

Prepublication Copy Notice:

The Administrator of the United States Environmental Protection Agency signed the following document on October 17, 2025:

Title: **Technical Amendments to the EPCRA Hazardous Chemical Inventory Reporting Requirements to Conform to the 2024 OSHA Hazard Communication Standard**

Action: **Direct final rule.**

Docket No.: **EPA-HQ-OLEM-2025-0299**

This is a **prepublication version** of the document that EPA is submitting to the docket for public comment. While the Agency has taken steps to ensure the accuracy of this prepublication version of the document, **it is not the official version** of the document for purposes of public comment or judicial review. Please refer to the official version of the document that will appear in the docket.

Once the official version of the document publishes in the docket, the prepublication version of the document posted on the Agency's internet will be replaced with a link to the document that appears in the docket.

For more information about the docket and instructions for commenting, please consult the "ADDRESSES" section in the front of the document.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 370

[EPA-HQ-OLEM-2025-0299; FRL-12698-04-OLEM]

RIN 2050-AH40

Technical Amendments to the EPCRA Hazardous Chemical Inventory Reporting Requirements to Conform to the 2024 OSHA Hazard Communication Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is taking direct final action to conform 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 and its regulations rely on the Occupational Safety and Health Administration'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 will conform 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 will also improve first responder and community safety, reduce discrepancies and confusion, prevent interpretation burdens on facilities when using (Material) Safety Data Sheets to complete annual hazardous chemical inventory reports, and improve clarity.

DATES: This final rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless the EPA receives adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that the rule, or the relevant provisions of this rule, will not take effect. Compliance with these updates is required for the 2026 annual hazardous chemical inventory reporting year. Reports for calendar year 2026 are due on or before March 1, 2027.

Effective date: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Compliance date: December 1, 2026.

ADDRESSES: 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> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI), Proprietary Business Information (PBI), 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, Regulation Implementation Division of the Office of Emergency Management (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave NW, Washington, DC 20460; telephone number: (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. Why is EPA Using a Direct Final Rule?
- II. General Information
 - A. Summary of this action
 - 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?
- III. Revisions to 40 CFR Part 370
 - A. History of EPCRA hazard categories
 - B. Revisions to EPCRA hazard categories
 - C. Revisions to EPCRA definitions
 - D. Other revisions to 40 CFR part 370
 - 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)

I. Why is EPA Using a Direct Final Rule?

The Environmental Protection Agency (“EPA” or “Agency”) is publishing this rule without a prior proposed rule because the Agency views this as a noncontroversial action and anticipates no adverse comment because the Emergency Planning and

Community Right-to-Know Act (EPCRA) statute [42 U.S.C. Chapter 116] ¹ relies on the Occupational Safety and Health (OSH) Act of 1970 [29 U.S.C. Chapter 15] ² and the Occupational Safety and Health Administration's (OSHA's) implementing regulations [29 CFR 1910.1200] ³ for the definitions of hazardous chemical, physical hazard, and health hazard and the hazardous chemical reporting hazard categories. More specifically, section 311(e) of the EPCRA statute and its attendant regulation at 40 CFR 370.66 ⁴ define *hazardous chemical* as any hazardous chemical defined under 29 CFR 1910.1200(c). The EPCRA statute further requires that hazardous chemical inventory reporting be grouped into categories of health and physical hazards as set forth under the OSH Act and its implementing regulations [42 U.S.C. 11021(a)(2)(A)(1) and section 11022(a)(1)]. This action adopts the OSHA definitions and hazard categories as is required by the EPCRA statute and its regulations. EPA 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 under EPCRA. However, in the "Proposed Rules" section of this *Federal Register* publication, EPA is publishing a separate document that will serve as the proposed rule to solicit comments on the amendments incorporated in this direct final rule if adverse comments are received on this direct final rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, the Agency will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule will not take effect.

EPA would address all public comments in any subsequent final rule based on the proposed rule. If the Agency receives adverse comment on a distinct provision of this rulemaking, we will publish a timely withdraw in the *Federal Register* indicating which provisions we are withdrawing. The provisions which are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision.

II. General Information

A. Summary of this action

EPA is amending its 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 corrections 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 ⁵]. 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 ⁶ and 81 FR 47311; July 21, 2016 ⁷]. 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 to conform to the OSHA HCS and to improve readability of the regulation in the following sections: §§ 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 ⁸ and 89 FR 81829; October 9, 2024 ⁹]. 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 ¹⁰]. In this action, EPA is amending the EPCRA hazard categories to conform with the 2024 OSHA HCS and making the conforming amendments to the following sections: §§ 370.3, 370.30, 370.41, and 370.42.

The Agency is also making minor plain language, clarifying, and consistency corrections 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 corrections include capitalizing each letter of the term *Extremely Hazardous Substance* at § 370.66. 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*, amending the title of § 370.66 to be *[Reserved]*, and adding a note to §370.66 that the definitions are now in § 370.3. 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, 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 OSHA HCS and its implementing regulations. EPCRA section 311(e) defines the term *hazardous chemical* to have the same meaning as in 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].¹¹ 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] ¹²

D. Why is the Agency taking this action?

EPA is taking this action to meet its responsibilities as the Administrator of the EPCRA statute [42 U.S.C. 11049(1)] by ensuring that the hazardous chemical inventory reporting requirements are in conformance with the OSHA HCS SDS requirements, publishing a uniform format for inventory forms using OSHA SDS hazard categories, and ensuring that the regulations are clearly written. EPA anticipates that coordination with the OSHA HCS and 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 on 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.

III. Revisions to 40 CFR Part 370

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 to 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

standardized 16-section format. The EPA’s conforming action included replacing the five 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 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 EPCRA hazard categories, as was published in 40 CFR 370.66 from 2016 until the compliance date (December 1, 2026) of this action:

EPCRA Hazard Categories Based on OSHA Definitions (2016 until December 1, 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. Revisions to EPCRA hazard categories

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 gases¹³ 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 are being moved to 40 CFR 370.3 in this action. The following discusses these changes to the OSHA hazard classes and the 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*.

To align with this modification while ensuring the protection of first responders and communities, the EPCRA regulation will directly incorporate the OSHA hazard categories as opposed to the current method of being based on the summaries of hazard classes as provided in the OSHA definitions at 29 CFR 1910.1200(c) for hazardous chemical, health hazard, and physical hazard. The current method groups together similarly named hazard classes rather than the OSHA hazard categories. The current EPCRA hazard categories that are groupings of multiple OSHA hazard classes are 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). There are currently 24 EPCRA hazard categories; this action simply incorporates the 112 OSHA hazard categories as the EPCRA hazard categories. These more detailed hazard categories provide more accurate hazard information. This increased specificity for the risk criteria will be valuable to emergency planners and responders, while allowing facilities to simply copy the hazard categories from the SDSs to the EPCRA inventory reports. Modifying 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 section 11022(d)(C)(i), 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.

The following table compares the current EPCRA hazard categories to the 2024 OSHA HCS hazard classes and their hazard categories:

Comparison of Current EPCRA Hazard Categories to the 2024 OSHA Hazard Communication Standard's Hazard Classes and Categories from 29 CFR 1910.1200, including Appendices A & B [Alphabetical Order of Health and Physical Classes]		
EPCRA hazard categories (Adopted in 2016)	OSHA hazard class (2024 HCS)	OSHA hazard categories (2024 HCS)
Health Hazards		
Acute Toxicity (any route of exposure)	Acute Toxicity, Oral Acute Toxicity, Dermal Acute Toxicity, Inhalation	Oral – Category 1 Oral – Category 2 Oral – Category 3 Oral – Category 4 Dermal – Category 1 Dermal – Category 2 Dermal – Category 3 Dermal – Category 4 Inhalation – Category 1 Inhalation – Category 2 Inhalation – Category 3 Inhalation – Category 4
Aspiration Hazard	Aspiration Hazard	Category 1
Carcinogenicity	Carcinogenicity	Category 1 Sub-Category 1A Sub-Category 1B Category 2
Germ Cell Mutagenicity	Germ Cell Mutagenicity	Category 1 Sub-Category 1A Sub-Category 1B

		Category 2
Reproductive Toxicity	Reproductive Toxicity	Category 1 Sub-Category 1A Sub-Category 1B Category 2 Effects on or via lactation
Respiratory or Skin sensitization	Respiratory Sensitization 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
Serious Eye Damage or Eye Irritation	Serious Eye Damage/Eye Irritation	Serious eye damage - Category 1 Eye irritation - Category 2 Eye irritation - Sub-Category 2A Eye irritation - Sub-Category 2B
Simple Asphyxiant	Simple Asphyxiants	<i>Single Category</i>
Skin Corrosion or Irritation	Skin Corrosion Skin Irritation	Skin corrosion – Category 1 Skin corrosion – Sub-Category 1A Skin corrosion – Sub-Category 1B Skin corrosion – Sub-Category 1C Skin irritation – Category 2
Specific Target Organ Toxicity (Single or Repeated Exposure)	Specific Target Organ Toxicity Single Exposure	Category 1 Category 2 Category 3
	Specific Target Organ Toxicity Repeated or Prolonged Exposure	Category 1 Category 2

Hazard Not Otherwise Classified	Hazard Not Otherwise Classified	<i>Single Category</i>
Physical Hazard Classes		
<i>*Aerosols were under Flammable.</i> <i>**Chemicals Under Pressure is a new term to the 2024 OSHA HCS, these chemicals previously met the criteria for Flammable Gases.</i>	Aerosols and Chemicals Under Pressure	Aerosols – Category 1 Aerosols – Category 2 Aerosols – Category 3 Chemicals under pressure – Category 1 Chemicals under pressure – Category 2 Chemicals under pressure – Category 3
Combustible Dust	Combustible Dusts	<i>Single Category</i>
Corrosive to Metal	Corrosive to Metal	Category 1
<i>*Desensitized Explosives is new to the 2024 OSHA HCS</i>	Desensitized Explosives	Category 1 Category 2 Category 3 Category 4
Explosive	Explosives	Unstable Division 1.1 Division 1.2 Division 1.3 Division 1.4 Division 1.5 Division 1.6
Flammable (gases, aerosols, liquids, or solids) <i>*Aerosols are a separate hazard class in</i>	Flammable Gases	Flammable Gas - Category 1A Flammable Gas - Category 1B Flammable Gas - Category 2 Chemically Unstable Gas – Category A Chemically Unstable Gas – Category B

<i>the 2024 OSHA HCS</i>		Pyrophoric Gas
	Flammable Liquids	Category 1 Category 2 Category 3 Category 4
	Flammable Solids	Category 1 Category 2
Gas under pressure (compressed gas)	Gases Under Pressure	Compressed Gas Dissolved Gas Liquefied gases Refrigerated liquefied gas
In contact with water emits flammable gas	Chemicals Which, in Contact With Water, Emit Flammable Gases	Category 1 Category 2 Category 3
Organic peroxide	Organic Peroxides	Type A Type B Type C Type D Type E Type F Type G
Oxidizer (liquid, solid or gas)	Oxidizing Gases	Category 1
	Oxidizing Liquids	Category 1 Category 2 Category 3
	Oxidizing Solids	Category 1

		Category 2 Category 3
Pyrophoric (liquid or solid)	Pyrophoric Liquids	Category 1
	Pyrophoric Solids	Category 1
Pyrophoric Gas	<i>*Pyrophoric Gas is classified as a Flammable Gas in the 2024 OSHA HCS</i>	N/A
Self-heating	Self-Heating Chemicals	Category 1 Category 2
Self-reactive	Self-Reactive Chemicals	Type A Type B Type C Type D Type E Type F Type G
Hazard Not Otherwise Classified	Hazard Not Otherwise Classified	<i>Single Category</i>

Summary of changes to hazard categories–

In direct alignment with the EPCRA statute, which requires that the EPCRA hazardous chemical reporting be for OSHA hazardous chemicals and be grouped into categories of health and physical hazards [42 U.S.C. 11021(a)(2)(A)(i) and section 11022(d)(C)(i)], EPA is amending the EPCRA hazard categories to include the full list of OSHA hazard classes with their categories for the health and physical hazards. Previously, EPA used the abbreviated list of OSHA hazard classes as was defined under the terms hazardous chemical, health hazard, and physical hazard within 29 CFR 1910.1200(c).

EPA will continue to include the hazard classes that are listed in the OSHA HCS definition of *hazardous chemical* as health and/or physical hazard classes: simple asphyxiants will remain a health hazard, combustible dust will remain a physical hazard, and hazard not otherwise classified will remain both a physical hazard and a health hazard [81 FR 38107; June 13, 2016]. Because these classes do not have hazard categories in the appendices of 29 CFR 1910.1200, the hazard class will also be the hazard category for EPCRA reporting purposes. This is also in agreement with the OSHA guidance document *Hazard Classification Guidance* [OSHA 3844-02 2016].¹⁴

These changes will ensure that first responders and communities are aware of the hazards present at facilities, while maintaining the reporting burden reduction achieved in the 2016 amendments by ensuring that facilities only need to copy the chemical hazard information from the SDSs to the EPCRA inventory forms [81 FR 38107; June 13, 2016]. The following tables compare the current EPCRA hazard categories (adopted in 2016) to the hazard categories which are being adopted in this action:

EPCRA Health Hazard Categories		
Adopted in 2016	Adopting in this action to conform with the 2024 OSHA HCS (OSHA hazard class – OSHA hazard category)	Notes about 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 Acute Toxicity, Inhalation – Category 1 Acute Toxicity, Inhalation – Category 2 Acute Toxicity, Inhalation – Category 3 Acute Toxicity, Inhalation – Category 4	• Including the OSHA classes and categories for these health hazards from Appendix A.1 to create twelve 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 Germ Cell Mutagenicity – Category 2	• Including the OSHA categories for this hazard class from Appendix A.5 to create four EPCRA hazard categories.
Reproductive	Reproductive Toxicity – Category 1	• Including the OSHA categories for this hazard

Toxicity	Reproductive Toxicity – Sub-Category 1A Reproductive Toxicity – Sub-Category 1B Reproductive Toxicity – Category 2 Reproductive Toxicity - Effects on or via lactation	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	• 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.

	Specific Target Organ Toxicity Repeated or Prolonged Exposure – Category 2	
Hazard Not Otherwise Classified (HNOC)	Hazard Not Otherwise Classified (HNOC)	No changes

EPCRA Physical Hazard Categories		
Adopted in 2016	Adopting in this action to conform with the 2024 OSHA HCS (OSHA hazard class – OSHA hazard category)	Notes about 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	- 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 class. 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

	Flammable Liquids – Category 4 Flammable Solids – Category 1 Flammable Solids – Category 2	• 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 –	• Including the OSHA categories for this physical hazard from Appendix B.12 to create three EPCRA hazard categories.

	Category 3	
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 Oxidizing Liquids – Category 1 Oxidizing Liquids – Category 2 Oxidizing Liquids – Category 3 Oxidizing Solids – Category 1 Oxidizing Solids – Category 2 Oxidizing Solids – Category 3	• Separating the OSHA <i>oxidizing</i> hazard classes • Including the OSHA categories for this physical 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	Self-Reactive Chemicals – Type A	• Including the OSHA categories for this physical

Chemicals	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	hazard from Appendix B.8 to create seven EPCRA hazard categories.
Hazard Not Otherwise Classified (HNOC)	Hazard Not Otherwise Classified (HNOC)	• No changes

C. Revisions to EPCRA definitions

EPA is amending the definition of *hazard category* and removing the definition of *Material Safety Data Sheet* to conform with the 2024 OSHA HCS. EPA also notes that OSHA added a definition for combustible dust to the 2024 OSHA HCS. Further, the Agency is moving the definitions for 40 CFR part 370 from § 370.66 to § 370.3 to ensure clarity and consistency within the EPCRA regulations.

Hazard category—

EPA is amending the definition of *hazard category* in 40 CFR part 370, including the health and physical hazard definitions, to implement the conforming amendments discussed above in section *B. Revisions to EPCRA Hazard Categories*. This action amends the definition of *hazard category* to state that under EPCRA, a hazard category is the OSHA HCS's classification of a chemical's hazard(s) into classes with their categories as are reported in Section 2 of SDSs in accordance with 29 CFR 1910.1200. In accordance with the EPCRA statute [42 U.S.C. 11021(a)(2)(A)(1) and section 11022(a)(1)], the hazard categories continue to be divided by their hazard class into those with health and physical hazards. The definitions for *health hazard* and *physical hazard* are being amended to list each of the hazard classes as are described and named in Appendices A and B of 29 CFR 1910.1200 or 29 CFR 1910.1200(c) for combustible dust, simple asphyxiant, and hazards not otherwise classified, as well as to alphabetize the hazard classes to improve functionality and reduce the burden of completing the inventory forms.

The following table compares the definition for *hazard category*, including *health hazard* and *physical hazard*, between the 2016 EPCRA regulation and this action, with

differences in language bolded:

2016 EPCRA 311-312 40 CFR 370.66	Adopting in this action EPCRA 311-312 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 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).	<i>Hazard category</i> means the classification of a chemical's hazard(s) into classes with their categories 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: 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) <i>Physical hazard</i> means a chemical that is classified into one of the following hazard classes: 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).

(Material) Safety Data Sheet—

The 2012 OSHA HCS 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, serve the same function, and communicate the same types of information.

Additionally, OSHA stated that an SDS should be treated as an MSDS under EPCRA.

[77 FR 17730; March 26, 2012] Further, the 2012 and 2024 OSHA HCS at 29 CFR 1910.1200 do not contain the term Material Safety Data Sheet or MSDS, nor do they provide a reference to the prior use of this term.

The EPCRA statute defines and references the term Material Safety Data Sheet and its acronym MSDS, stating that the document is required to be prepared or made available for a hazardous chemical under the OSH Act of 1970 and the OSHA HCS at 29 CFR 1910.1200 [42 U.S.C. 11021(a)(1) and 11049(6)]. In 2016, EPA amended 40 CFR part 370 to use both terms and their acronyms, stating that the terms mean the same thing and that more stakeholders commonly use the term SDS. EPA finds that the use of both terms in the regulation is cumbersome to read and unnecessary, as it is well documented by OSHA and EPA that these terms refer to the same document and that document is what is required by EPCRA. Therefore, to better align the hazardous chemical inventory reporting regulations with the OSHA HCS, EPA is removing the definition for Material Safety Data Sheet (MSDS) and use of the term within the regulation and is also amending the definition of Safety Data Sheet (SDS) for consistency and added clarity that the term SDS replaces the term MSDS for the required data sheet.

The following table provides the current and revised definition of Safety Data Sheet, which are being moved from § 370.66 to § 370.3 in this action, with the modified language in bold.

2016 EPCRA 311-312	Adopting in this action EPCRA 311-312
--------------------	---------------------------------------

40 CFR 370.66	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)] .

Combustible dust—

The 2024 OSHA HCS includes 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] 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.

Location of definitions in 40 CFR part 370—

Additionally, through this action, the Agency is 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]*, and adding a note to § 370.66 that the definitions are now in § 370.3. This adjustment adds clarity to the regulation by providing key words prior to the requirements and is consistent with the Agency’s common practice.

D. Other revisions to 40 CFR part 370

In this action, EPA is capitalizing each letter of the term *Extremely Hazardous Substance* to add clarity between the distinct set of substances listed in the appendices to 40 CFR part 355 and the broad use of the term extremely hazardous substance within the

Clean Air Act (CAA) 112(r) programs [42 U.S.C. 7412(r)]. This distinction is necessary to reduce confusion as there is interplay between the EPCRA and CAA 112(r) statutes, regulations, and stakeholders.

In this action, EPA is also making 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 changes include 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.

E. Summary of revisions to 40 CFR part 370

The following is a list of amendments being made through this action:

Citations	List of Amendments
40 CFR part 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 - Removes 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 - Removes 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	- Removes 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 a 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 plain language, clarity, and consistency
§ 370.65	- Amends the title with clarifying punctuation
§ 370.66	- Changes title to [Reserved] - Moves definitions to § 370.3 - Adds “Note to 370.66: Definitions are in § 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 a deregulatory action under Executive Order 14192. This action provides burden reduction by directly adopting OSHA definitions and hazard categories as the EPCRA definitions and hazard categories and also by making plain language, clarifying, and consistency edits to improve the readability and add clarity to the regulation. By directly adopting the OSHA definitions and hazard categories, this action should reduce administrative costs by preventing interpretation burdens on facilities when using Safety Data Sheets to complete annual hazardous chemical inventory reports. By improving the readability and adding clarity, this action should reduce the burden to read and understand the regulations. This rule will also improve first responder and community safety, thereby extending the deregulatory benefits of EPA's approach to state and local governments. Overall, this action will have total costs of less than zero.

C. Paperwork Reduction Act (PRA)

The information collection activities in this direct final rule will be submitted for approval to the Office of Management and Budget (OMB) under the PRA through a revision Information Collection Request (ICR) [EPA ICR number 1352.18; OMB Control Number 2050-0072] to be announced, shared via docket, and made available for a 60-day public comment period in a subsequent *Federal Register* Notice. 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 will 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. The burden for the existing EPA information collection activities is accounted for in the EPA ICR number 1352.16 under OMB Control Number 2050-0072. You can find a copy of the existing approved ICR in Docket ID: EPA-HQ-SFUND-2004-0006.

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 imposes no added burden on the small entities subject to the rule. This action is modifying the hazard categories used for the existing reporting requirements. The burden for reporting is not being modified by this action. We have therefore concluded that this action will have no net 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

Executive Order 13045 directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Further, this action is not subject to the EPA's Children's Health Policy (<https://www.epa.gov/children/childrens-health-policy-and-plan>) because EPA does not believe the action has considerations for human health.

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 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. 42 U.S.C. Chapter 116 - <https://www.govinfo.gov/content/pkg/USCODE-2023->

- title29/pdf/USCODE-2023-title29-chap15-sec651.pdf.
2. 29 U.S.C. Chapter 15-<https://www.govinfo.gov/content/pkg/USCODE-2023-title29/pdf/USCODE-2023-title29-chap15-sec651.pdf>.
 3. 29 CFR 1910.1200-<https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1200>.
 4. The definitions section currently at 40 CFR 370.66 is being relocated to § 370.3 within this action.
 5. 77 FR 17574; March 26, 2012-<https://www.govinfo.gov/content/pkg/FR-2012-03-26/pdf/2012-4826.pdf>.
 6. 81 FR 38104; June 13, 2016-<https://www.govinfo.gov/content/pkg/FR-2016-06-13/pdf/2016-13582.pdf>.
 7. 81 FR 47311; July 21, 2016-<https://www.govinfo.gov/content/pkg/FR-2016-07-21/pdf/2016-17277.pdf>.
 8. 89 FR 44144; May 20, 2024-<https://www.govinfo.gov/content/pkg/FR-2024-05-20/pdf/2024-08568.pdf>.
 9. 89 FR 81829; October 9, 2024-<https://www.govinfo.gov/content/pkg/FR-2016-07-21/pdf/2016-17277.pdf>.
 10. 42 U.S.C. 11021 and 11022-<https://www.govinfo.gov/content/pkg/USCODE-2021-title42/pdf/USCODE-2021-title42-chap116.pdf>.
 11. 53 FR 38344; October 15, 1987-<https://www.govinfo.gov/content/pkg/FR-1987-10-15/pdf/FR-1987-10-15.pdf>.
 12. 55 FR 3062; July 26, 1990-<https://www.epa.gov/sites/default/files/2013-09/documents/55fr30645.pdf>.

13. Chemically unstable gases is a new term within the 2024 OSHA HCS. The term was added to align with the GHS revision 7, which includes chemically unstable gases and pyrophoric gases in the criteria for flammable gases. Although it is a new term for the HCS, chemically unstable gases met the criteria to be classified as flammable gases in the 2012 OSHA HCS. [89 FR 44319-44321; May 20, 2024].

14. Hazard Communication: Hazard Classification Guidance for Manufacturers, Importers, and Employers (OSHA 3844-02 2016).

<https://www.osha.gov/sites/default/files/publications/OSHA3844.pdf>.

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 request 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 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: 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.
- (2) *Physical hazard* means a chemical that is classified into one of the following

hazard classes: 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.

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 40 CFR 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 to paragraph (a): 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 17574; 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:

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 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.	<i>Report the EHS component:</i> 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 The total quantity of that mixture present throughout your facility at any one time.	<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 <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 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 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 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 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 to paragraph (o): EPCRA section 303(d)(1) 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 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.
- (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 to paragraphs (s)(9) and (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:

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 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 request 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]

Note to § 370.66: Definitions are in § 370.3.
