**Annual Supplier Chemical Notifications**

Does This Affect Your Company?

Recently EPA sent email reminder notices to companies who submitted 2018 and 2019 Toxic Release Inventories under EPCRA Section 313. These reminders were about the regulation’s annual supplier chemical notification requirements for those companies who process or manufacture chemicals or chemical mixtures.

This annual notifications rule can be found at 40 CFR § 372.45.

**Who Does This Affect?**

1. SIC codes 20-39 (or NAICS codes corresponding to those SIC categories), and…
2. You manufacture (including import) or process a toxic chemical on the EPCRA Section 313 list, then…
3. You sell/distribute that chemical under a trade name, or sell/distribute a mixture containing one or more of these chemicals.

Suppliers who are not required to complete a Toxic Release Inventory can still qualify for this rule. They would still need to notify if they meet those 3 criteria.

**The Notification**

An annual chemical notification must be sent with the first shipment of the chemical sent within the calendar year. The notice needs to include the following information:

* A statement that the mixture or trade name product includes a toxic chemical listed pursuant to EPCRA section 313 or 40 CFR Part 372;
* The name and, if applicable, associated CAS registry number of each listed chemical, and;
* The percentage by weight of each listed chemical in the mixture or trade name product.

The notification can be a letter, a label or a written notice within the shipping papers. It may accompany and be attached to the product’s SDS, but an SDS alone will not suffice if the SDS is missing the required notification information. If your SDS has the required information on it, that can be used for the first shipment. Then in subsequent years, a letter referencing the previous year’s SDS would suffice as long as the customer still has the most current version of your SDS. If an SDS is not required for your chemical, you can send the notification on a separate written notice.

If you have any changes or updates to the information for the notice, you need to send out a revised notice within 30 days of that change. If find that you had errors in your notice, you’ll need to send a revised notice listing the shipment dates that the new correct data would cover.

**Exclusions**

There are a few exclusions to this rule, including:

* Not falling within those specific SIC/NAICS codes.
* The chemical is a result of a chemical reaction from two or more chemicals mixed. You do not have to notify in this case because it would not be considered a mixture anymore.
* If the chemical is prepared for consumer use, you don’t have to notify. However, if you prepare a version for consumer use in one type of packaging, but provide an industrial version in a different quantity or packaging, then you would have to notify.
* The quantity of the toxic chemical is below the de minimis level (1% or 0.1% for OSHA carcinogens).
* It’s a waste.

If your company does not fall within the SIC/NAICS codes or you just repackage the chemicals (not manufacture them), and you receive notifications from your suppliers, you should forward on those notifications with the EPCRA Section 313 chemicals you send to users who would be covered under these codes.

**Recordkeeping**

You’re required to keep the following records for 3 years:

* Notifications sent to recipients;
* All supporting materials used to develop the notice;
* If you are claiming a trade secret, a record of why it’s considered a secret and why the generic name you can use in your notification is appropriate; and,
* If the concentration is a trade secret, record explanations of why it’s a secret and the basis for the upper bound concentration limit you’re allowed to use is appropriate.

**More Information**

More information can be found [in the rule](https://ofmpub.epa.gov/apex/guideme_ext/f?p=GUIDEME:GD:::NO:RP:gd:supplier_notification) and in EPA’s [Frequently Asked Questions](https://ofmpub.epa.gov/apex/guideme_ext/f?p=guideme:qa-search:0:::RP:IR%5BQA_REPORT%5DC_KEYWORD:Supplier+Notification) about this rule.