

EPCRA and UW System campuses

**Information for compliance with the
Emergency Planning and Community Right-to-Know Act
for University of Wisconsin System campuses**

(UWS Env 2005-01)

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This publication was prepared for University of Wisconsin System campuses, to assist in finding resources and information for regulatory compliance. It is not intended to render legal advice.

General EPCRA information

This guidance is intended to provide University of Wisconsin System campuses with information on how the Emergency Planning and Community Right-to-Know Act (EPCRA) affects campuses in Wisconsin. It covers the following topics:

- Emergency Planning Notification for Extremely Hazardous Substances
- Emergency Notification of Release and Wisconsin Spill Reporting Requirements
- MSDS Chemical List Submission
- Tier Two Emergency and Hazardous Chemical Inventory Reports
- Toxic Chemical Inventory Release (TRI) Reporting

See also [*"An Information Guide: Emergency Planning and Community Right-to-Know Act,"*](#) published by Wisconsin Emergency Management, November 2001.

Regulatory citations

Emergency Planning and Community Right-to-know Act
Code of Federal Regulations, 40 CFR Parts 355, 370, and 372.
Wisconsin Statutes, §166.20.
Wisconsin Administrative Code, Chapters WEM 1 and WEM 3

References

- "An Information Guide: Emergency Planning and Community Right-to-know Act, Wisconsin Statute 166.20," published by Wisconsin Emergency Management, November 2001.
- "The Emergency Planning and Community Right-to-Know Act: Section 313 Release and Other Waste Management Reporting Requirements." Environmental Protection Agency publication EPA 260/K-01-001, February 2001.

Emergency Planning Notification for Extremely Hazardous Substances

Applicability — This section applies to any campus that has present at any one-time an extremely hazardous substance (EHS) in amounts that equal or exceed the chemical-specific threshold planning quantity (TPQ).

EHS's and their TPQ's are listed at 40 CFR Part 355, or on the EPA's "List of Lists."

Requirements — Campuses meeting the applicability threshold must provide Emergency Planning Notification (Form DMA 1003) to Wisconsin Emergency Management (WEM) and the appropriate Local Emergency Planning Committee (LEPC) within sixty (60) days after an EHS is present at the facility at or above the TPQ.

These campuses must also provide the LEPC with the name, address, and telephone number of a facility representative "who will participate in the emergency planning process as the facility emergency coordinator."

There is a one-time \$800 planning fee also due within 60 days of the EHS being present at or above the TPQ. A 20% late payment surcharge is due if the fee is paid after 60 days.

Regulatory citation and authority —

- EPCRA section 302 and 303
- s. 166.20, Wis. Stats.
- Ch. WEM 1, Wisconsin Administrative Code
- Regulated by Wisconsin Emergency Management.

Emergency Release Notification

Applicability — This applies any time there is an off-site release of a Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substance or EPCRA extremely hazardous substance (EHS) which meets or exceeds the listed reportable quantity (RQ).

This is also referred to as the Federal Substance Release Reporting Law.

Reportable quantities (RQ's) for both EHS's and CERCLA hazardous substances are listed on the EPA's "List of Lists."

Requirements — Campuses meeting the applicability threshold must immediately provide verbal notification to the appropriate governmental entities (listed below) that an applicable release has occurred.

- National Response Center at 800-424-8802
- WEM at 800-943-0003
- Campus-specific LEPCs

Regulatory citation and authority —

- EPCRA section 304
- EHS's at 40 CFR 355, Appendices A and B
- CERCLA hazardous substances at 40 CFR 302, Table 302.4
- s. 166.20, Wis. Stats.
- Regulated by Wisconsin Emergency Management, EPA, and Wisconsin Department of Natural Resources.

Important Note — DNR Spill Law

In addition to the above, Wisconsin also has its own release reporting law under s. 144.76, Wis. Stats. The Wisconsin Department of Natural Resources (DNR) has authority over the law and it is commonly referred to as the DNR spill law. The law requires that the release of any hazardous substance be promptly reported to the DNR. A hazardous substance is one that may cause harm to human health and safety or the environment. The state hotline is staffed twenty-four hours a day, seven days a week. To provide notification, call the state hotline at:

1-800-943-0003 — use menu option #1 for substance release reporting.

MSDS Chemical List Submission

Applicability — This applies to all University of Wisconsin System campuses that have present, at any time, either of the following:

- A hazardous chemical in quantities of 10,000 lbs. or more.
- An Extremely Hazardous Chemical (EHS) in quantities at or above 500 lbs. or the TPQ for that chemical, whichever is lower.

“Hazardous chemical” is defined at 40 CFR 370.2. According to WEM, Wisconsin law does not allow research laboratories to use the federal exemption generally available to research laboratories and medical facilities. Therefore, campuses will need to include laboratory chemicals in their assessments.

Lists of Extremely Hazardous Chemicals can be found at 40 CFR 355 (Appendices A and B) or in the EPA’s “List of Lists.”

For important information on calculating amounts of chemicals in mixtures, refer to the Wisconsin Emergency Management publication [“An Information Guide: Emergency Planning and Community Right-to-Know Act.”](#)

Exemptions may apply to some of your chemical inventory, and reduce the amount counted toward this applicability.

Requirements — For all chemicals meeting the applicability threshold, campuses must submit to WEM, LEPC, and the local fire department either of the following:

- an MSDS for each hazardous chemical, OR
- an MSDS Chemical List, listing hazardous chemical grouped by hazard category.

Section 311 is not an annual reporting requirement. However, revised MSDSs or MSDS chemical lists must be provided to WEM, LEPC, and the local fire department within three months after the discovery of significant new information concerning the hazardous chemical or when a new hazardous chemical becomes present at the facility above the established levels.

Exemptions — Chemicals that fall under the EPCRA Section 311(e) reporting exemptions, OSHA (29 CFR 1910.1200(b)), or the Petroleum Marketing Facility Exemption do not count under this requirement.

According to WEM, the federal exemption for substances used in research facilities is not available under Wisconsin law. Campuses might still find useful the Section 311(e) exemptions that exclude from the definition of “hazardous chemical” any substance to the extent it is used either:

- in a hospital or other medical facility under the direct supervision of a technically qualified individual, or
- in routine agricultural operations.

Consult the Wisconsin Emergency Management publication [“An Information Guide: Emergency Planning and Community Right-to-Know Act”](#) for more information on the other exemptions.

Regulatory citation and authority —

- EPCRA section 311
- 40 CFR 370

- s. 166.20, Wis. Stats.
- Regulated by Wisconsin Emergency Management.

Chemical Mixture Example

Nalco 356 is a rust inhibitor used in some heating plants. It has 10-30% cyclohexylamine, which is an EHS with a TPQ of 10,000 lbs. In our example, the amount on hand varies, but the maximum that the heating plant will have is 300 gallons. If the density of Nalco 356 is 7.22 lbs./gal., then this campus would have a maximum of 2,166 lbs. of Nalco at any one time. Assuming the concentration of cyclohexylamine is 30%, this would equate to 650 lbs. of cyclohexylamine.

Even though the TPQ for planning purposes is 10,000 lbs., cyclohexylamine is an EHS. Under the MSDS chemical list submission and Tier Two reporting rules, the threshold quantity is the TPQ *or* 500 lbs., whichever is less. In this case, 500 lbs. is the applicable threshold quantity for MSDS chemical list submission and Tier II. Since the calculated maximum amount of cyclohexylamine on this campus at any one time is 650 lbs., this campus would need to comply with the requirements for MSDS chemical list submission and Tier Two reporting for Nalco 356.

Tier Two Emergency and Hazardous Chemical Inventory Reports

Applicability — This applies to all University of Wisconsin System campuses that have present, at any time, either of the following:

- A hazardous chemical in quantities of 10,000 lbs. or more.
- An Extremely Hazardous Chemical (EHS) in quantities at or above 500 lbs. or the TPQ for that chemical, whichever is lower.

“Hazardous chemical” is defined at 40 CFR 370.2. According to WEM, Wisconsin law does not allow research laboratories to use the federal exemption generally available to research laboratories and medical facilities. Therefore, campuses will need to include laboratory chemicals in their assessments.

Lists of Extremely Hazardous Chemicals can be found at 40 CFR 355 (Appendices A and B) or in the EPA’s “List of Lists.”

For important information on calculating amounts of chemicals in mixtures, refer to the Wisconsin Emergency Management publication [“An Information Guide: Emergency Planning and Community Right-to-Know Act.”](#)

Exemptions may apply to some of your chemical inventory, and reduce the amount counted toward this applicability.

Requirements — For all chemicals meeting the applicability threshold, campuses must submit a completed Tier Two Emergency and Hazardous Chemical Inventory form (Form DMA 1005) to Wisconsin Emergency Management (WEM), the Local Emergency Planning Committee (LEPC), and the local fire department by March 1st annually. Check exemptions to determine if they apply to portions of your chemical inventory. Your report will frequently need to be accompanied by a fee.

Copies of the completed form are required to be submitted to your LEPC and local fire department with jurisdiction over the campus.

Exemptions — Chemicals that fall under the EPCRA Section 311(e) reporting exemptions, OSHA (29 CFR 1910.1200(b)), or the Petroleum Marketing Facility Exemption do not count under this requirement.

According to WEM, the federal exemption for substances used in research facilities is not available under Wisconsin law. Campuses might still find useful the Section 311(e) exemptions that exclude from the definition of “hazardous chemical” any substance to the extent it is used either:

- in a hospital or other medical facility under the direct supervision of a technically qualified individual, or
- in routine agricultural operations.

Consult the Wisconsin Emergency Management publication [“An Information Guide: Emergency Planning and Community Right-to-Know Act”](#) for more information on the other exemptions.

Regulatory citation and authority —

- EPCRA section 312
- 40 CFR 370
- s. 166.20, Wis. Stats.

- Ch. WEM 1, Wisconsin Administrative Code
- Regulated by Wisconsin Emergency Management.

Typically reported Tier Two chemicals for University of Wisconsin System campuses:	
<i>SARA Listed Chemical / Reportable Quantity / CAS #</i>	<i>Purpose / Location</i>
Diesel Fuel #2 (10,000 lbs.) 68476-34-6	Fleet Use and Emergency Generators
Ethanol (10,000 lbs.) 64-17-5	Fleet Use
Freon HCFC R22 (listed for reporting) (syn. Chlorodifluoromethane, CHClF ₂) 0075-45-6	Campus Chilling System
Freon CFC R12 (5,000 lbs.) (syn. Difluorodichloromethane, CCl ₂ F ₂) 0075-71-8	Campus Chilling System
Fuel Oil #2 (10,000 lbs.) 68476-30-2	Campus Emergency Fuel Reserve
Nitric Acid (1,000 lbs.) 7697-37-2	Laboratories
Nitrogen, Cryogenic Liquid (10,000 lbs.) 7727-37-9	Laboratories
Sodium Chloride (syn. rock salt) (10,000 lbs.) 7647-14-5 (fee exempt)	Grounds Maintenance
Sulfuric Acid (1,000 lbs) 7664-93-9	Laboratories
Unleaded Gasoline (10,000 lbs.) 8006-61-9	Fleet Use

Toxic Chemical Inventory Release (TRI) Reporting

Applicability — By definition as a public agency under the emergency management statute, University of Wisconsin System campuses are specifically included in the EPCRA section 313 TRI regulations.

TRI Reporting applies to chemicals listed in EPCRA section 313. There are approximately 650 chemicals and chemical categories, and they can be referenced at 40 CFR 372.65 or in the EPA's List of Lists. As a subset of these chemicals, the EPA has also established lower reporting thresholds for certain chemicals that are Persistent, Bioaccumulative, and Toxic (PBT).

A report must be submitted for any EPCRA section 313 chemical that is not listed as a PBT chemical, and which is manufactured or processed at a facility in excess of the following threshold (this will probably not apply to any campus):

- 25,000 pounds per EPCRA section 313 chemical or category over the calendar year.

A report must be submitted for any EPCRA section 313 chemical that is not listed as a PBT chemical, and which is otherwise used at a facility in excess of the following threshold (“otherwise used” includes sending off-site for disposal or treatment):

- 10,000 pounds per EPCRA section 313 chemical or category over the calendar year.

See 40 CFR 372.65 or the EPA's List of Lists to reference the section 313 chemicals and chemical categories

A report must be submitted for any EPCRA section 313 chemical that is listed as a PBT chemical, and which is manufactured, processed or otherwise used at a facility above the designated threshold for that chemical. Names of PBT chemicals, CAS Registry numbers, category codes for chemical categories, and reporting thresholds are listed in the following table.

PBT Chemicals			
Chemical Name or Chemical Category Name	CAS Number or Category Code	Supplier Notification <i>De Minimis</i> Level¹	Reporting Threshold (lbs. unless noted)
Aldrin	309-00-2	1.0	100
Benzo(g,h,i)perylene*	191-24-2	1.0	10
Chlordane	57-74-9	0.1	10
Dioxin and dioxin-like compounds*	N150	1.0 ²	0.1 grams
Heptachlor	76-44-8	0.1	10
Hexachlorobenzene	118-74-1	0.1	10
Isodrin	465-73-6	1.0	10
Mercury	7439-97-6	1.0	10
Mercury compounds	N458	1.0	10
Methoxychlor	72-43-5	1.0	100

Octachlorostyrene*	29082-74-4	1.0	10
Pendimethalin	40487-42-1	1.0	100
Pentachlorobenzene*	608-93-5	1.0	10
Polycyclic aromatic compounds*†	N590	0.1 ³	100
Polychlorinated biphenyl (PCBs)	1336-36-3	0.1	10
Tetrabromobisphenol A (TBBPA)*	79-94-7	1.0	100
Toxaphene	8001-35-2	0.1	10
Trifluralin	1582-09-8	1.0	100

* Newly added chemicals

† Note that two new chemicals are being added to the polycyclic aromatic compound category.

- 1 Facilities cannot take the *de minimis* exemption when determining thresholds for PBT chemicals. However, for supplier notification purposes, the *de minimis* level applies. Please see the *Toxic Chemical Release Inventory Reporting Forms and Instructions* manual or contact the EPCRA Hotline for more information about Supplier Notification.
- 2 Except for 2,3,7,8-Tetrachlorodibenzo-p-dioxin, which is subject to the 0.1 percent *de minimis*.
- 3 Except for benzo(a)phenanthrene, dibenzo(a,e)fluoranthene, benzo(j,k)fluorene, and 3-methylcholanthrene which are subject to the 1.0 percent *de minimis*.

See also the Environmental Protection Agency publication EPA 260/K-01-001, "The Emergency Planning and Community Right-to-Know Act: Section 313 Release and Other Waste Management Reporting Requirements."

Requirements — For all chemicals meeting the applicability threshold, campuses must submit annually by July 1st a completed section 313 TRI Form "R" to the Wisconsin Department of Natural Resources. (Send to WDNR only — do not send the Form "R" report or a copy to U.S. EPA.)

Exemptions — It is important to note that the exemption for laboratory chemicals is *not* available to UW System campuses for TRI reporting purposes (see WEM 3.06, Wisconsin Administrative Code).

The following is an overview of available TRI exemptions. For more information, consult 40 CFR 372.38 (remember that the exemption at §372.38(d) for laboratory activities is *not* available to Wisconsin campuses).

- (1) DE MINIMIS CONCENTRATIONS OF A TOXIC CHEMICAL IN A MIXTURE. In general, applies to a toxic chemical in a concentration that is below one percent of the mixture, or 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen as defined in 29 CFR 1910.1200(d)(4). This exemption does not apply to PBT chemicals.
- (2) ARTICLES. Applies to a toxic chemical in an article. Campuses potentially subject to this exemption should carefully review the definitions of article and release in §372.3.
- (3) USES. Applies to a toxic chemical used as follows:
 - Used as a structural component of the facility.
 - Products used for routine janitorial or facility grounds maintenance. Examples include use of janitorial cleaning supplies, fertilizers, and pesticides similar in type or concentration to consumer products.
 - In personal use by employees or other persons at the facility including foods, drugs, cosmetics, or other personal items containing toxic chemicals, including supplies of such products within the facility such as in a facility operated cafeteria, store, or infirmary.

- Products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility.
- Use of toxic chemicals present in process water and non-contact cooling water as drawn from the environment or from municipal sources, or toxic chemicals present in air used either as compressed air or as part of combustion.

(4) OTHER EXEMPTIONS apply to:

- Certain owners of leased property.
- Reporting by certain operators of establishments on leased property such as industrial parks.
- Coal extraction activities.
- Metal mining overburden.

Regulatory citation and authority —

- EPCRA section 313
- 40 CFR 372
- s. 166.20, Wis. Stats.
- Ch. WEM 3, Wisconsin Administrative Code
- Regulated by Wisconsin Department of Natural Resources and Wisconsin Emergency Management.