

Emergency Planning and Community Right-to-Know Act (EPCRA)

**Compliance Information for
University of Wisconsin System Campuses**

Revised: March 2019



General EPCRA information

This guidance is intended to provide University of Wisconsin System institutions 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 (EPN) for Extremely Hazardous Substances (EHS)
- Emergency Notification of Release and Wisconsin Spill Reporting Requirements
- Safety Data Sheet (SDS) Chemical List Submission
- Tier Two (II) Emergency and Hazardous Chemical Inventory Reports
- Toxic Chemical Inventory Release (TRI) Reporting

Reports can be submitted to Wisconsin Emergency Management (WEM) via the [Wisconsin Hazmat Online Planning and Reporting System \(WHOPRS\)](#).

Additional Resources —

- Wisconsin Emergency Management EPCRA forms and resources:
<https://dma.wi.gov/DMA/wem/preparedness/epcra/forms-resources>
- Environmental Protection Agency (EPA) EPCRA information and resources:
<https://www.epa.gov/epcra>

Regulatory Citations and Authority —

- Emergency Planning and Community Right-to-know Act
- Code of Federal Regulations, 40 CFR parts 355, 370 and 372
- Wisconsin Statutes, §323.60
- Wisconsin Administrative Code, chapters WEM 1 and WEM 3

References

[“An Information Guide: Emergency Planning and Community Right-to-know Act,”](#) Wisconsin Statute 323.60,” published by Wisconsin Emergency Management, December 2016.

[Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act \(EPCRA\), Comprehensive Environmental Response, Compensation and Liability Act \(CERCLA\) and Section 112\(r\) of the Clean Air Act \(EPA’s “List of Lists”\),](#) published by the EPA, March 2015.

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 TPQs are listed in 40 CFR Part 355 or on the EPA's "List of Lists."

Requirements — Campuses meeting the applicability threshold must provide Emergency Planning Notification (EPN) to Wisconsin Emergency Management (WEM) via WHOPRS, Form DMA 1003 or facility letterhead and the appropriate Local Emergency Planning Committee (LEPC) within 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 \$1,080 planning fee also due within 60 days of an EHS being present at or above the TPQ. A 20% late payment surcharge is due if the fee is paid after 60 days.

Regulatory Citations and Authority —

- EPCRA sections 302 and 303
- Wisconsin Statutes, §323.60
- Wisconsin Administrative Code, chapters WEM 1 and WEM 3
- 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) that meets or exceeds the listed reportable quantity (RQ). This is also referred to as the Federal Substance Release Reporting Law.

Reportable quantities (RQs) for both EHS 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: 800-424-8802
- Wisconsin Spill Reporting Hotline/Wisconsin Emergency Management (WEM): 800-943-0003
- Campus-specific Local Emergency Planning Commission (LEPC)

Regulatory Citations and Authority —

- EPCRA Section 304
- EHS list in 40 CFR 355, appendices A and B
- CERCLA hazardous substances in 40 CFR 302, Table 302.4
- Wisconsin Statutes, §323.60
- Regulated by the EPA, Wisconsin Emergency Management and the Wisconsin Department of Natural Resources (DNR)

Important Note — DNR Spill Law

In addition to requirements above, Wisconsin also has its own release reporting law under s. 144.76, Wis. Stats. The Wisconsin 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 Wisconsin DNR. A hazardous substance is one that may cause harm to human health and safety or the environment. The state hotline is staffed 24 hours a day, seven days a week. To provide notification, call the state hotline below. More information is available on the [WDNR spills website](#).

Wisconsin Spill Hotline:

1-800-943-0003

(Use menu option #1 for substance release reporting.)

Safety Data Sheet (SDS) 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; or
- An Extremely Hazardous Substance (EHS) in quantities at or above 500 lbs. or the TPQ for that chemical, whichever is lower.

“Hazardous chemical” is defined in 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.

The List of Extremely Hazardous Chemicals can be found in 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 WEM 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 Wisconsin Emergency Management (WEM), their Local Emergency Planning Commission (LEPC) and the local fire department either of the following:

- An SDS for each hazardous chemical; or
- An SDS chemical list, listing hazardous chemicals grouped by hazard category.

Section 311 is not an annual reporting requirement. However, revised SDSs or SDS 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 WEM publication [“An Information Guide: Emergency Planning and Community Right-to-Know Act”](#) for more information on the other exemptions.

Regulatory Citations and Authority —

- EPCRA section 311
- 40 CFR 370
- Wisconsin Statutes, §323.60
- 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 SDS chemical list submission and Tier II 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 an SDS chemical list submission and Tier II report. 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 SDS chemical list submission and Tier II reporting for Nalco 356.

Tier II 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; or
- 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 in 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.

The Lists of Extremely Hazardous Chemicals can be found in 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 WEM 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 report through WHOPRS or via a completed Tier II 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 WEM publication [“An Information Guide: Emergency Planning and Community Right-to-Know Act”](#) for more information on the other exemptions.

Regulatory Citations and Authority —

- EPCRA section 312
- 40 CFR 370
- Wisconsin Statutes, §323.60
- Wisconsin Administrative Code, Chapter WEM 1
- Regulated by Wisconsin Emergency Management

TYPICALLY REPORTED TIER II CHEMICALS FOR UNIVERSITY OF WISCONSIN SYSTEM CAMPUSES:	
SARA Listed Chemical / Reportable Quantity / CAS #	Purpose / Location
Carbon dioxide (10,000 lbs.) 124-38-9	Laboratories
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 (syn. chlorodifluoromethane, CHClF ₂ ; 10,000 lbs.) 75-45-6	Campus chilling system
Freon CFC R12 (5,000 lbs.) (syn. difluorodichloromethane, CCl ₂ F ₂) 75-71-8	Campus chilling system
Freon R134A (10,000 lbs.; syn. 1,1,1,2- tetrafluoroethane, norflurane) 811-9-72	Campus chilling system
Fuel oil #2 (10,000 lbs.) 68476-30-2	Campus emergency fuel reserve
Mineral oils (10,000 lbs.) 8012-95-1	Transformers
Nitric acid (1,000 lbs.) 7697-37-2	Laboratories
Nitrogen, cryogenic liquid (10,000 lbs.) 7727-37-9	Laboratories
Sand (10,000 lbs.; fee exempt)	Grounds maintenance
Sodium chloride (syn. rock salt; 10,000 lbs.; fee exempt) 7647-14-5	Grounds maintenance
Sulfuric acid (500 lbs) 7664-93-9	Laboratories, batteries
Unleaded gasoline (10,000 lbs.) 8006-61-9	Fleet use

Toxic Chemical Inventory Release (TRI) Reporting

Applicability — TRI Reporting applies to chemicals listed in EPCRA section 313. There are approximately 595 chemicals and 32 chemical categories, and they can be referenced in 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).

At the federal level, University of Wisconsin System campuses are exempt from EPCRA section 313 TRI reporting, specifically as colleges and universities (NAICS code 611310) are not listed facilities under 40 CFR 372.23. In addition, laboratory activities are exempt under 40 CFR 372.38(d).

However, at the state level, University of Wisconsin System campuses are included in the TRI regulations. Specifically, the state emergency management statute includes public agencies, such as the University of Wisconsin, in the TRI reporting requirements (WEM 3.01, 3.03). Furthermore, the state does not provide for the federal laboratory/research exemption (i.e., lab activities are included in the state TRI reporting requirements under WEM 3.06). TRI reports for the previous calendar year are due only to the Wisconsin DNR by July 1 (WEM 3.05).

EPCRA 313 Definitions —

- “Manufacturing” is defined as producing, preparing, importing or compounding a toxic chemical.
- “Processing” is defined as preparing a toxic chemical, after its manufacture, for distribution in commerce.
- “Otherwise use” is defined as any use of a toxic chemical not covered by the terms manufacturing and processing, including use of a toxic chemical contained in a mixture or trade name product. Otherwise use does not include disposal, stabilization or treatment for destruction (unless the chemical was generated by such waste management processes or received from off-site for further waste management).

Requirements — For all chemicals meeting the applicability threshold, campuses must submit annually by July 1 a completed TRI Form R to the Wisconsin DNR only (do not send the Form R report or a copy to the EPA). Mail hardcopy forms to: *Department of Natural Resources, Office of Technical Services, P.O. Box 7921, 101 South Webster Street, Madison, Wisconsin 53707*.

Reporting Thresholds — The reporting threshold is 25,000 lbs or more for manufactured or processed chemicals and 10,000 lbs or more for otherwise used chemicals listed under EPCRA 313, except for PBTs (persistent bioaccumulative toxics), which have lower thresholds.

Most campuses likely do not engage in the manufacturing or processing of any EPCRA 313 chemical in quantities at or above 25,000 lbs. Campuses should determine if any chemicals included on their annual Tier II report in quantities at or above 10,000 lbs. are also cross-listed under EPCRA 313. Campuses may be subject to TRI reporting for some PBTs (see table below).

TRI Reporting for Persistent Bioaccumulative Toxic Chemicals (PBTs) — The following table is intended only as a guide and a summary of the PBT reporting requirements that potentially are or may be applicable to UW campuses. Campuses should consult [the full table of PBT chemicals and PBT chemical compound categories subject to reporting under EPCRA Section 313](#) to determine their campus-specific requirements under EPCRA 313.

PBTs	TRI Requirements / Exemptions	TRI Reporting Threshold (total for calendar year)
Dioxin and dioxin-like compounds	Dioxin and dioxin-like compounds manufactured, processed or otherwise used are only reportable under TRI requirements if they are present as contaminants in a chemical or if they were created during the manufacture of that chemical. Pure, non-contaminant dioxins from research labs do not need to be reported.	Not applicable , unless 0.1 grams or more of dioxin <u>contaminant</u> manufactured, processed or otherwise used
Lead	Lead sent for direct reuse (i.e., scrap metal recycling) is not a reportable activity.	100 lbs. of lead or lead compounds not sent for recycling (e.g., sent for hazardous waste disposal)
Mercury and mercury compounds	Mercury and mercury compounds contained in thermometers, manometers or other equipment that is not broken, leaking or spilled meet the article exemption and do not need to be reported.	10 lbs. of mercury or mercury compounds not contained in equipment
PCBs	PCBs contained in transformers or other equipment that is not broken, leaking or spilled meet the article exemption and do not need to be reported.	10 lbs. of free PCB product (not contained in equipment)
Polycyclic aromatic compounds (PACs)	21 specific PACs are listed in the EPA’s PBT table, most of which are not likely used in threshold reporting quantities at UW campuses. PACs maybe be present as contaminants in fuels and asphalt, but campuses likely do not store or use fuels or asphalt in quantities needed to meet PAC thresholds.	Not applicable
Pesticides	Most pesticides listed on the PBT table are no longer used or banned. Routine pesticide application is exempt.	Not applicable
Other listed PBTs	Most likely not used at UW campuses or not used in threshold reporting quantities (e.g., the flame retardant, Tetrabromobisphenol A).	Not applicable

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). However, chemicals do not need to be reported if otherwise used in the following ways:

- Chemicals contained in an article (e.g., mercury-containing thermometer, PCB-containing equipment) and if it is not broken, spilled or leaking.
- Chemicals that are present in products used for maintaining motor vehicles.
- Chemicals that are used for routine janitorial purposes, grounds/building maintenance or as structural components.

Regulatory Citations and Authority —

- EPCRA Section 313
- 40 CFR 372
- Wisconsin Statutes, §323.60
- Wisconsin Administrative Code, Chapter WEM 3
- Regulated by the Wisconsin Department of Natural Resources and Wisconsin Emergency Management

Additional Resources —

- [Consolidated List of Lists under EPCRA/CERCLA/CAA §112\(r\)](#) (March 2015 version; excel format available)
- [EPA EPCRA Section 313 TRI reporting forms \(Form R\)](#)
- [EPA EPCRA Section 313 guidance documents for specific toxic chemicals](#) (e.g., dioxin, lead, mercury, pesticides and polycyclic aromatic compounds.)
- [“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.