



TOXICS RELEASE INVENTORY

Supplier Notification Requirements

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report the annual quantity of such chemicals entering each environmental medium. Such facilities must also report pollution prevention data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act, 42 U.S.C. 13106. EPCRA section 313 is also known as the Toxics Release Inventory (TRI).

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DISCLAIMER

This guidance document is intended to assist industry with EPCRA section 313 supplier notification requirements. These recommendations do not supersede any statutory or regulatory requirements, are subject to change, and are not independently binding on either EPA or covered facilities. Additionally, if a conflict exists between guidance on this site and the statutory or regulatory requirements, the conflict must be resolved in favor of the statute or regulation.

Although EPA encourages industry to consider these recommendations, in reviewing this document, industry should be aware that these recommendations were developed to address common circumstances at typical facilities. Facilities are encouraged to contact the Agency with any additional or clarifying questions about the recommendations in this document, or if the facility believes that EPA has incorrectly characterized a particular process or recommendation.

For general instruction regarding compliance with EPCRA section 313 requirements and form completion, please see the most recent version of the Toxic Chemical Release Inventory Reporting Forms and Instructions, available at: https://guideme.epa.gov/ords/guideme_ext/f?p=guideme:rfi-home.

Additional guidance documents, including industry specific and chemical specific guidance documents, are also available on TRI's GuideME website: https://guideme.epa.gov/ords/guideme_ext/f?p=guideme:gd-list.

OVERVIEW

EPA requires some suppliers of mixtures or other trade name products containing one or more of the EPCRA section 313 chemicals to notify their customers.

This document explains which suppliers must notify their customers, who must be notified, what form the notice must take, and when it must be sent.

SECTION 1.0 WHO MUST SUPPLY NOTIFICATION

You are covered by the EPCRA section 313 supplier notification requirements if you own or operate a facility which meets all of the following criteria:

- Your facility is in a North American Industry Classification System (NAICS) code that corresponds to Standard Industrial Classification [SIC] codes 20-39;
- You manufacture (including import) or process an EPCRA section 313 chemical; and
- You sell or otherwise distribute a mixture or other trade name product containing the EPCRA section 313 chemical to either:
 - A facility in a covered NAICS code (see the TRI Reporting Forms and Instructions Table I).
 - A person that then may sell the same mixture or other trade name product to a firm in a covered NAICS code (see the TRI Reporting Forms and Instructions Table I).

Note that you may be covered by the supplier notification rules even if you are not covered by the section 313 release reporting requirements. For example, even if you have fewer than 10 fulltime employees or do not manufacture or process any of the EPCRA section 313 chemicals in sufficient quantities to trigger the release and other waste management reporting requirements, you may still be required to notify certain customers.

SECTION 2.0 WHO MUST BE NOTIFIED

Industries whose primary NAICS code does not correspond to SIC codes 20 through 39 are not required to initiate the distribution of notifications for EPCRA section 313 chemicals in mixtures or other trade name products that they send to their customers.

However, if these facilities receive notifications from their suppliers about EPCRA section 313 chemicals in mixtures or other trade name products, they should forward the notifications with the EPCRA section 313 chemicals they send to other covered users.

An example would be if you sold a lacquer containing toluene to distributors who then may sell the product to other manufacturers. The distributors are not in a covered NAICS code, but because they sell the product to companies in covered NAICS codes, they must be notified so that they may pass the notice along to their customers, as required.

The language of the supplier notification requirements covers mixtures or other trade name products that are sold or otherwise distributed. The “otherwise distributes” language includes intra-company transfers and, therefore, the supplier notification requirements at 40 CFR Section 372.45 apply.

SECTION 3.0 SUPPLIER NOTIFICATION CONTENT

The supplier notification must include the following information:

- A statement that the mixture or other trade name product contains an EPCRA section 313 chemical or chemicals subject to the reporting requirements of EPCRA section 313 (40 CFR 372);
- The name of each EPCRA section 313 chemical and the associated Chemical Abstracts Service (CAS) registry number of each chemical if applicable. (CAS numbers are not used for chemical categories, since they can represent several individual EPCRA section 313 chemicals.); and
- The percentage, by weight, of each EPCRA section 313 chemical (or all EPCRA section 313 chemicals within a listed category) contained in the mixture or other trade name product.
- For example, if a mixture contains a chemical (e.g., 12 percent zinc oxide) that is a member of a reportable EPCRA section 313 chemical category (i.e., zinc compounds), the notification must

indicate that the mixture contains a zinc compound at 12 percent by weight. Supplying only the weight percent of the parent metal (zinc) does not fulfill the requirement. The customer must be told the percent by weight of the entire compound within an EPCRA section 313 chemical category present in the mixture.

SECTION 4.0 HOW THE NOTIFICATION MUST BE MADE

The required notification must be provided at least annually in writing. Acceptable forms of notice include letters, product labeling, and product literature distributed to customers. If you are required to prepare and distribute a Safety Data Sheet (SDS) for the mixture under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard, your section 313 notification must be attached to the SDS or the SDS must be modified to include the required information. A sample letter and recommended text for inclusion in an SDS appear in Section 9.0 and Section 10.0.

You must make it clear to your customers that any copies or redistribution of the SDS or other form of notification must include the section 313 notice. In other words, your customers should understand their requirement to include the section 313 notification if they give your SDS to their customers.

SECTION 5.0 WHEN NOTIFICATION MUST BE PROVIDED

You must notify each customer receiving a mixture or other trade name product containing an EPCRA section 313 chemical with the first shipment of each calendar year. You may send the notice with subsequent shipments as well, but it is required that you send it with the first shipment each year. Once customers have been provided with an SDS containing the section 313 information, you may refer to the SDS by a written letter in subsequent years (as long as the SDS is current).

When chemicals are added to the section 313 list, and your products contain the newly added EPCRA section 313 chemicals, notify your customers with the first shipment made during the calendar year in which the chemical addition is effective. For example, if chemical ABC is added to the list effective beginning reporting year 2024, supplier notification for chemical ABC would have begun with the first shipment in 2024.

You must send a new or revised notice to your customers if you:

- Change a mixture or other trade name product by adding, removing, or changing the percentage by weight of an EPCRA section 313 chemical; or
- Discover that your previous notification did not properly identify the EPCRA section 313 chemicals in the mixture or correctly indicate the percentage by weight.

In these cases, you must:

- Supply a new or revised notification within 30 days of a change in the product or the discovery of misidentified EPCRA section 313 chemical(s) in the mixture or incorrect percentages by weight; and
- Identify in the notification the prior shipments of the mixture or product in that calendar year to which the new notification applies (e.g., if the revised notification is made on August 12, indicate which shipments were affected during the period January 1-August 12).

SECTION 6.0 WHEN NOTIFICATIONS ARE NOT REQUIRED

Supplier notification is not required for a “pure” EPCRA section 313 chemical unless a trade name is used. The identity of the EPCRA section 313 chemical will be known based on label information.

You are not required to make a “negative declaration.” That is, you are not required to indicate that a product contains no EPCRA section 313 chemicals.

If your mixture or other trade name product contains one of the EPCRA section 313 chemicals, you are not required to notify your customers if:

- Your mixture or other trade name product contains the EPCRA section 313 chemical (that is not classified as a chemical of special concern) in percentages by weight of less than the following levels (These are known as *de minimis* levels)
 - 0.1 percent if the EPCRA section 313 chemical is defined as an “OSHA carcinogen;”
 - 1 percent for other EPCRA section 313 chemicals.

De minimis levels for each EPCRA section 313 chemical and chemical category are listed in the TRI Reporting Forms and Instructions Table II. Chemicals of special concern are not eligible for the *de minimis* exemption. Therefore, *de minimis* levels are not provided for these chemicals in TRI Reporting Forms and Instructions Table II.
- Your mixture or other trade name product is one of the following:
 - An article that does not release an EPCRA section 313 chemical under normal conditions of processing or otherwise use.
 - Foods, drugs, cosmetics, alcoholic beverages, tobacco, or tobacco products packaged for distribution to the general public.
 - Any consumer product, as the term is defined in the Consumer Product Safety Act, packaged for distribution to the general public. For example, if you mix or package one-gallon cans of paint designed for use by the general public, notification is not required.
- A waste sent off site for further waste management. The supplier notification requirements apply only to mixtures and trade name products. They do not apply to wastes.

You are initiating distribution of a mixture or other trade name product containing one or more EPCRA section 313 chemicals and your facility or establishment is not in a NAICS code that corresponds to SIC codes 20 through 39.

SECTION 7.0 TRADE SECRETS

Chemical suppliers may consider the chemical name or the specific concentration of an EPCRA section 313 chemical in a mixture or other trade name product to be a trade secret. If they consider:

- The specific identity of an EPCRA section 313 chemical to be a trade secret, the notice must contain a generic chemical name that is descriptive of the structure of that EPCRA section 313 chemical (for example, decabromodiphenyl oxide could be described as a halogenated aromatic);
- The specific percentage by weight of an EPCRA section 313 chemical in the mixture or other trade name product to be a trade secret, the notice must contain a statement that the EPCRA section 313 chemical is present at a concentration that does not exceed a specified upper bound. For example, if a mixture contains 12 percent toluene and you consider the percentage a trade secret, the notification may state that the mixture contains toluene at no more than 15 percent by weight. The upper bound value chosen must be no larger than necessary to adequately protect the trade secret.

If you claim this information to be trade secret, you must have documentation that provides the basis for your claim.

SECTION 8.0 RECORDKEEPING REQUIREMENTS

You are required to keep records of the following for three years:

- Notifications sent to recipients of your mixture or other trade name product;
- All supporting materials used to develop the notice;
- If claiming a specific EPCRA section 313 chemical identity a trade secret, you should record why the EPCRA section 313 chemical identity is considered a trade secret and the appropriateness of the generic chemical name provided in the notification; and
- If claiming a specific concentration a trade secret, you should record explanations of why a specific concentration is considered a trade secret and the basis for the upper bound concentration limit.

Information retained under 40 CFR 372 must be readily available for inspection by EPA.

SECTION 9.0 SAMPLE NOTIFICATION LETTER

January 2, 2024
Mr. Edward Burke
Furniture Company of North Carolina
1000 Main Street
Anytown, North Carolina 99999

Dear Mr. Burke:

This letter is to inform you that a product that we sell to you, Furniture Lacquer KXZ1390, contains one or more chemicals subject to section 313 of Emergency Planning and Community Right-to-Know Act (EPCRA). We are required to notify you of the presence of these chemicals in the product under EPCRA section 313. This law requires certain industrial facilities to report on annual emissions and other waste management of specified EPCRA section 313 chemicals and chemical categories. Our product contains:

- Toluene, Chemical Abstract Service (CAS) number 108-88-3, 20 percent,
- Zinc compounds, 15 percent,
- Perfluorooctanoic acid, CAS number 335-67-1, 0.5 percent, and
- Thiols, C8-20, γ - ω -perfluoro, telomers with acrylamide, CAS number 70969-47-0, 0.08 percent.

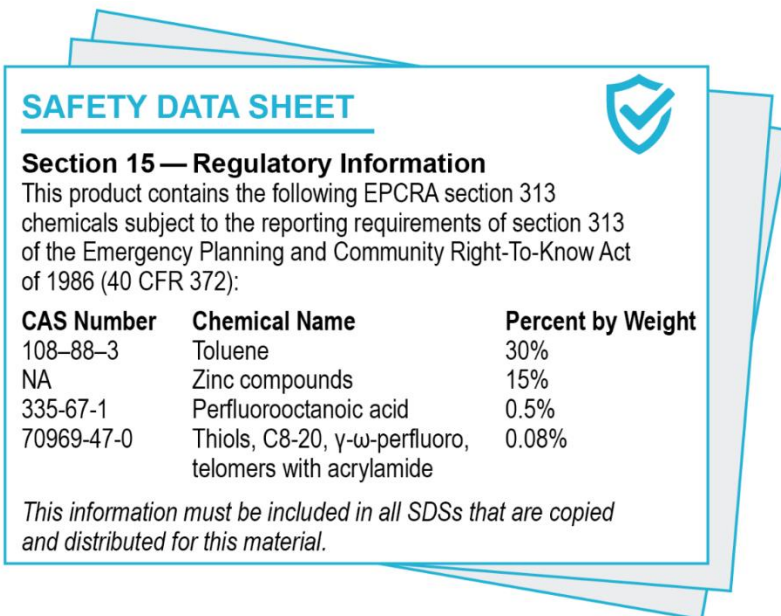
If you are unsure whether you are subject to the reporting requirements of EPCRA section 313, or need more information, call the EPA/TRI Information Center. For contact information, please see the TRI Home Page at <https://www.epa.gov/tri>. Your other suppliers should also be notifying you about EPCRA section 313 chemicals in the mixtures and other trade name products they sell to you.

Finally, please note that if you repackage or otherwise redistribute this product to industrial customers, a notice similar to this one should be sent to those customers.

Sincerely,
Emma Sinclair
Sales Manager
Furniture Products

SECTION 10.0 SAMPLE NOTIFICATION ON AN EXAMPLE SDS

Figure 1 demonstrates an example recommended text for supplier notification in Section 15 – Regulatory Information of an SDS.



SAFETY DATA SHEET

Section 15 — Regulatory Information
This product contains the following EPCRA section 313 chemicals subject to the reporting requirements of section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (40 CFR 372):

CAS Number	Chemical Name	Percent by Weight
108-88-3	Toluene	30%
NA	Zinc compounds	15%
335-67-1	Perfluorooctanoic acid	0.5%
70969-47-0	Thiols, C8-20, γ - ω -perfluoro, telomers with acrylamide	0.08%

This information must be included in all SDSs that are copied and distributed for this material.

Figure 1: Example Supplier Notification Within an SDS

SECTION 11.0 Related Questions and Answers

Section 11.1 Questions and Answers from the 2019 Consolidated Questions and Answers Guidance on Supplier Notification

[Question # 851](#)

The supplier notification provision requires that the notice be attached to the SDS for the first shipment, if an SDS is required. What options would a facility have to give this notice if no SDS were required under OSHA for the shipment?

The facility may use a number of other mechanisms such as a letter, a label, or a written notice within whatever shipping papers accompany the shipment.

[Question # 852](#)

EPCRA section 313 supplier notifications must be attached to the SDS and must not be detached. However, SDSs must be submitted only one time unless changes are made, while the supplier notification must be submitted annually. How should this inconsistency be handled?

The supplier notification is to be part of the SDS if the product is required to have an SDS. If an SDS is not required for the product, the notice must be in writing. Thus, in subsequent years, the supplier should submit the notification in writing.

[Question # 853](#)

Would an annual notification by letter to customers satisfy the supplier notification provisions under 40 CFR Part 372, Subpart C?

Once customers have been supplied with the SDS containing the Section 313 information, then it would be acceptable for a facility to refer to the SDS by letter in subsequent years, provided the customer has the most current version of the SDS. The letter must accompany the first shipment of the mixture or trade name product for the year. Also, the supplier notification regulations require that a new notification be provided when the presence or composition of a listed toxic chemical in the product changes (40 CFR Section 372.45(c)).

[Question # 857](#)

Supplier notification is required for mixtures and trade name products containing listed toxic chemicals. The notification is not required for toxic chemicals labeled as pure. If a facility covered by the supplier notification requirements receives a substance which is labeled as a toxic chemical but no concentration is given, are they required to notify the recipient when selling or otherwise distributing the substance?

No. Supplier notification is not required for pure substances labeled as the toxic chemical (see 40 CFR Section 372.45(a)). If a substance is labeled as a toxic chemical and no concentration is given, then the processor (supplier) and the recipient of the toxic chemical should consider it to have a concentration of 100 percent.

[Question # 862](#)

Is a facility owner/operator responsible for preparing EPCRA section 313 supplier notification information for a mixture or trade name product which contains a listed toxic chemical that they did not manufacture?

The owner/operator may be responsible. The requirement for developing supplier notification for a mixture or trade name product containing a listed toxic chemical is the responsibility of the facility in a NAICS code corresponding to SIC codes 20 through 39 that manufactures or processes a Section 313 toxic chemical and sells or otherwise distributes a mixture or trade name product containing that toxic chemical.

Question # 871

A facility in a NAICS code corresponding to SIC codes 20 through 39 distributes a product containing nitric acid, a listed toxic chemical, to other covered facilities and therefore is required to provide these other covered facilities with supplier notification. The concentration of nitric acid in the product varies from batch to batch. The facility knows the concentration of nitric acid in each batch. Can this facility give a range of concentrations for the nitric acid in this product in order to fulfill its supplier notification requirement?

No. Every time a concentration of a toxic chemical in a mixture changes, the supplier must provide an updated notification with the new concentration. Therefore, this facility cannot provide a concentration range value in order to fulfill the notification requirement. Instead, the facility must provide a new notification with each product that has a different concentration of the toxic chemical.

Question # 872

Is there any margin of error allowed in the weight percent listed in a supplier notification (i.e., ± 0.5 percent)?

The Agency does not specify any margin of error or degree of precision in the percentage figures for the notice.

Question # 877

Could a manufacturer do a mass mailing of notifications to all customers at one time in the beginning of the year instead of sending an individual supplier notification with each shipment?

Yes. Note that the regulations require that supplier notification be made to each customer by 'at least the first shipment' (40 CFR Section 372.45(c)(2)), so the timing of the mass mailing is important. Also, the notification must be included with the SDS if one is required for the product. The supplier also must be cautious of formulation changes that could occur between the mass mailing and the actual first shipment.

Section 11.2 Questions and Answers from the 2019 Consolidated Questions and Answers Guidance on Best Readily Available Data

Question # 572

If a covered facility has analytical data that will take extensive time and money to calculate emissions, can that facility use the maximum emissions level specified in their permit to calculate their emissions?

EPCRA allows facilities to use its best readily available data to provide information required under Section 313. When data are not readily available, EPCRA allows facilities to use 'reasonable estimates' of the amounts involved. An owner/operator facility must use his/her best judgment to determine whether analytical data are readily available. If they are not, the facility's use of maximum emissions levels, as specified in its permits, may be a reasonable basis from which to form its estimates. In any event, the owner/operator should carefully document the reason for its decision making.

Question # 574

Is it appropriate for a covered TSD facility to develop an average concentration for a Section 313 chemical contained in thousands of different waste streams managed by the facility, and then use that average as a basis for threshold determinations? If so, does EPA have a recommended approach for developing such an average?

EPCRA allows covered facilities to use the best readily available data to provide information required under EPCRA section 313. When data are not readily available, EPCRA allows facilities to use reasonable estimates of the amounts involved. A facility must use its best judgment to determine whether data are readily available. Thus, with regard to use of average concentration levels, a facility must use its best judgment to decide whether the raw data from which it might base any average concentration level are readily available. In any event, a facility should carefully document its decision making. For example, if a facility decides to use average concentration levels, it should document why the raw data from which the averages are based are not readily available, how it arrived at any average concentration level used, and why the average concentration level is a reasonable estimate of the amount of the toxic chemical in the waste stream. EPA does not have a recommended approach for determining average concentration levels.

Question # 609

For TRI reporting, EPA has identified four basic methods that a facility may use to develop the estimates for releases and other waste management activities: monitoring data, mass balance calculations, emissions factors, and other approaches such as engineering calculations. The best method for calculating the quantities of each release and other waste management activity will depend on the facility's site-specific knowledge and available data sources. What potential data sources are available for each basis of estimate type?

Potential monitoring data sources can include stack monitoring data, outfall monitoring data, air permits, industrial hygiene monitoring data, National Pollution Discharge Elimination System (NPDES) permits, publicly owned treatment works (POTW) pretreatment standards, effluent limitations, Resource Conservation and Recovery Act (RCRA) permit data, hazardous waste analysis, pH for acids, and continuous emissions monitoring. The basis of estimate code used in Section 5 or 6 of the TRI Form R for monitoring data is either M1 or M2, depending on whether the estimate was based on continuous monitoring data (M1) or periodic or random data or measurements (M2). Potential data sources for mass balance calculations can include supply records, a hazardous material inventory, an air emissions inventory, pollution prevention reports, hazardous waste manifests, and spill event records. The applicable basis of estimate code for mass balance calculations is C. Potential emissions factors can include AP-42 emissions factors, other EPA emissions factors, published facility or trade association chemical-specific emissions factors, site-specific emissions factors relating release quantity to throughput or equipment type (e.g., air emissions factors), or other site-specific emissions factors developed specifically for a situation or process on-site that takes into account the actual field conditions at the location. The applicable basis of estimate code is either E1 or E2, depending on whether the estimate was based on published emissions factors (E1) or site-specific emissions factors (E2). Other potential data sources can include engineering calculations, best engineering judgment, volatilization rates, Raoult's Law, Henry's Law, and solubilities. The applicable basis of estimate code for these types of other approaches is O. The potential sources and factors provided above are only examples. A facility can use any source of information so long as the source is consistent with EPCRA section 313(g)(2): the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. For more details on release estimate calculations, refer to the TRI Reporting Forms and Instructions (Appendix B).