemicals under pressure which contain $\geq 85\%$ flammable components (by mass) and have a heat of combustion ≥ 20 kJ/g, while Category 3 is for less flammable chemicals under pressure which contain $\leq 1\%$ flammable components (by mass) and has a heat of combustion < 20 kJ/g [29 CFR 1910.1200, appendix B.3.2]. Therefore, while these are both *Chemicals Under Pressure*, Category 1 has more severe hazards than the other

categories in this class. The Agency finds that adopting this awareness of hazard severity into the EPCRA regulations is important for communities to better prioritize their emergency planning efforts to first focus on the facilities posing the highest risks.

EPA is unable to accommodate the commenters requesting the continued use of the 2017-2026 EPCRA hazard categories nor is it able to revert back to the 1987-2016 hazard categories for the reasons discussed above in this section. Further, if EPA reinstated the EPCRA categories used from 1987 through 2016, there would be fewer hazard categories, but these categories would not be aligned with the OSHA hazard categories on the SDSs. This misalignment would cause confusion and increase the burden on reporting facilities by requiring mapping of the OSHA hazard categories to the EPCRA hazard categories. Therefore, EPA is adopting the OSHA hazard classes with their categories as the EPCRA hazard categories, consistent with the statutory provisions that the EPCRA hazard categories are to be the health and physical hazards as set forth under the OSHA HCS [42 U.S.C. 11021(a)(2)(A)(i) and 11021(d)(1)(A)].

2. Hazard awareness

Some commenters supported the action on the basis that incorporation of the OSHA hazard classes with their categories increases hazard awareness for emergency planners, first responders, and communities. One of these commenters said that adopting the more specific OSHA categories allows facilities to provide the most specialized and relevant information to first responders, which is vital to emergency planning. Similarly, another commenter representing state and local entities said that the OSHA hazard categories provide a much more detailed characterization of the threats posed by different hazardous chemicals and this level of detail is often essential for LEPC's planning needs. Other commenters criticized the more granular hazard categories, indicating that the expanded hazard information is of little value to emergency planners and first responders. One of these commenters stated that first responders "are by nature a cautious breed" for

requesting the actual hazards presented by chemicals in the EPCRA reports because the prospect of improved precision is attractive to them, but the use of the information by emergency planners and responders is disproportional to the facility reporting burdens. Some adverse commenters also posited that since planners and first responders can already request the SDSs from facilities, and that because the SDS is the first responder's primary resource during incidents, the adoption of the OSHA hazard categories is unjustified.

EPA disagrees that the more granular hazard information is of little value to emergency planners and first responders, and instead agrees with the commenter representing the state and local emergency planners and first responders who posits that the more specific hazard category information will help ensure that our first-line emergency responders are equipped with the information necessary to respond and protect communities. It is correct that the statute provides the authority for the LEPCs to request the SDS from each facility for each chemical, year after year [42 U.S.C. 11021(c)]. However, the commenter representing state and local emergency planners and responders observed that forcing LEPCs to rely on their authority to request such information from the facility delays delivery of the information creates an additional hassle for both facility operators and LEPCs and promotes conflict between them. The Agency agrees with this commenter and anticipates that the SERCs, LEPCs, and fire departments will be able to better prioritize their emergency planning efforts if they have both the OSHA hazard class and category as reported on the SDS. The Agency also anticipates that LEPCs will request fewer SDSs from facilities, since they will now be able to focus their efforts on the hazardous chemicals of concern for their communities by simply reviewing the Tier II Form data.

3. Implementation timeframe for hazard categories

In response to the proposed rule's compliance date of December 1, 2026, some commenters representing industry requested that the rule be phased or delayed to align with the OSHA HCS compliance schedule and to provide additional time for facilities to reclassify their hazards and update their SDS inventory records based on the new definitions.

These extension requests to align with the OSHA HCS ranged from stating that the implementation of the EPCRA hazard categories should be aligned with the phased deadlines for the 2024 OSHA HCS to requesting five years after the final compliance date in the OSHA HCS for effectiveness of this final rule (i.e., the 2033 report due by March 1, 2034). These commenters posited that the EPCRA compliance date is impossible or would increase compliance risks because it is prior to the final OSHA compliance date for manufacturers and importers to update their SDSs for mixtures, and the compliance date would therefore require facilities to self-classify their chemical hazards. The EPA disagrees because the proposed rule did not and this final rule does not modify the reporting requirements which are set by statute and have been codified as regulation since October 15, 1987 [52 FR 38344], nor do they venture into OSHA's jurisdiction to direct hazard classifications.

The EPCRA hazard category modifications allow facilities that are in possession of a 2024 OSHA HCS compliant SDS to use that SDS for their statute required EPCRA section 312 annual reports. The relevancy of the 2024 OSHA HCS compliance dates to this final rule is that in the year 2026 facilities will have SDSs that will include twelve OSHA hazard categories that are not reportable under a 2017-2026 EPCRA hazard category, as discussed above in section III.A.1. and further below in this section. The statute sets that the EPCRA section 311 reports are triggered by facilities having a new or revised SDS, and that the section 312 report (which requires the hazard categories from

the SDSs) is due by March 1st each year for the previous calendar year, this remains unchanged:

- The EPCRA section 311 initial list is to be submitted within three months after the owner or operator of a facility is required to prepare or have available a SDS under the OSHA HCS [42 U.S.C. 11021(d)(1)(B)].
- The EPCRA section 311 updated list is to be submitted within three months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a SDS was previously submitted [42 U.S.C. 11021(d)(2)].
- The EPCRA section 312 annual report shall be submitted on or before March 1st annually, and shall contain data with respect to the preceding calendar year [42 U.S.C. 11022(a)(2)].

Further, EPA realizes that facilities which are also manufacturers, importers, or distributors (who are modifying an SDS) have the OSHA requirement to update the SDS by May 19, 2026, for substances [29 CFR 1910.1200(j)(2)(i)] and November 19, 2027, for mixtures [29 CFR 1910.1200(j)(3)(i)]. The date that these facilities comply with this OSHA requirement is the date that these facilities have the new or revised SDS for EPCRA sections 311 and 312 reporting requirements, discussed immediately above in this section. The Agency finds that the requests for extension to align with the OSHA HCS are unnecessary because the proposed rule and this final rule are inherently aligned with the OSHA HCS compliance dates. However, for another reason the Agency is extending the compliance date of the rule to January 1, 2028 (see section III.A.5.), which is after the 2024 OSHA HCS compliance dates for these facilities to develop the SDSs for substances and mixtures [29 CFR 1910.1200(j)(2)(i) and (j)(3)(i)].

EPA evaluated the feasibility of facilities using the 2024 OSHA hazard categories as the EPCRA hazard categories during the transition period to determine if the EPCRA

compliance date is impossible or would increase compliance risks. To start with, it is important to note that there will be 2012 HCS compliant SDSs in use until all products distributed with these SDSs are no longer in circulation, which could be decades in some extreme cases, and that the EPCRA section 311 and 312 relevant 2024 OSHA HCS transition period ranges from May 20, 2024 until May 19, 2028 [29 CFR 1910.1200(j)(4)]. This means that the transition period started May 20, 2024, and could last for many years beyond the 2024 OSHA HCS compliance dates. Therefore, EPA must set the hazard categories to be usable for both the 2012 HCS compliant SDS and the 2024 HCS compliant SDS. Facilities do not need to have a 2024 OSHA HCS compliant SDS to comply with this final rule.

Regarding the feasibility of using the 2024 OSHA hazard categories during the transition period and until the 2012 OSHA HCS compliant SDSs are removed from circulation. Of the 118 categories: 105 remain unchanged as they appear on the SDS, 10 are new and will only appear on the 2024 compliant SDSs, and three were renamed (i.e., Flammable Aerosols – Category 1 = Aerosols - Category 1; Flammable Aerosols - Category 2 = Aerosols – Category 2; and Pyrophoric Gas = Flammable Gases – Pyrophoric Gas – Category 1A). These three renamed hazards are the only hazards which will appear on the 2012 HCS compliant SDSs that do not also appear on the 2024 compliant SDSs. There are thirteen hazard categories which appear on the 2024 complaint SDSs which do not appear on the 2012 SDSs and twelve of these are not reportable under the current EPCRA hazard categories (based on OSHA classes), as discussed above in section III.A.1. Below is a summary of the evaluation of the reporting requirements for using the 2012 SDSs on the new forms and using the 2024 SDSs on the old forms:

- If a facility is using a 2012 compliant SDSs to report on the revised EPCRA section 312 Tier II Form, the three renamed hazard categories will require that facilities report according to a guidance matrix which the EPA will publish with the final rule.
- If a facility is using a 2024 compliant SDS to report on the 2017-2026 form, thirteen hazard categories (i.e., the ten new hazard categories and the three renamed hazard categories) will require that facilities report these hazards as hazards not otherwise classified due to a lack of other data entry options.

Additionally, one commenter asserted that the EPCRA rule implementation should be delayed and aligned with the OSHA HCS compliance schedule because the 2024 OSHA HCS imposes a new due diligence for SDSs to include the evaluation of reasonably anticipated downstream hazards. The EPA disagrees that this is a new requirement for the OSHA HCS; in fact, the preamble to the OSHA final rule discusses at length that this has been a long-standing requirement for the SDSs to include these reasonably anticipated downstream hazards [89 FR 44278-44281; May 20, 2024]. Further, the contents of these intrinsic properties into downstream hazards are now required to be entered in section 2(c) of the SDS, which separates these intrinsic properties into hazards due to either a chemical reaction or byproduct, and hazards due to changes in physical form [see 29 CFR 1910.1200(d)(1)(i) and (ii) and Appendix D to § 1910.1200 Table D.1 – Minimum Information for an SDS]. Therefore, facilities have already been reporting these hazards on the EPCRA reports, if the SDSs were compliant with the OSHA HCS.

In summary, the Agency disagrees with the statements suggesting that facilities should not be required to report using the new hazard categories until after the OSHA HCS transition period or until five years after this rule becomes effective. The Agency finds that the requested extensions to conform to the OSHA compliance dates are unnecessary and would only exacerbate the reporting burdens (particularly for small

facilities) which will be increased each year this rule is delayed. Nonetheless, the EPA has considered options to resolve these comments.

4. Alternative reporting requests

Some commenters suggested phasing in the use of the updated hazard categories by allowing a dual reporting option, where facilities could choose if they use the legacy or updated hazard categories. EPA disagrees that this is a feasible option because this would require either two sets of forms and therefore two sets of software systems, or modification of the Tier II Form and software systems to allow for the use of both sets of hazard categories. This would complicate reporting and introduce unnecessary costs and delays in implementation. Further, these burdens on the implementing agencies would be required at the onset of the transition period, as well as at the end of the transition period since the implementing agencies would need to modify their custom softwares to allow for the new option and then again to remove it. Therefore, the Agency finds that providing an option to use either set of hazard categories would double to quadruple the costs for states to update their custom software systems and would at least double the implementing agencies' burdens for processing and management of the data. Further, this option would also delay improving hazard awareness while interjecting confusion for all parties involved. Therefore, the Agency is not finalizing an option to allow facilities to choose if they use the legacy or updated hazard categories during a transition period.

In accordance with the intent of this comment, the EPA also considered allowing reporting by only the OSHA hazard class during a transition period and then the full hazard categorization after the final SDS compliance date of the OSHA HCS. However, this option may impose an undue burden for facilities (particularly for small facilities) to re-enter their hazard classifications more times than would be necessary since most of the hazard classifications remain unchanged as they appear on the SDS. Finally, this option

would also delay improving hazard awareness. Therefore, the Agency is not finalizing these options.

5. Delay requests to update software, training, and guidance

Finally, some commenters requested extensions for the use of the new hazard categories because of the need to update the EPA provided Tier2 Submit software, training, and guidance; for facilities to update their custom software systems; and for states to update their custom software systems, guidance, and training materials. One of these commenters requested that the Agency conduct outreach to the SERCs, LEPCs, software vendors, and facilities no later than the July preceding the affected reporting year. This commenter also stated that the rule must be delayed because the Agency only provided a few weeks for the updates of software systems. Another commenter stated that timely access to the Tier2 Submit specifications and data configurations is needed for facilities to ensure compatibility between their chemical management software systems and the new reporting structure. Another commenter representing industry stated that the rule must be delayed because SERCs cannot update their electronic reporting systems in time and facilities also need time to update their internal electronic reporting systems. The Agency received one comment representing the SERCs and LEPCs; this commenter fully supported the now withdrawn direct final rule [52 FR 38344; November 17, 2025] which provided 54 weeks for the updates to the software systems.

EPA agrees with these commenters that it is necessary to provide adequate time for the update of software systems, guidance, and training materials for the implementation of the new EPCRA hazard categories. The Agency also agrees that timely access to the Tier II Form and its data configurations is important to allow for updates to commercial and private software. Further, the Agency agrees that it should conduct outreach to the SERCs, LEPCs, commercial software companies, and facilities. For compliance assistance, EPA publishes the EPCRA section 312 inventory reporting

forms, offers training and educational materials, provides software programs for facilities to report (i.e., Tier2 Submit) and for implementing agencies to manage their inventory reports (i.e., CAMEO Data Manager), and posts the National Tier II Data Standard ¹ for use in developing custom software. The Agency has already provided the revised Tier I and Tier II Forms in the docket with this final rule and will also publish these forms on the EPA webpage *EPCRA Tier II Forms and Instructions*.² The Agency is also updating its online training for the implementing agencies, planners, and responders³; guidance for using the 2012 OSHA compliant SDSs for the new EPCRA reports; guidance clarifying the statute's requirements to update the EPCRA section 311 reports and to use the SDS for the section 312 reports as discussed above in this section [42 U.S.C. 11021(d)(1)(B), 11021(d)(2), and 11022(a)(2)]; and the National LEPC-TEPC Handbook,⁴ with the intent of also publishing these updated materials. EPA intends to release the Tier2 Submit and CAMEO Data Manager software programs on the normal schedule (i.e., November of each year), which has historically been an adequate amount of time to incorporate state specific requirements into the software program and is also in accordance with the time provided in the 2016 direct final rule which conformed the EPCRA hazard categories to the 2012 OSHA HCS [52 FR 38344]. Additionally, to provide access to the Tier2 Submit specifications and data configurations, EPA also intends to post the revised National Tier II Data Standard in a timely manner for states and facilities to use in developing any custom softwares they choose to use. EPA will work to minimize the confusion between the 2026 and 2027 reporting year requirements, while also ensuring that there is adequate time to update the software systems. EPA will publish these updated resources and tools on its website and will distribute the notifications of their release to the SERCs who have provided their contact information to the EPA,⁵ the National Association of SARA Title III Program Officials (NASTTPO), the National Fire Protection Association (NFPA), the National Volunteer Fire Association (NVFA), E-Plan, Hazconnect, and VelocityEHS.

Anyone else requesting distribution notices may contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

EPA agrees that it is necessary to provide adequate time for the update of software systems. However, the Agency disagrees with the commenter requesting an extension because the Agency only provided a few weeks for the updates of software systems, because the now withdrawn direct final rule [52 FR 38344] would have provided over one year (i.e., 54 weeks) to make these updates. Based on the comment representing SERCs and LEPCs and the amount of time necessary to update Tier2 Submit and CAMEO Data Manager, one year is an adequate amount of time to update the commercial and custom softwares to include the new hazard categories. However, to ensure that sufficient time is provided, EPA is providing a thirteen-month extension to the proposed rule's compliance date, or seventeen months after publication of the final rule (Proposed - December 1, 2027; Final Rule - January 1, 2028). SERCs who are unable to update their custom software are invited to use the EPA provided software (i.e., Tier 2 Submit and CAMEO Data Manager).

6. Revised hazard categories

In sum, for the reasons laid out above, EPA is finalizing revised hazard categories as proposed, with one exception as detailed below. The following tables detail and compare the legacy 2017-2026 EPCRA hazard categories (adopted in 2016) to the 2024 OSHA HCS hazard classes with their hazard categories that are being adopted in this final rule. This table is amended from the one published in the now withdrawn direct final rule [91 FR 918] and proposed rule [90 FR 51266] to expand the *Acute Toxicity*, *Inhalation* hazard category to include specific hazard categories for vapors, gases, and dusts and mists, and to correct that the hazard category *Oxidizing Gases* is *Oxidizing Gases - Category 1*. These changes were made to conform with the most recent version of 29 CFR 1910.1200. EPA also engaged in discussions with OSHA in finalizing this

rule.

EPCRA Health Hazard Categories		
Adopted in 2016	2024 OSHA HCS (OSHA hazard class – OSHA hazard category)	Notes about proposed changes to EPCRA hazard categories
Acute Toxicity (any route of exposure)	Acute Toxicity, Oral – Category 1 Acute Toxicity, Oral – Category 2 Acute Toxicity, Oral – Category 3 Acute Toxicity, Oral – Category 4 Acute Toxicity, Dermal – Category 1 Acute Toxicity, Dermal – Category 2 Acute Toxicity, Dermal – Category 3 Acute Toxicity, Dermal – Category 4 Inhalation – Dusts and Mists – Category 1 Inhalation – Dusts and Mists – Category 2 Inhalation – Dusts and Mists – Category 3 Inhalation – Dusts and Mists – Category 4 Inhalation – Gases – Category 1 Inhalation – Gases – Category 2 Inhalation – Gases – Category 3 Inhalation – Gases – Category 4 Inhalation – Vapors – Category 1 Inhalation – Vapors – Category 2 Inhalation – Vapors – Category 3 Inhalation – Vapors – Category 4	• Including the OSHA classes and categories for these health hazards from appendix A.1 to create twenty EPCRA hazard categories.
Aspiration Hazard	Aspiration Hazard – Category 1	• No changes
Carcinogenicity	Carcinogenicity – Category 1 Carcinogenicity – Sub-Category 1A Carcinogenicity – Sub-Category 1B Carcinogenicity – Category 2	• Including the OSHA categories for this hazard class from appendix A.6 to create four EPCRA hazard categories.
Germ Cell Mutagenicity	Germ Cell Mutagenicity – Category 1 Germ Cell Mutagenicity – Sub-Category 1A Germ Cell Mutagenicity – Sub-Category 1B	• Including the OSHA categories for this hazard class from appendix A.5 to create four EPCRA hazard categories.

	Germ Cell Mutagenicity – Category 2	
Reproductive Toxicity	Reproductive Toxicity – Category 1 Reproductive Toxicity – Sub-Category 1A Reproductive Toxicity – Sub-Category 1B Reproductive Toxicity – Category 2 Reproductive Toxicity – Effects on or via lactation	• Including the OSHA categories for this hazard class from appendix A.7 to create five EPCRA hazard categories.
Respiratory or Skin Sensitization	Respiratory Sensitizer - Category 1 Respiratory Sensitizer – Sub-Category 1A Respiratory Sensitizer – Sub-Category 1B Skin Sensitizer – Category 1 Skin Sensitizer – Sub-Category 1A Skin Sensitizer – Sub-Category 1B	• Including the OSHA classes and categories for these health hazards from appendix A.4 to create six EPCRA hazard categories.
Serious Eye Damage or Eye Irritation	Serious Eye Damage – Category 1 Eye Irritation – Category 2 Eye Irritation – Sub-Category 2A Eye Irritation – Sub-Category 2B	• Including the OSHA categories for this hazard class from appendix A.3 to create four EPCRA hazard categories.
Simple Asphyxiant	Simple Asphyxiant	• No changes
Skin Corrosion or Irritation	Skin Corrosion – Category 1 Skin Corrosion – Sub-Category 1A Skin Corrosion – Sub-Category 1B Skin Corrosion – Sub-Category 1C Skin Irritation – Category 2	• Including the OSHA classes and categories for these health hazards from appendix A.2 to create five EPCRA hazard categories.
Specific Target Organ Toxicity (Single or Repeated Exposure)	Specific Target Organ Toxicity Single Exposure – Category 1 Specific Target Organ Toxicity Single Exposure – Category 2 Specific Target Organ Toxicity Single Exposure – Category 3 Specific Target Organ Toxicity Repeated or Prolonged Exposure – Category 1 Specific Target Organ Toxicity Repeated or Prolonged Exposure – Category 2	• Separating the “single” and “repeated or prolonged” hazard classes • Including the OSHA classes and categories for these health hazards from appendices A.8 and A.9 to create five EPCRA hazard categories.

Hazard Not Otherwise Classified (HNOC)	Hazard Not Otherwise Classified (HNOC)	No changes
--	--	--

EPCRA Physical Hazard Categories		
Adopted in 2016	Proposed in this action to conform with the 2024 OSHA HCS (OSHA hazard class – OSHA hazard category)	Notes about proposed changes to EPCRA hazard categories
Flammable (gases, aerosols, liquids or solids)	Aerosols – Category 1 Aerosols – Category 2 Aerosols – Category 3 Chemicals Under Pressure – Category 1 Chemicals Under Pressure – Category 2 Chemicals Under Pressure – Category 3 Flammable Gases – Category 1A Flammable Gases – Category 1B Flammable Gases – Category 2 Flammable Gases – Chemically Unstable Gas – Category 1A/A Flammable Gases – Chemically Unstable Gas – Category 1A/B Flammable Gases – Pyrophoric Gas – Category 1A Flammable Liquids – Category 1 Flammable Liquids – Category 2 Flammable Liquids – Category 3 Flammable Liquids – Category 4 Flammable Solids – Category 1 Flammable Solids – Category 2	- Aerosols are no longer reported under the flammable hazard category, they are now in the Aerosols hazard class. - Aerosols and Chemicals Under Pressure hazard classes now include flammable (Categories 1 & 2) and non-flammable hazards (Category 3). - Pyrophoric gases are no longer an independent hazard class and are included in the flammable gases hazard category. Report under the Flammable Gases – Pyrophoric Gas hazard category. - Chemically unstable gases (Categories A & B) are now included within the OSHA HCS flammable gases hazard category. Report under the appropriate Flammable Gases - Chemically Unstable Gas hazard category. • Separating the OSHA “flammable” hazard classes - Including the OSHA categories for these physical hazard classes from appendices B.2, B.3, B.6, and B.7 to create eighteen EPCRA hazard categories.
Combustible Dust	Combustible Dust	No changes
Corrosive to Metal	Corrosive to Metal – Category 1	Including the OSHA category for this physical

		hazard class from appendix B.16.
<i>Not a Hazard Category in 2012</i>	Desensitized Explosives – Category 1 Desensitized Explosives – Category 2 Desensitized Explosives – Category 3 Desensitized Explosives – Category 4	• New OSHA hazard class and categories. Formerly reported under Explosives hazard class. • Including the OSHA categories for this physical hazard from appendix B.17 to create four EPCRA hazard categories.
Explosives	Explosives – Unstable Explosives – Division 1.1 Explosives – Division 1.2 Explosives – Division 1.3 Explosives – Division 1.4 Explosives – Division 1.5 Explosives – Division 1.6	• Desensitized explosives are no longer categorized as explosives they are now in the desensitized explosives hazard class. • Including the OSHA categories for this physical hazard from appendix B.1 to create seven EPCRA hazard categories.
Gases Under Pressure (compressed gas)	Gas Under Pressure – Compressed Gas Gas Under Pressure – Dissolved Gas Gas Under Pressure – Liquefied Gas Gas Under Pressure – Refrigerated liquefied gas	• Including the OSHA categories for this physical hazard from appendix B.5 to create four EPCRA hazard categories.
In Contact With Water, Emits Flammable Gases	In Contact With Water Emits Flammable Gases – Category 1 In Contact With Water Emits Flammable Gases – Category 2 In Contact With Water Emits Flammable Gases – Category 3	• Including the OSHA categories for this physical hazard from appendix B.12 to create three EPCRA hazard categories.
Organic Peroxides	Organic Peroxides – Type A Organic Peroxides – Type B Organic Peroxides – Type C Organic Peroxides – Type D Organic Peroxides – Type E Organic Peroxides – Type F Organic Peroxides – Type G	• Including the OSHA categories for this physical hazard from appendix B.15 to create seven EPCRA hazard categories.
Oxidizer (liquid, solid, or gas)	Oxidizing Gases – Category 1 Oxidizing Liquids – Category 1	• Separating the OSHA <i>oxidizing</i> hazard classes • Including the OSHA categories for this physical

	Oxidizing Liquids – Category 2 Oxidizing Liquids – Category 3 Oxidizing Solids – Category 1 Oxidizing Solids – Category 2 Oxidizing Solids – Category 3	hazard from appendices B.4, B.13, and B.14 to create seven EPCRA hazard categories.
Pyrophoric Gas	<i>N/A: Not a hazard class in 2024 OSHA HCS.</i>	No longer an independent hazard class. Report under Flammable Gas.
Pyrophoric (liquid or solid)	Pyrophoric Liquids – Category 1 Pyrophoric Solids – Category 1	- Separating the OSHA <i>pyrophoric</i> physical hazard classes per appendices B.9 and B.10, to create two EPCRA hazard categories. - Including the OSHA category for these physical hazard classes from appendices B.9 and B.10 to create two hazard categories.
Self-Heating Chemicals	Self-Heating Chemicals – Category 1 Self-Heating Chemicals – Category 2	Including the OSHA categories for this physical hazard from appendix B.11 to create two EPCRA hazard categories.
Self-Reactive Chemicals	Self-Reactive Chemicals – Type A Self-Reactive Chemicals – Type B Self-Reactive Chemicals – Type C Self-Reactive Chemicals – Type D Self-Reactive Chemicals – Type E Self-Reactive Chemicals – Type F Self-Reactive Chemicals – Type G	Including the OSHA categories for this physical hazard from appendix B.8 to create seven EPCRA hazard categories.
Hazard Not Otherwise Classified (HNOC)	Hazard Not Otherwise Classified (HNOC)	No changes

B. Definitions

1. Hazard category

EPA received one supporting comment regarding the definition for *hazard category*, including *health hazard* and *physical hazard*. In this action, the Agency is finalizing the proposed definition with revisions to add *Hazards Not Otherwise Classified* within the primary EPCRA definition of *Hazard category* and within the sub-definitions of *Health hazard* and *Physical hazard* to clarify that *Hazards Not Otherwise Classified* are EPCRA sections 311 and 312 hazard categories and for consistency with the OSHA HCS. This change was made in accordance with 29 CFR 1910.1200 resultant of discussions with OSHA during interagency collaboration for this final rule. The following table compares the definition for *Hazard category*, including *Health hazard* and *Physical hazard*, between the 2016 EPCRA regulation and this final action, with the differences in bold.

2016 regulation [81 FR 38104] EPCRA sections 311-312 42 U.S.C. 11021-11022 40 CFR 370.66	Adopting in this action EPCRA sections 311-312 42 U.S.C. 11021-11022 40 CFR 370.3
<i>Hazard category</i> is divided into two categories, health and physical hazards: (1) Health hazard means a chemical which poses one of the following hazardous effects: Carcinogenicity; acute toxicity (any route of exposure); aspiration hazard; reproductive toxicity; germ cell mutagenicity; skin corrosion or irritation; respiratory or skin sensitization; serious eye damage or eye irritation; specific target organ toxicity (single or repeated exposure); simple asphyxiant; and hazard	<i>Hazard category</i> means the classification of a chemical's hazard(s) into classes with their categories or hazards not otherwise classified as are reported in Section 2 of SDSs in accordance with 29 CFR 1910.1200. Hazard categories are divided by hazard class into health and physical hazards: (1) <i>Health hazard</i> means a chemical that is classified into one of the following hazard classes or hazards not otherwise classified: acute toxicity (oral, dermal, or inhalation); aspiration hazard; carcinogenicity; germ cell mutagenicity; reproductive toxicity; respiratory sensitizer; skin sensitizer; serious eye damage/eye irritation; simple asphyxiant; skin corrosion or irritation; specific target

not otherwise classified (HNOC).	organ toxicity (single exposure) or (repeated or prolonged exposure); and hazard not otherwise classified (HNOC).
(2) Physical hazard means a chemical which poses one of the following hazardous effects: Flammable (gases, aerosols , liquids or solids); gas under pressure; explosive; self-heating; pyrophoric (liquid or solid); pyrophoric gas; oxidizer (liquid, solid or gas); organic peroxide; self-reactive; in contact with water emits flammable gas; combustible dust ; corrosive to metal; and hazard not otherwise classified (HNOC).	(2) <i>Physical hazard</i> means a chemical that is classified into one of the following hazard classes or hazards not otherwise classified: aerosols; chemicals under pressure; combustible dust, corrosive to metal; desensitized explosive; explosives; flammable (gases, liquids, or solids); gas under pressure; in contact with water emits flammable gases; organic peroxides; oxidizing (gases, liquids, or solids); pyrophoric (liquids or solids); self-heating chemicals; self-reactive chemicals; and hazard not otherwise classified.

2. (Material) Safety Data Sheet

EPA received one comment supporting removal of the term Material Safety Data Sheet (MSDS). No other comments were received for this definition. Therefore, the Agency is finalizing the definition as proposed. The following table provides the current and revised definition of Safety Data Sheet, which are being moved from 40 CFR 370.66 to § 370.3 in this final action, with the modified language in bold.

2016 regulation [81 FR 38104] EPCRA sections 311-312 42 U.S.C. 11021-11022 40 CFR 370.66	Adopting in this action EPCRA sections 311-312 42 U.S.C. 11021-11022 40 CFR 370.3
<i>Safety Data Sheet or SDS</i> means the sheet required to be developed under 29 CFR 1910.1200(g). This term means the same as the term “material safety data sheet or MSDS” defined in this section.	<i>Safety Data Sheet (SDS)</i> means the sheet required to be developed under 29 CFR 1910.1200(g). This term SDS replaces the term “material safety data sheet” for the name of the data sheet defined in the statute [42 U.S.C. 11049(6)] .

3. Combustible dust

No comments were received regarding the 2024 OSHA definition of combustible

dust at 29 CFR 1910.1200(c): “Combustible dust means finely divided solid particulates of a substance or mixture that pose a flash-fire hazard or explosion hazard when dispersed in air or other oxidizing media.” [89 FR 44272-44274; May 20, 2024] EPA notes that the 2024 OSHA HCS definition of combustible dusts is applicable to 40 CFR part 370 by the existing reference to the OSHA HCS within the definition of hazardous chemical at 40 CFR 370.66. EPA is not making amendments to further incorporate this definition.

4. Location of definitions in 40 CFR part 370

No comments were received regarding moving the definitions for this part from §§ 370.66 to 370.3, amending the title of § 370.3 to be *Definitions*, amending the title of § 370.66 to be *[Reserved]*, or adding a note to § 370.66 that the definitions are now in § 370.3. However, the *Federal Register* advised EPA that it is unable to add a note to reserved sections. Therefore, the Agency is finalizing these provisions as proposed, except that the note to § 370.66 is being excluded.

C. Other revisions to 40 CFR part 370

No comments were received for these proposed provisions. Therefore, the Agency is finalizing these amendments as proposed.

D. Burdens, Economics, and the Regulatory Process

One commenter requested that the rule be delayed until EPA has completed the Paperwork Reduction Act (PRA) and Unfunded Mandates Reform Act (UMRA) analyses and OMB review. Specifically, this commenter stated that EPA should update its ICR burden estimate, publish UMRA and RFA analyses assessing these expenditures, and seek E.O. 12866 review. EPA completed the PRA, UMRA, and OMB reviews as required. The ICR burden estimate was sufficient and will be considered as part of the revisions ICR that was submitted for OMB approval. See sections IV.A., C., D., and E. for further information.

A couple of commenters stated that the rule did not address the burden affiliated with updating custom software systems, guidance, and training materials. One of these commenters (representing industry) stated that the rule did not recognize the costs and burdens needed to provide additional time for states to update their custom software, training, and guidance. However, the Agency also received supporting comments from the state and local implementing agencies (via their association) which did not raise concerns about the costs or burdens of the rule. The EPA disagrees that it must include the state and facility costs for updating their custom software or for states to update guidance and training materials. Facilities and implementing agencies that develop custom tools may do so by choice, but this is not an obligation imposed by the rule. For compliance assistance, EPA publishes the EPCRA section 312 inventory reporting forms, offers training and educational materials, and provides software for facilities to report (i.e., Tier2 Submit) and for implementing agencies to manage their inventory reports (i.e., CAMEO Data Manager). See section III.A.5. above for further discussion.

E. Summary of revisions to 40 CFR part 370

On November 17, 2025, EPA published the now withdrawn direct final rule [90 FR 51187] and the parallel proposed rule [90 FR 51266]. On January 9, 2026, due to the receipt of adverse comment, EPA withdrew the direct final rule [91 FR 918]. Because the direct final rule did not become effective, the Agency is proceeding with a final rule based on the proposed rule. The following is a list of amendments being finalized in this action:

Citations	List of Proposed Amendments
40 CFR 370	- Removes most uses of the term MSDS
§ 370.1	- Removes use of the term MSDS - Makes minor changes for clarity and consistency
§ 370.2	- Amends title for plain language and clarity

	- Makes minor changes for plain language and clarity
§ 370.3	- Amends title - Moves definitions here from § 370.66 - Removes the language which referred to § 370.66 for definitions - Capitalizes each letter of the term Extremely Hazardous Substance - Amends the definitions for hazard category (including health hazard and physical hazard) and safety data sheet as described in this action - Removes the definition of <i>Material Safety Data Sheet</i> or MSDS - Makes minor changes for plain language, clarity, and consistency to the following definitions: Indian Country, person, SERC, and threshold planning quantity (TPQ)
§ 370.10	- Removes use of the term MSDS - Adds a note to paragraph (a) - Makes minor changes for plain language, clarity, and consistency
§ 370.12	- Removes use of the term MSDS
§ 370.13	- Removes use of the term MSDS
§ 370.14	- Removes use of the term MSDS - Makes minor changes for plain language and consistency
§ 370.20	- Removes use of the term MSDS
Centered heading	- Removes use of the term MSDS
§ 370.30	- Amends to clarify that the hazard categories are as listed in section 2 of the SDS - Removes use of the term MSDS - Makes minor changes for clarity and consistency
§ 370.31	- Removes use of the term MSDS
§ 370.32	- Removes use of the term MSDS - Makes minor changes for clarity and consistency
§ 370.33	- Removes use of the term MSDS - Removes historic compliance date

	- Makes minor changes for plain language and clarity
§ 370.40	- Makes minor changes for plain language, clarity, and consistency
§ 370.41	- Amends to clarify that the hazard categories are as listed in section 2 of the SDS - Removal of historic clarifications for electronic reporting - Makes minor changes for plain language, clarity, and consistency
§ 370.42	- Amends to clarify that the hazard categories are as listed in section 2 of the SDS - Removal of historic clarifications for electronic reporting - Makes minor changes for plain language, clarity, and consistency
§ 370.43	- Makes minor change for clarity and consistency
§ 370.44	- Makes minor change for clarity and consistency
§ 370.45	- Removal of historic compliance date - Makes minor changes for plain language, clarity, and consistency
§ 370.60	- Removes use of the term MSDS - Makes a minor change for plain language
§ 370.61	- Makes minor changes for plain language, clarity, and consistency
§ 370.62	- Amends the title for consistency - Removes use of the term MSDS - Makes minor changes for clarity and consistency
§ 370.63	- Removes use of the term MSDS
§ 370.64	- Removes use of the term MSDS - Makes minor changes for plain language, clarity, and consistency
§ 370.65	- Amends the title with clarifying punctuation
§ 370.66	- Changes title to [Reserved] - Moves definitions to § 370.3

IV. Statutory and Executive Orders Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. As described in EPA's Regulatory Impact Analysis for this action, the annualized cost savings of the final rule is estimated to be \$12.83 million, expressed in 2025 dollars. For compliance with E.O. 14192, this value is converted into 2024 dollars using the Bureau of Economic Analysis' GDP Price Deflator, resulting in annualized cost savings of \$12.47 million expressed in 2024 dollars (annualized using 7% discount rate and end-of-period discounting). Further, in compliance with E.O. 14192, the 2024-denominated annualized cost savings is discounted over a perpetual time horizon relative to a present value year of 2024 at a 7 percent discount rate. For regulatory accounting purposes under E.O. 14192, the estimated present value and annualized value of cost savings of this rule are \$155.65 and \$10.90 million, respectively (7% discount rate, 2024\$, 2024 present value year, perpetuity time horizon). Details on the estimated cost savings of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1352.20. You can find a copy of

the ICR in the docket for this rule and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

This rulemaking action will conform the terminology used, and information that must be reported, on the hazardous chemical inventory forms to the Occupational Safety and Health Administration's Hazard Communication Standard amendments of 2012 and 2024. This action is anticipated to result in burden reductions by removing interpretation burdens on facilities using the SDS to complete annual hazardous chemical inventory reports and reducing the burden to read and understand the regulations. Public comments were previously requested in the proposed rule [90 FR 51266; November 17, 2025] for this final action. These comments are addressed above in section III.D.

Respondents/affected entities: Entities potentially affected by this ICR are manufacturers and non-manufacturers required to have available a Safety Data Sheet (SDS) under the OSHA HCS.

Respondent's obligation to respond: Mandatory (sections 311 and 312 of EPCRA).

Estimated number of respondents: 465,692 facilities (total). This figure includes 3,052 LEPCs and SERCs.

Frequency of response: Annual.

Total estimated burden: 6,781,748 hours (per year, including LEPCs and SERCs).

Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: \$511,621,168 (per year), includes \$2,007,713 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the *Federal Register* and publish a technical amendment to 40 CFR part 9 to display the OMB control

number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This action is modifying the hazard categories used for the existing reporting requirements by directly incorporating the OSHA hazard categories as the EPCRA hazard categories which will streamline reporting, reduce the time burden for completing the reports, reduce confusion between Federal and international chemical hazard classifications, and allow direct data transfer from the OSHA HCS required SDSs to the EPCRA hazardous chemical inventory forms. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action implements mandate(s) specifically and explicitly set forth in the EPCRA statute [42 U.S.C. Chapter 116] without the exercise of any policy discretion by the EPA.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA’s Policy on Children’s Health also does not apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This proposed rulemaking does not involve technical standards.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Endnotes

1. National Tier II Data Standard: https://cameo.noaa.gov/epcra_tier2/data_standard/v1/.
2. EPCRA Tier II Forms and Instructions: <https://www.epa.gov/epcra/tier-ii-forms-and-instructions>.
3. Online training for the implementing agencies, planners, and responders:
<https://www.epa.gov/epcra/epcra-non-section-313-online-training-states-tribes-lepcs-local-planners-and-responders>.
4. National LEPC-TEPC Handbook: <https://www.epa.gov/epcra/national-lepc-tepc-handbook>.
5. SERC Contact Information: <https://www.epa.gov/epcra/state-emergency-response-commissions-contacts> and <https://www.epa.gov/epcra/state-tier-ii-reporting-requirements-and-procedures>.

List of Subjects in 40 CFR Part 370

Environmental protection, Chemicals, Emergency preparedness, Hazardous substances, Occupational safety and health, Reporting and recordkeeping requirements

Lee Zeldin,
Administrator.

For the reasons set forth in the preamble, the EPA amends Title 40, Chapter I of the Code of Federal Regulations as follows:

1. Revise and republish part 370 to read as follows:

PART 370—HAZARDOUS CHEMICAL REPORTING: COMMUNITY RIGHT-TO-KNOW

Sec.

Subpart A—General Information

370.1 What is the purpose of this part?

370.2 Who do the terms you, I, and your refer to in this part?

370.3 Definitions.

Subpart B—Who Must Comply

370.10 Who must comply with the hazardous chemical reporting requirements of this part?

370.11 [Reserved]

370.12 What hazardous chemicals must I report under this part?

370.13 What substances are exempt from these reporting requirements?

370.14 How do I report mixtures containing hazardous chemicals?

Subpart C—Reporting Requirements

370.20 What are the reporting requirements of this part?

How to Comply With SDS Reporting

370.30 What information must I provide and what format must I use?

370.31 Do I have to update the information?

370.32 To whom must I submit the information?

370.33 When must I submit the information?

How to Comply With Inventory Reporting

370.40 What information must I provide and what format must I use?

370.41 What is Tier I inventory information?

370.42 What is Tier II inventory information?

370.43 What codes are used to report Tier I and Tier II inventory information?

370.44 To whom must I submit the inventory information?

370.45 When must I submit the inventory information?

Subpart D—Community Access to Information

370.60 How does a person obtain SDS information about a specific facility?

370.61 How does a person obtain inventory information about a specific facility?

370.62 What information may a state or local official request from a facility?

370.63 What responsibilities do the SERC and LEPC have to make requested information available?

370.64 What information can I claim as trade secret or confidential?

370.65 Must I allow the local fire department to inspect my facility, and must I provide specific location information about hazardous chemicals at my facility?

370.66 [Reserved]

Authority: Sections 302, 311, 312, 322, 324, 325, 327, 328, and 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) (Pub. L. 99-499, 100 Stat. 1613, 42 U.S.C. 11002, 11021, 11022, 11042, 11044, 11045, 11047, 11048, and 11049).

Subpart A—General Information

§ 370.1 What is the purpose of this part?

(a) This part (40 CFR part 370) establishes reporting requirements for providing the public with important information on the hazardous chemicals in their communities.

Reporting raises community awareness of chemical hazards and aids in the development of state and local emergency response plans. The reporting requirements established under this part consist of Safety Data Sheet (SDS) reporting and inventory reporting.

(b) This part is written in a special format to make it easier to understand the regulatory requirements. Like other Environmental Protection Agency (EPA) regulations, this part establishes enforceable legal requirements. Information considered non-binding guidance under EPCRA is indicated in this regulation by the word “note” and a smaller typeface. Such notes are provided for information purposes only and are not considered legally binding under this part.

§ 370.2 Who do the terms you, I, and your refer to in this part?

Throughout this part the terms you, I, and your refer to the owner or operator of a facility.

§ 370.3 Definitions.

Chief Executive Officer of the Tribe means the person who is recognized by the Bureau of Indian Affairs as the chief elected administrative officer of the Tribe.

Environment includes water, air, and land and the interrelationship that exists among and between water, air, and land and all living things.

EPCRA means the Emergency Planning and Community Right-To-Know Act of 1986.

Extremely Hazardous Substance (EHS) means a substance listed in appendices A and B of 40 CFR part 355.

Facility means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person that controls, is controlled by, or under common

control with, such person). *Facility* includes manmade structures, as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use.

Hazard category means the classification of a chemical's hazard(s) into classes with their categories or hazards not otherwise classified as are reported in Section 2 of SDSs in accordance with 29 CFR 1910.1200. Hazard categories are divided by hazard class into health hazards and physical hazards:

(1) *Health hazard* means a chemical that is classified into one of the following hazard classes or hazards not otherwise classified: acute toxicity (oral, dermal, or inhalation); aspiration hazard; carcinogenicity; germ cell mutagenicity; reproductive toxicity; respiratory sensitizer; skin sensitizer; serious eye damage/eye irritation; simple asphyxiant; skin corrosion or irritation; specific target organ toxicity (single exposure) or (repeated or prolonged exposure); and hazard not otherwise classified (HNOC).

(2) *Physical hazard* means a chemical that is classified into one of the following hazard classes or hazards not otherwise classified: aerosols; chemicals under pressure; combustible dust; corrosive to metal; desensitized explosive; explosives; flammable (gases, liquids, or solids); gas under pressure; in contact with water emits flammable gases; organic peroxides; oxidizing (gases, liquids, or solids); pyrophoric (liquids or solids); self-heating chemicals; self-reactive chemicals; and hazard not otherwise classified (HNOC).

Hazardous chemical means any hazardous chemical as defined under 29 CFR 1910.1200(c), except that such term does not include:

(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:

(i) 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.

Present in the same form and concentration as a product packaged for distribution and use by the general public means a substance packaged in a similar manner and present in the same concentration as the substance when packaged for use by the general public, whether or not it is intended for distribution to the general public or used for the same purpose as when it is packaged for use by the general public;

(ii) In a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or

(iii) In routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Indian Country means Indian country as defined in 18 U.S.C. 1151 as:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian Tribe or Tribe means those Tribes federally recognized by the Secretary of the Interior.

Inventory form means the uniform Tier I and Tier II emergency and hazardous chemical inventory forms published by EPA. These forms can be used for reporting inventory information, as described in §§ 370.40 through 370.45.

LEPC means the Local Emergency Planning Committee appointed by the State Emergency Response Commission.

Mixture means mixture as defined under the Occupational Safety and Health Administration's Hazard Communication Standard in 29 CFR 1910.1200(c).

OSHA means the U.S. Occupational Safety and Health Administration.

Person means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or interstate body.

Safety Data Sheet (SDS) means the sheet required to be developed under 29 CFR 1910.1200(g). The term SDS replaces the term “material safety data sheet” for the name of the data sheet defined in the statute (42 U.S.C. 11049(6)).

SERC means the State Emergency Response Commission for the state in which the facility is located except when the facility is located in Indian Country, in which case, SERC means the Emergency Response Commission for the Tribe under whose jurisdiction the facility is located. In the absence of a SERC for a state or an Indian Tribe, the Governor or chief executive officer of the Tribe, respectively, shall be the SERC. Where there is a cooperative agreement between a state and a Tribe, the SERC shall be the entity identified in the agreement.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, any other territory or possession over which the United States has jurisdiction, and Indian Country.

Threshold planning quantity (TPQ) means the quantity listed in the column “threshold planning quantity” for the EHSs listed in appendix A and B of 40 CFR part 355.

Subpart B—Who Must Comply

§ 370.10 Who must comply with the hazardous chemical reporting requirements of

this part?

(a) You must comply with the reporting requirements of this part if the Occupational Safety and Health Administration's (OSHA) Hazard Communication Standard (HCS) requires your facility to prepare or have available a Safety Data Sheet (SDS) for a hazardous chemical and if either of the following conditions is met:

Note 1 to paragraph (a) introductory text. OSHA's Material Safety Data Sheet or MSDS requirement was renamed to be the Safety Data Sheet or SDS requirement. The terms MSDS and SDS are synonymous. The EPCRA statutory MSDS requirements will be referred to as the SDS requirements within this regulation. (77 FR 17693; March 26, 2012)

(1) A hazardous chemical that is an Extremely Hazardous Substance (EHS) is present at your facility at any one time in an amount equal to or greater than 500 pounds (227 kg—approximately 55 gallons) or the Threshold Planning Quantity (TPQ), whichever is lower. EHSs and their TPQs are listed in appendices A and B of 40 CFR part 355.

(2) A hazardous chemical that is not an EHS is present at your facility at any one time in an amount equal to or greater than the threshold level for that hazardous chemical.

Threshold levels for such hazardous chemicals are:

(i) For any hazardous chemical that does not meet the criteria in paragraph (a)(2)(ii) or (iii) of this section, the threshold level is 10,000 pounds (or 4,540 kg).

(ii) For gasoline at a retail gas station (For purposes of this part, retail gas station means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public for motor vehicle use on land.), the threshold level is 75,000 gallons (approximately 283,900 liters) (all grades combined). This threshold is only applicable for gasoline that was in tanks entirely underground and that were 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.

(iii) For diesel fuel at a retail gas station (For purposes of this part, retail gas station means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public for motor vehicle use on land.), the threshold level is 100,000 gallons (approximately 378,500 liters) (all grades combined). This threshold is only applicable for diesel fuel that was in tanks entirely underground and that 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.

(b) The threshold level for responding to the following requests is zero.

(1) If your LEPC requests that you submit an SDS for a hazardous chemical for which you have not submitted an SDS to your LEPC; or

(2) If your LEPC, SERC, or the fire department with jurisdiction over your facility requests that you submit Tier II information.

§ 370.11 [Reserved]

§ 370.12 What hazardous chemicals must I report under this part?

(a) You must report any hazardous chemical for which you are required to prepare or have available an SDS under OSHA HCS that is present at your facility equal to or above the applicable threshold specified in § 370.10. (specific exemptions from reporting are in § 370.13)

(b) The EPA has not issued a list of hazardous chemicals subject to reporting under this part. A substance is a hazardous chemical if it is required to have an SDS and meets the definition of hazardous chemical under the OSHA regulations found at 29 CFR 1910.1200(c).

§ 370.13 What substances are exempt from these reporting requirements?

You do not have to report substances for which you are not required to have an SDS

under the OSHA regulations or that are excluded from the definition of hazardous chemical under EPCRA section 311(e). Each of the following substances are excluded under EPCRA section 311(e):

(a) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(b) 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.

(c) Any substance to the extent it is used:

(1) 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.

Present in the same form and concentration as a product packaged for distribution and use by the general public means a substance packaged in a similar manner and present in the same concentration as the substance when packaged for use by the general public, whether or not it is intended for distribution to the general public or used for the same purpose as when it is packaged for use by the general public;

(2) In a research laboratory or hospital or other medical facility under the direct supervision of a technically qualified individual; or

(3) In routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

§ 370.14 How do I report mixtures containing hazardous chemicals?

(a) For a mixture containing a hazardous chemical, use the following table to determine if a reporting threshold is equaled or exceeded, and to determine how to report:

Table 1 to Paragraph (a)

If your mixture contains a hazardous chemical	To determine if the threshold level for that hazardous chemical is equaled or exceeded you must	If the threshold level for that hazardous chemical is exceeded, then you must
(1) That is an EHS	Determine the total quantity of	<i>Report the EHS component:</i>

	the EHS present throughout your facility at any one time, by adding together the quantities present as a component in all mixtures and all other quantities of the EHS. You must include the quantity present in a mixture even if you are also counting the quantity of that particular mixture toward the threshold level for that mixture.	Submit an SDS for the EHS as provided under § 370.30 or include the EHS on the list of chemicals submitted in lieu of the SDS. And submit Tier I or Tier II information for the EHS as provided under § 370.40. Or <i>Report the mixture itself:</i> Submit an SDS for the mixture as provided under § 370.30 or include the mixture on the list of chemicals submitted in lieu of the SDS. And submit Tier I or Tier II information for the mixture as provided under § 370.40. If you report the mixture itself, then provide the total quantity of that mixture.
(2) That is not an EHS	Determine either: The total quantity of the hazardous chemical present throughout your facility at any one time by adding together the quantity present as a component in all mixtures and all other quantities of the hazardous chemical. You must include the quantity present in a mixture even if you are also applying that particular mixture as a whole toward the threshold level for that mixture. Or	<i>Report the non-EHS hazardous chemical component:</i> Submit an SDS for the non-EHS hazardous chemical as provided under § 370.30 or include the non-EHS on the list of chemicals submitted in lieu of the SDS. And submit Tier I or Tier II information for the non-EHS hazardous chemical as provided under § 370.40. Or

	The total quantity of that mixture present throughout your facility at any one time.	<i>Report the mixture itself:</i> Submit an SDS for the mixture as provided under § 370.30 or include the mixture on the list of chemicals submitted in lieu of SDS. And submit Tier I or Tier II information for the mixture as provided under § 370.40. If you report the mixture itself, then provide the total quantity of that mixture.
--	---	--

(b) For each specific mixture, the reporting option used must be consistent for both SDS and inventory reporting, unless it is not possible to do so. This means that if you report on a specific mixture as a whole for SDS reporting, you must report on that mixture as a whole for inventory reporting too (unless it is not possible). SDS reporting and inventory reporting are discussed in detail in subpart C of this part.

(c) To determine the quantity of an EHS or a non-EHS hazardous chemical component present in a mixture, multiply the concentration of the hazardous chemical component (in weight percent) by the weight of the mixture (in pounds). You do not have to count a hazardous chemical present in a mixture if the concentration is less than or equal to 1%, or less than or equal to 0.1% for a carcinogenic chemical.

Subpart C—Reporting Requirements

§ 370.20 What are the reporting requirements of this part?

The reporting requirements of this part consist of SDS reporting and inventory reporting. If you are the owner or operator of a facility subject to the reporting requirements of this part, then you must comply with both types of reporting requirements. SDS reporting requirements are addressed in §§ 370.30 through 370.33. Inventory reporting

requirements are addressed in §§ 370.40 through 370.45.

How to Comply With SDS Reporting

§ 370.30 What information must I provide and what format must I use?

(a) You must report the hazardous chemicals present at your facility that meet or exceed the applicable threshold levels (threshold levels are in § 370.10) by either:

(1) Submitting an SDS for each hazardous chemical present at your facility that meet or exceed its applicable threshold level; or

(2) Submitting a list of all hazardous chemicals present at your facility at or above the applicable threshold levels. The hazardous chemicals on your list must be grouped by the specific health and physical hazards as listed in section 2 of the SDSs. The list must contain the chemical or common name of each hazardous chemical as provided on the SDS.

(b) Within 30 days of a request by the LEPC, as provided in § 370.10(b), you must also submit an SDS for any hazardous chemical present at your facility for which you have not submitted an SDS.

§ 370.31 Do I have to update the information?

SDS reporting stated in § 370.30 is a one-time requirement. However, you must update the information in all of the following ways:

(a) Submit a revised SDS after you discover significant new information concerning a hazardous chemical for which an SDS was submitted.

(b) Submit an SDS, or a list as described in § 370.30(a), for any new hazardous chemical for which you become subject to these reporting requirements.

(c) Submit, as requested by the LEPC, an SDS for any hazardous chemical present at your facility which you have not already submitted, as provided in § 370.30(b).

§ 370.32 To whom must I submit the information?

(a) You must submit an SDS or a list to the LEPC, SERC, and fire department with

jurisdiction over your facility, as provided in § 370.30(a).

(b) You must submit an SDS to the LEPC if requested, as provided in § 370.30(b).

§ 370.33 When must I submit the information?

(a) You must submit an SDS or a list, as provided in § 370.30(a), for a hazardous chemical subject to the reporting requirements of this part within three (3) months after you first become subject to the reporting requirements of this part, as provided in §§ 370.30 and 370.31(b).

(b) You must submit a revised SDS, as provided in § 370.31(a), within three (3) months after discovering significant new information about a hazardous chemical for which an SDS was submitted.

(c) You must submit an SDS requested by the LEPC, as provided in §§ 370.30(b) and 370.31(c), within 30 days of receiving the request.

How to Comply With Inventory Reporting

§ 370.40 What information must I provide and what format must I use?

(a) If you are required to comply with the hazardous chemical reporting requirements of this part, then by March 1 every year you must submit inventory information regarding any hazardous chemical present at your facility at any time during the previous calendar year in an amount equal to or in excess of its threshold level. Threshold levels are provided in § 370.10.

(b) Tier I information is the minimum information that you must report to be in compliance with the inventory reporting requirements of this part as described in § 370.41. You may choose to report the Tier II information described in § 370.42 for any hazardous chemical at your facility. You must submit Tier II information to the SERC, LEPC, or fire department with jurisdiction over your facility if they request it. EPA publishes Tier I and Tier II Inventory Forms that provide uniform formats for reporting the Tier I and Tier II information. You may use a state or local format for reporting

inventory information if the state or local format contains at least the Tier I information described in § 370.41. EPA's Tier I and Tier II forms are available at <https://www.epa.gov/epcra>.

Note 1 to paragraph (b). Some states require Tier II information annually under state law.

(c) You should contact the SERC to determine that state's requirements for inventory reporting formats, procedures, and to obtain inventory forms.

§ 370.41 What is Tier I inventory information?

Tier I information provides state and local officials and the public with information on the general types and locations of hazardous chemicals present at your facility during the previous calendar year. The Tier I information is the minimum information that you must provide to be in compliance with the inventory reporting requirements of this part. If you are reporting Tier I information, you must report aggregate information on hazardous chemicals by hazard category. The hazard categories (physical and health hazards) are available on the Tier I form for you to select. The Tier I inventory form includes the following data elements:

(a) The owner or operator or the officially designated representative of the owner or operator must certify that all information included in the Tier I submission is true, accurate, and complete as follows: "I certify under penalty of law that I have personally examined and am familiar with the information 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." This certification shall be accompanied by your full name, official title, signature, date signed, and total number of pages in the submission including all attachments. All other pages must also contain your signature or signature stamp, the date you signed the certification, and the total number of pages in the submission.

Note 1 to paragraph (a). Some states require electronic reporting and electronic certification. Contact your state for its specific requirements.

(b) The calendar year for the reporting period.

(c) An indication whether the information being reported on page one of the form is identical to that submitted last year.

(d) The complete name and address of the location of your facility (include the full street address or state road, city, county, state, and zip code), latitude, and longitude.

(e) An indication if the location of your facility is manned or unmanned.

(f) An estimate of the maximum number of occupants present at any one time. If the location of your facility is unmanned, check the box marked N/A, not applicable.

(g) The phone number of your facility (optional).

(h) The North American Industry Classification System (NAICS) code for your facility.

(i) The Dun & Bradstreet number of your facility.

(j) Facility identification numbers assigned under the Toxic Release Inventory (TRI) and Risk Management Program. If your facility has not been assigned an identification number under these programs or if your facility is not subject to reporting under these programs, check the box marked N/A, not applicable.

(k) An indication whether your facility is subject to the emergency planning notification requirement under EPCRA section 302, codified in 40 CFR part 355.

(l) An indication whether your facility is subject to the chemical accident prevention requirements under section 112(r) of the Clean Air Act, codified in 40 CFR part 68, also known as the Risk Management Program.

(m) The name, mailing address, phone number, and email address of the owner or operator of the facility.

(n) The name, mailing address, phone number, Dun & Bradstreet number, and email address of the facility's parent company. These are optional data elements.

(o) The name, title, phone number, 24-hour phone number, and email address of the facility emergency coordinator, if applicable.

Note 2 to paragraph (o). EPCRA section 303(d)(1) requires facilities subject to the emergency planning notification requirement under EPCRA section 302 to designate a facility representative who will participate in the local emergency planning process as a facility emergency coordinator. This includes additional facilities designated by the Governor or SERC under EPCRA section 302(b)(2). EPA encourages facilities not subject to the emergency planning notification requirement also to provide this information, if available, for effective emergency planning in your community.

(p) The name, title, phone number, and email address of the person to contact for the information contained in the Tier I form.

(q) The name, title, phone number, and email address of at least one local individual who can act as a referral if emergency responders need assistance in responding to a chemical accident at your facility. You must also provide an emergency phone number that will be available 24 hours a day, every day.

(r) An indication whether the information being reported on page two of the form is identical to that submitted last year.

(s) An estimate (in ranges) of the maximum amount of hazardous chemicals in each hazard category present at your facility at any time during the preceding calendar year. You must use codes that correspond to different ranges. The range codes are provided in § 370.43.

(t) An estimate (in ranges) of the average daily amount of hazardous chemicals in each hazard category present at your facility during the preceding calendar year. You must use codes that correspond to different ranges. The range codes are provided in § 370.43.

(u) The maximum number of days that any single hazardous chemical within each hazard category was present at your facility during the reporting period.

(v) The general location of hazardous chemicals in each hazard category within your facility. General locations should include the names or identification of buildings, tank fields, lots, sheds, or other such areas. You may also attach one or more of the following with your Tier I inventory form:

(1) A site plan with site indicated for buildings, lots, areas, etc. throughout your facility.

(2) A list of site coordinate abbreviations that correspond to buildings, lots, areas, etc., throughout your facility.

(3) A description of dikes and other safeguard measures for storage locations throughout your facility.

(w) An indication whether you are including any attachments (optional).

§ 370.42 What is Tier II inventory information?

Tier II information provides state and local officials and the public with specific information on the amounts and locations of hazardous chemicals present at your facility during the previous calendar year. Some states may require you to use a state reporting format including electronic reporting and certification for submitting your hazardous chemical inventory. Contact your state for its specific requirements. The Tier II inventory form includes the following data elements:

(a) The owner or operator or the officially designated representative of the owner or operator must certify that all information included in the Tier II submission is true, accurate, and complete as follows: “I certify under penalty of law that I have personally examined and am familiar with the information 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.” This certification must be accompanied by your full name, official title, signature, date signed, and total number of pages in the submission including all Confidential and Non-Confidential Information Sheets and all attachments. All other pages must also contain your signature or signature stamp, the date

you signed the certification, and the total number of pages in the submission.

Note 1 to paragraph (a). Some states require electronic reporting and electronic certification. Contact your state for the specific requirements in that state.

(b) The calendar year of the reporting period.

(c) An indication whether the information being reported on page one of the form is identical to that submitted last year.

(d) The complete name and address of the location of your facility (include the full street address or state road, city, county, state, and zip code), latitude, and longitude.

(e) An indication if the location of your facility is manned or unmanned.

(f) An estimate of the maximum number of occupants present at any one time. If the location of your facility is unmanned, check the box marked N/A, not applicable.

(g) The phone number of your facility (optional).

(h) The North American Industry Classification System (NAICS) code for your facility.

(i) The Dun & Bradstreet number of your facility.

(j) Facility identification numbers assigned under the Toxic Release Inventory (TRI) and Risk Management Program. If your facility has not been assigned an identification number under these programs or if your facility is not subject to reporting under these programs, check the box marked N/A, not applicable.

(k) An indication if your facility is subject to the emergency planning notification requirement under section 302 of EPCRA, codified in 40 CFR part 355.

(l) An indication whether your facility is subject to the chemical accident prevention requirements under section 112(r) of the Clean Air Act (CAA), codified in 40 CFR part 68, Chemical Accident Prevention Provisions, also known as the Risk Management Program.

(m) The name, mailing address, phone number, and email address of the owner or operator of the facility.

(n) The name, mailing address, phone number, Dun & Bradstreet number, and email address of the facility's parent company. These are optional data elements.

(o) The name, title, phone number, 24-hour phone number, and email address of the facility emergency coordinator, if applicable.

Note 2 to paragraph (o). EPCRA section 303(d)(1) of EPCRA requires facilities subject to the emergency planning notification requirement (including additional facilities designated by the Governor or SERC under EPCRA section 302(b)(2)) to designate a facility representative who will participate in the local emergency planning process as a facility emergency coordinator. This includes additional facilities designated by the Governor or SERC under EPCRA section 302(b)(2). EPA encourages facilities not subject to the emergency planning notification requirement also to provide this information, if available, for effective emergency planning in your community.

(p) The name, title, phone number, and email address of the person to contact regarding information contained in the Tier II form.

(q) The name, title, phone number and email address of at least one local individual who can act as a referral if emergency responders need assistance in responding to a chemical accident at your facility. You must also provide an emergency phone number that will be available 24 hours a day, every day.

(r) An indication whether the information being reported on page two of the form is identical to that submitted last year.

(s) For each hazardous chemical that you are required to report, you must:

(1) Provide the chemical name (or the common name of the chemical) as provided on the SDS and provide the Chemical Abstract Service (CAS) registry number of the chemical provided on the SDS.

Note 3 to paragraph (s)(1). If you are withholding the name in accordance with trade secret criteria, you must provide the generic class or category that is structurally

descriptive of the chemical and indicate that the name is withheld because of trade secrecy. Trade secret criteria are addressed in § 370.64(a)

(2) Indicate whether the chemical is a solid, liquid, or gas; and whether the chemical is an EHS.

(3) If you are reporting a mixture, enter the mixture name, product name or trade name, and CAS registry number as provided on the SDS. If there is no CAS number provided or it is not known, check the box “Not Available.”

(4) If the mixture you are reporting contains EHS(s), provide the name of each EHS in the mixture. As provided in § 370.14(a), you also have an option to report the non-EHS hazardous components in the mixture.

(5) Indicate which hazard categories apply to the chemical or mixture. The hazard categories are available for you to select on the Tier II form and found in section 2 of the SDSs.

(6) Provide an estimate (in ranges) of the maximum amount of the hazardous chemical present at your facility on any single day during the preceding calendar year. If you are reporting a mixture, provide an estimate of the total amount of the mixture present at your facility on any single day during the preceding calendar year. If the mixture contains any EHSs, provide the total amount of each EHS in that mixture. You must use the codes that correspond to different ranges. The amounts and associated range codes are in § 370.43.

(7) Provide an estimate (in ranges) of the average daily amount of the hazardous chemical present at your facility during the preceding calendar year. If you are reporting a mixture, provide an estimate of the average daily amount of the mixture. You must use the codes that correspond to different ranges. The amounts and associated range codes are in § 370.43.

(8) Provide the maximum number of days that the hazardous chemical or mixture was present at your facility during the preceding calendar year.

(9) Provide the type of storage for the hazardous chemical or the mixture containing the hazardous chemical at your facility. Examples of types of storage: above-ground tank, plastic or non-metallic drum, steel drum, cylinder, rail car, etc.

Note 4 to paragraph (s)(9). Your SERC or LEPC may have specific instructions for reporting types of storage and/or storage conditions

(10) Provide the storage conditions for the hazardous chemical or mixture containing the hazardous chemical at your facility. Examples for types of storage conditions: Ambient pressure, ambient temperature, less than ambient temperature/pressure, cryogenic conditions, etc.

Note 5 to paragraph (s)(10). Your SERC or LEPC may have specific instructions for reporting types of storage and/or storage conditions.

(11) Provide a brief description of the precise location(s) of the hazardous chemical(s) or mixture(s) at your facility. You may also attach one of the following with your Tier II inventory form:

(i) A site plan with site coordinates indicated for buildings, lots, areas, etc. throughout your facility.

(ii) A list of site coordinate abbreviations that correspond to buildings, lots, areas, etc., throughout your facility.

(iii) A description of dikes and other safeguard measures for storage locations throughout your facility.

(12) Under EPCRA section 324, you may choose to withhold from disclosure to the public the location information for a specific chemical. If you choose to withhold the location information from disclosure to the public, you must clearly indicate that the information is “confidential.” You must provide the confidential location information on a separate sheet from the other Tier II information (which will be disclosed to the public) and attach the Confidential Location Information Sheet to the other Tier II information.

Indicate any attachments you are including.

(13) You may provide additional reporting. For example, if your state or local agencies require you to provide inventory information on additional chemicals or if you wish to report any hazardous chemical below the reporting thresholds specified in § 370.10, check the appropriate box.

(t) An indication whether you are including any attachments (optional).

§ 370.43 What codes are used to report Tier I and Tier II inventory information?

(a) Except as provided in paragraph (b) of this section, you must use the following codes to report the maximum amount and average daily amount when reporting Tier I or Tier II inventory information:

Table 1 to Paragraph (a)

Range codes	Weight range in pounds	
	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.*

Note 1 to paragraph (a). To convert gas or liquid volume to weight in pounds, multiply by an appropriate density factor.

(b) Your SERC or LEPC may provide other range codes for reporting maximum amount and average daily amount or may require reporting of specific amounts. You may use

your SERC's or LEPC's range codes (or specific amounts) provided the ranges are not broader than the ranges in paragraph (a) of this section.

§ 370.44 To whom must I submit the inventory information?

You must submit the required inventory information to your SERC, LEPC, and the fire department with jurisdiction over your facility.

§ 370.45 When must I submit the inventory information?

(a) You must submit the required inventory information on or before March 1st of each year after your facility becomes subject to this part. Your submission must contain the required inventory information on hazardous chemicals present at your facility during the preceding calendar year at or above the threshold levels. Threshold levels are in § 370.10. The minimum required inventory information under EPCRA section 312 is Tier I information. Tier I information requirements are described in § 370.41.

(b) You must submit Tier II information within 30 days of the receipt of a request from the SERC, LEPC, or fire department with jurisdiction over your facility, as provided in § 370.10(b). Tier II information requirements are described in § 370.42.

Subpart D—Community Access to Information

§ 370.60 How does a person obtain SDS information about a specific facility?

Any person may obtain an SDS for a specific facility by writing to the LEPC and asking for it.

(a) If the LEPC has the SDS it must provide it to the person making the request.

(b) If the LEPC does not have the SDS it must request it from the facility's owner or operator.

§ 370.61 How does a person obtain inventory information about a specific facility?

(a) Any person may request Tier II information for a specific facility by writing to the SERC or LEPC.

(1) If the SERC or LEPC has the Tier II information, the SERC or LEPC must provide it

to the person making the request.

(2) If the SERC or LEPC does not have the Tier II information, it must request it from the facility owner or operator in either of the following cases:

(i) The person making the request is a state or local official acting in an official capacity.

(ii) The request is for hazardous chemicals in amounts greater than 10,000 pounds stored at the facility at any time during the previous calendar year.

(3) If the SERC or LEPC does not have the Tier II information, it may request it from the facility owner or operator when neither condition in paragraph (a)(2) of this section is met but the person's request includes a general statement of need.

(b) A SERC or LEPC must respond to a request for Tier II information under this section within 45 days of receiving such a request.

§ 370.62 What information may a state or local official request from a facility?

The LEPC may ask a facility owner or operator to submit an SDS for a hazardous chemical present at the facility. The SERC, LEPC, or fire department with jurisdiction over a facility may ask a facility owner or operator to submit Tier II information. The owner or operator must provide the SDS (unless the owner or operator has already submitted an SDS to the LEPC for that hazardous chemical) or Tier II information within 30 days of receipt of such request.

§ 370.63 What responsibilities do the SERC and LEPC have to make requested information available?

Under this subpart, the SERC or LEPC must make the following information (except for confidential location information discussed in § 370.64(b)) available if a person requests it:

(a) All information obtained from an owner or operator in response to a request under this subpart.

(b) Any requested Tier II information or SDS otherwise in possession of the SERC or the

LEPC.

§ 370.64 What information can I claim as trade secret or confidential?

(a) *Trade secrets.* You may be able to withhold the name of a specific chemical when submitting SDS reporting or inventory reporting information if that chemical name is claimed as a trade secret. The requirements for withholding trade secret information are set forth in EPCRA section 322 and implemented in 40 CFR part 350. If you are withholding the name of a specific chemical as a trade secret in accordance with trade secrecy requirements, you must report the generic class or category that is structurally descriptive of the chemical along with all other required information. You must also submit the withheld information to EPA and must adequately substantiate your claim. A Form for substantiating trade secret claims is available at the Agency Web site at <https://www.epa.gov/epcra>.

(b) *Confidential location information.* You may request that the SERC and LEPC not disclose to the public the location of any specific chemical required to be submitted in Tier II information. If you make such a request, the SERC and LEPC must not disclose the location of the specific chemical. Although you may request that location information (with respect to a specific chemical) be withheld from the public, you may not withhold this information from the SERC, LEPC, and the local fire department. If you use the Tier II Form to report your inventory information, you can choose to report the confidential location information for the specific chemical on the Tier II Confidential Location Form and attach this form to the other Tier II information you are reporting. The Tier II Confidential Location Form is available on the Agency website at <https://www.epa.gov/epcra>.

§ 370.65 Must I allow the local fire department to inspect my facility, and must I provide specific location information about hazardous chemicals at my facility?

If you are the owner or operator of a facility that has submitted inventory information

under this part, you must comply with the following two requirements upon request by the fire department with jurisdiction over your facility:

(a) You must allow the fire department to conduct an on-site inspection of your facility;
and

(b) You must provide the fire department with information about the specific locations of hazardous chemicals at your facility.

§ 370.66 [Reserved]

[FR Doc. 2026-12426 Filed: 6/18/2026 8:45 am; Publication Date: 6/22/2026]