

EPA Announces New EPCRA Reporting Forms and Reporting Guidance

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On July 13, the Environmental Protection Agency (EPA) published a final rule which adopts revised Tier I and Tier II Emergency and Hazardous Chemical Inventory Forms for the reporting of hazardous materials under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The new forms add new mandatory and optional data elements, including more detailed facility information and will be required for use by industry as of **January 1, 2014**.

The new forms do not impact the triggers for reporting. Any facility that is required to have a material safety data sheet (MSDS) available must continue to annually submit the EPCRA forms to the State Emergency Response Commission (SERC), the local emergency planning commission (LERC), and the local fire department, if a hazardous substance is present at or above the reporting thresholds specified in 40 C.F.R. part 370.

Based on feedback from industry, EPA has modified the Tier II inventory form to better facilitate the reporting of both chemical mixtures and pure chemicals. EPA is now embracing the reporting of extremely hazardous substances (EHS) as part of mixtures based on a desire for the forms to (a) better mirror any MSDSs and (b) have the products listed on the forms easier for emergency responders to recognize. For instance, in response to comments from a national retailer, EPA suggested that lead-acid batteries should be reported by first listing the entire battery weight (as a mixture) and then listing the amount of each individual EHS present, as opposed to reporting each EHS on separate forms.

This new method is a departure from EPA's prior guidance, which indicated that reporting was acceptable using either the mixture method or on an individual EHS basis. Under the new guidance, it is no longer acceptable to report each EHS on separate forms when the chemicals are contained within a "mixture." Facilities currently reporting on an EHS basis will need to ensure that they are prepared to report on a mixture basis prior to the effective date of this rule.