

**Statement Supporting the Renewal of the Information Collection Request  
for the Community Right-to-Know Reporting Requirements of the  
Emergency Planning and Community Right-to-Know Act**

**1. IDENTIFICATION OF THE INFORMATION COLLECTION**

**1(a) Title of the Information Collection Request**

Community Right-to-Know Reporting Requirements under sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (Renewal), EPA ICR Number 1352.14, OMB Control Number 2050-0072.

**1(b) Short Characterization**

EPCRA section 311 requires the owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS), or Safety Data Sheet (SDS)<sup>1</sup>, for a hazardous chemical under the Occupational Safety and Health Act (OSHA) of 1970, must also submit an SDS to their state emergency response commission (SERC), local emergency planning committee (LEPC), and local fire department for each hazardous chemical stored on-site in a quantity greater than the reporting threshold. Alternatively, a list of subject chemicals grouped by hazard type may be submitted. The reporting threshold is 10,000 pounds unless the chemical is specifically listed as an extremely hazardous substance (EHS) under EPCRA section 302. The reporting threshold for EHSs is either 500 pounds or the threshold planning quantity (TPQ), whichever is less. The reporting threshold for gasoline (all grades combined) is 75,000 gallons and for diesel fuel (all grades combined) is 100,000 gallons. These are the existing thresholds for chemicals stored entirely underground at retail gas stations in compliance with Underground Storage Tank (UST) regulations. Section 311 of EPCRA allows the public the same access to SDSs that facilities provide their employees.

The submittal of a list of chemicals or SDSs was a one-time requirement, which was to be completed by October 17, 1987. However, facilities must submit updated lists or SDSs within three months when a hazardous chemical above the reporting threshold is brought on-site. If significant new information arises concerning a previously submitted SDS, a facility must submit a revised SDS. Additionally, the facility must provide an SDS if the SERC or LEPC receives a request, even if the quantity of the hazardous chemical stored is below the reporting threshold.

Section 312 of EPCRA requires owners and operators of facilities subject to section 311 to report annually the inventories of those chemicals reported under section 311. EPA is required to publish two emergency and hazardous chemical inventory forms, known as “Tier I” and “Tier II,” for use by these facilities. The Tier I form provides the minimum amount of information necessary to comply with the section and the Tier II form provides chemical-specific information. The submittal of an inventory form allows local emergency planners/responders and the community to have access to information regarding the hazards of a chemical at the facility.

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<sup>1</sup> While both MSDS and SDS terms are used in 40 CFR 370, only SDS will be used in this Supporting Statement for ease of reference.

EPA estimates that 462,640 facilities may be subject to the requirements covered by this ICR. EPA estimates that 138,792 facilities (30 percent) are manufacturers and 323,848 (70 percent) are non-manufacturers. Any facility that is required to submit an SDS or list of chemicals under section 311 must submit a Tier I form annually on March 1, incorporating the chemicals reported under section 311. The facility submits the Tier I form to the SERC, LEPC, and local fire department. The Tier II form, which provides chemical-specific information, must be submitted upon request by the SERC or LEPC.

States were always given the flexibility to implement the EPCRA program as appropriate for their state to meet the goals of EPCRA, which are to prepare for and respond to releases of EHSs and to provide the public with information on potential chemical risks in their communities. This flexibility includes adding chemicals, setting lower reporting thresholds and creating a reporting form or format that includes more information than is required by the federal reporting requirements. Many states have enacted more stringent requirements, such as additional chemicals and lower reporting thresholds. Some states developed their own inventory reporting form, including electronic reporting formats and certification. Other states use the federal inventory reporting form or the federal electronic reporting format, Tier2 Submit.

On July 13, 2012, EPA published a final rule to add some new data elements to the facility identification and contact information sections of the Tier I and Tier II inventory forms. EPA also revised some existing data elements in the chemical reporting section of the Tier II form to ease reporting for facilities and make the forms more user-friendly for state and local agencies. The data elements that EPA added to the forms were requested by state and local agencies to improve their emergency response plans and response coordination during an emergency. The additional data elements, including general facility identification and contact information for the parent company, owner or operator of the company, facility emergency coordinator etc., are readily available to facilities and usually do not change from year to year. The burden and costs for adding these data elements, including one-time burden for familiarization by respondents and software updates by state agencies, as well as the additional annual burden, were included in EPA ICR 2436.02 (OMB Control No. 2050-0206). EPA renewed ICR 2436.03, in March 2016. EPA is now consolidating ICRs 2436.03 and 1352.14 and so the facility-level burden to complete the new and revised data elements of per facility estimated in EPA ICR 2436.03 is now added to this ICR. EPA will submit a request to OMB to discontinue EPA ICR 2436.03 prior to its expiration in March 2019. The data elements added are described in section 4(b)(i) Information Requested, Data Items, below.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

The authority for these requirements is EPCRA sections 311 and 312 (42 U.S.C. §11011 and §11012).

Section 311 requires the owner or operator of any facility that is required to prepare or have available an SDS for a hazardous chemical under OSHA regulations to submit an SDS for each such chemical, or a list of chemicals, to the SERC, LEPC, and local fire department. This submittal allows local emergency planners/responders and the community to have the same information regarding the hazards of a chemical at the facility.

Section 312 requires the same owners or operators of facilities to report annually the inventories of the chemicals reported under section 311. Section 312(g) requires EPA to publish emergency and hazardous chemical inventory forms for use by facilities subject to this section. In final rules published in the *Federal Register* on October 15, 1987, and July 26, 1990, EPA published the two “formats” required under EPCRA, “Tier I” and “Tier II.” The Tier I form collects the minimum amount of information necessary to comply with the section; facilities aggregate reportable chemicals by hazard type and provide the quantities and locations of the chemicals. The Tier II Form collects chemical-specific information and is submitted (in lieu of the Tier I Form) only if specifically requested by the SERC or LEPC.

Currently, some states require facilities to submit the federal Tier II inventory form. Other states developed their own reporting form or format. None of the states accept Tier I inventory form.

## **2(b) Practical Utility/Users of the Data**

The reports required under sections 311 and 312 are submitted to the state and local officials and then will be accessible to the public. The public will have access to information on the hazards in their community. State and local officials also use the submitted information to develop or modify emergency response plans for their community.

## **3. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

### **3(a) Non-Duplication**

Many states have laws that require information submittals similar to sections 311 and 312 of EPCRA. EPA considers state programs that meet EPCRA’s minimum reporting requirements to comply with EPCRA. The burden estimate in this ICR also includes burden imposed on facilities that comply with state requirements.

### **3(b) Public Notice**

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Agency has notified the public through the Federal Register notice on the renewal of this ICR on July 18, 2018 (83 FR 33931). EPA received two comments during the 60-day comment period. One comment was out-of-scope of this ICR. The second comment was a two-part comment on how to minimize the burden of the collection of information in the proposed ICR. The commenter made two major points. First, the commenter stated that Tier II reporting under EPCRA Section 312

has become increasingly burdensome for firms that have facilities in multiple states because of inconsistent implementation and Tier II reporting formats, including paper and electronic formats, among the states and EPA. The commenter recommends that EPA and states work together to devise both a single Tier II format that facilities would submit to all states and a single system for electronic reporting.

The commenter's second point was that EPA should revisit its proposal for streamlining reporting requirements for substances with minimal hazards and risks to reduce the burden for reporting facilities. The commenter stated that changes which OSHA promulgated in its Hazard Communication Program in 2012 to conform to the international Global Harmonized System requirements associated with EPCRA sections 311 and 312 reporting, have resulted in significant increased burden to the commenter. These changes required manufacturers to reclassify the hazards of the chemicals they produce and resulted in an aspiration hazard classification on the SDS for the mineral oil used in transformers and other electrical equipment by electric utilities. The commenter states that under mineral oil's conditions of use in substation electrical equipment, it would likely not present an aspiration hazard, even if it were to leak from a component. This hazard classification results in additional reporting burden for facilities that report only mineral oil on a Tier II form. The commenter would like EPA to finalize the changes it proposed in the 'relief from routine reporting' provision of the June 1998 proposed rule, "Emergency Planning and Community Right-to-Know Programs; Amendments to Hazardous Chemical Reporting Thresholds, Streamlining Requirements", (FR-6103-7). The commenter would like EPA to initiate a rulemaking to define "minimal inherent hazard" and "minimal physical or health risk," and identify a list of eligible substances for the provision's infinite threshold to minimize its Tier II reporting burden.

In response to the first part of the comment, on June 8, 1998 (63 FR 31268), EPA took comment on draft guidance on various reporting options. On July 13, 2010 (75 FR 39852), EPA finalized the guidance on reporting options. The main objective of the guidance is to provide flexibility to the States and local agencies in implementing sections 311 and 312 as necessary for their States and local communities.

In response to the second part of the comment, EPA published a proposed rule on June 8, 1998 and plans to publish a Supplemental Notice of Proposed Rulemaking in January 2021 to address reporting thresholds for rock salt, sand, gravel and other chemicals that may pose minimal risk. T. In this proposal, EPA is considering revising reporting for chemicals that may pose a minimum risk and may consider decreasing the number of facilities subject to these reporting requirements. The reporting requirements under sections 311 and 312 are intended to enhance communities' and emergency response officials' awareness of chemical hazards; to facilitate the development of State and local emergency response plans; and to aid communities and emergency response officials in preparing for and responding to emergencies safely and effectively. By proposing to provide relief from routine reporting of substances with minimal hazards and minimal risk, State and local officials can focus on chemicals that may pose more significant hazard or may present greater risks to the community.

### **3(c) Consultations**

EPA contacted seven facilities in the following manufacturing industries: chemicals, medical supplies, food, industrial products, poultry processing and aerospace launch systems. Non-manufacturing facilities contacted engage in water treatment, poultry and mining equipment repair. All facilities contacted report electronically.

EPA compared the burden estimates the Agency developed in the previous ICRs to actual burden incurred by facilities to comply annually with section 312 of EPCRA (Tier II inventory form). Small facilities that report up to 15 chemicals informed the Agency that they spend 1 hour to 8 hours to conduct inventory and complete the Tier II form. Two small facilities reported they spent between 10 to 18 hours to complete their first submission, and then between 1 to 2 hours for subsequent submissions. Medium size facilities that report up to 80 chemicals spend between 4 and 300 hours on Tier II reporting.

No large facilities were contacted for this ICR renewal period, so EPA is relying on the previous ICR renewal consultation, where the large facility contacted reported up to 700 chemicals and spends 60 hours to inventory its chemicals and complete the report. Large facilities are likely to have a system in place to conduct quarterly inventory of their chemicals, which facilitates reporting. Because most states accept on-line reporting of the Tier II form, the data from the previous reporting year is imported to the next reporting year, which makes it easier for facilities that submit on-line using Tier2 Submit (EPA-developed software) or state-developed or commercial software that states require facilities to use.

Despite obtaining lower burden estimates from the submitters with whom we consulted, EPA is maintaining the conservative burden assumptions described in this section. The number of facilities we were able to call was only a small sample of the facilities that submit claims. The facilities were not necessarily representative of the larger universe of facilities in terms of facility size, experience in submitting trade secret claims, and industries covered. The agency did not obtain enough information from the consultations to be able to revise the burden estimates in a defensible manner, and so given these limitations, EPA decided to maintain its conservative burden estimates.

EPA consulted with the following facilities:

Alden Medical, LLC	North Tonawanda Wastewater Treatment Facility	
West Springfield, MA	North Tonawanda, NY	
Consolidated Precision Products Mining	Cellofoam North America	Joy Global Surface
Eastlake, OH	Orlando, FL	Virginia, MN
ATK Launch Systems Brigham City, UT	Tyson Poultry Processing Plant Ozark, AK	

### **3(d) Effects of Less Frequent Collection**

The reporting deadlines for sections 311 and 312 are set by statute. EPA has no authority to allow less frequent collection.

### **3(d) General Guidelines**

The collection activities specified in this renewal ICR adhere to the guidelines specified by OMB.

### **3(f) Confidentiality**

The respondent may claim specific chemical identities as a trade secret in reports submitted under section 312 and in the list of chemicals and material safety data sheets submitted under section 311. Such information must be submitted to EPA according to EPCRA sections 322 and 323 (40 CFR Part 350).

All trade secret claims submitted to EPA under EPCRA are handled and stored according to procedures set out in the *Manual for Physical Handling, Security, and Protection of Files containing Trade Secret Claims Submitted under Sections 303, 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), December 2014*. These procedures were developed for EPCRA trade secret claims with the knowledge that these documents are sensitive. Handling and review of documents containing EPCRA trade secret information is permitted only by persons who have obtained formal clearance to access the information based on a work-related need to engage in these activities. When not being processed or reviewed by authorized individuals, the claim submissions containing trade secret information are stored in restricted access areas. To ensure that appropriate handling procedures are activated and the confidentiality of EPCRA trade secret submissions is maintained, the Agency attaches a cover sheet to each trade secret document and otherwise marks the document to clearly identify the document as “confidential”.

### **3(g) Sensitive Questions**

The information gathering activities under this renewal ICR do not involve any sensitive questions.

## **4. THE RESPONDENTS AND THE INFORMATION REQUESTED**

### **4(a) Respondents**

Sections 311 and 312 are applicable to all facilities that are required to prepare or have available an SDS for a hazardous chemical as required under OSHA and its implementing regulations.

Section 1910.1200 of the OSHA regulations provides exemptions from the definition of hazardous chemical. In addition, section 311(e) of EPCRA excludes the following substances:

- Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;
- Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;
- Any substance, to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the public;
- Any substance, to the extent it is used in a research laboratory, hospital, or other medical facility under the direct supervision of a technically qualified individual; and,
- Any substance, to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Reporting thresholds also have been established under sections 311 and 312 (codified in 40 CFR part 370). A facility must report those hazardous chemicals that are present at the facility at any time at or above the following thresholds:

- For hazardous chemicals other than EHSs, 10,000 pounds;
- For EHSs, 500 pounds or the threshold planning quantity (TPQ), whichever is less; and,
- For gasoline, 75,000 gallons (all grades combined) and 100,000 gallons for diesel fuel (all grades combined), when stored entirely underground at retail gas stations in compliance with UST regulations.

#### **4(b) Information Requested**

##### **(i) Data Items**

Facilities that have chemicals subject to section 311 are required to submit SDSs for those chemicals, which are the same as those required under OSHA regulations. A facility can also fulfill its section 311 reporting obligation by submitting a list of chemicals that are subject to the requirements, grouped by the following five hazard types: fire, sudden release of pressure, reactivity, immediate health hazard, and acute health hazard.

Annually on or before March 1, facilities that have reportable chemicals must submit a Tier I Form. It is important to note that EPA is unaware of any states that utilize the Tier I Form. EPCRA requires that the Tier II Form be submitted upon request by the SERC, LEPC or the fire department with jurisdiction over the facility. Currently, all states require facilities to submit the federal Tier II inventory form or the state developed inventory reporting form.

The Tier I Form includes the following information as required by the statute:

- An estimate, in ranges, of the maximum aggregated quantity of hazardous chemicals in each hazardous category present at the facility at any time during the previous year;
- An estimate, in ranges, of the average daily aggregated quantities of hazardous chemicals on-site in each hazard category present at the facility during the preceding calendar year; and,
- The general location of hazardous chemicals in each category.

EPA added the following required information to the Tier I form in the final rule published on October 15, 1987 (52 FR 38344) and July 26, 1990 (55 FR 30632):

- NAICS code and Dun & Bradstreet number of the facility;
- Emergency contact (added to give SERCs, LEPCs, and local fire departments a contact at the facility who could clarify information at any time, particularly in the event of an emergency); and,
- Number of days on-site (added to produce a more accurate estimate of the average daily quantity, particularly for those chemicals that are on-site for only a short period of time each year).

The Tier II form includes the following information as required by statute:

- The chemical name or the common name of the chemical as provided on the SDS;
- An estimate, in ranges, of the maximum quantity of the hazardous chemical present at the facility at any time during the preceding calendar year;
- An estimate, in ranges, of the average daily quantity of hazardous chemical present at the facility during the preceding calendar year;
- A brief description of the manner of storage of the hazardous chemical; and,
- The location of the hazardous chemical within the facility.

EPA added the following data elements to the Tier II form in final rules published on October 15, 1987 and July 26, 1990:

- CAS number to identify more accurately each chemical that is reported;
- The physical state to help identify the type of hazard each chemical presents in an emergency;



- The physical and health hazards associated with the chemical;
- Primary NAICS code and Dun and Bradstreet number of the facility;
- Two emergency contacts (added to give SERCs, LEPCs, and local fire departments a contact at the facility who could clarify information at any time, particularly in the event of an emergency); and,
- Number of days on-site (added to produce a more accurate estimate of the average daily quantity, particularly for those chemicals that are on-site for only a short period of time each year).

On July 13, 2012, EPA added the following data elements to page one of the Tier I and Tier II forms:

- Latitude and longitude of the facility;
- Maximum number of occupants;
- An indication of whether the facility is manned or unmanned;
- Facility identification numbers assigned under the Toxic Chemical Release Inventory and the Risk Management Programs;
- Email address of the owner or operator of the facility;
- Name, title, email address, phone number and 24-hour phone number of the facility emergency coordinator;
- Name, title, email address, phone number of the person knowledgeable about the information reported on the Tier I and Tier II forms;
- Email address of the emergency contact(s);
- An indication of whether the facility is subject to EPCRA Section 302; and,
- An indication of whether the facility is subject to Clean Air Act (CAA) section 112(r), also known as the Risk Management Program.

The following optional data elements also were added to the forms:

- Name, address, phone number, Dun & Bradstreet number and email address of the parent company; and,
- Phone number of the facility.

EPA did not make any significant changes to page two of the Tier II form.

## **(ii) Respondent Activities**

To determine whether a facility is subject to section 311, it must review inventory records for all chemicals on-site that are required to have an SDS. The facility also must review the EHS list to determine whether any of its chemicals are subject to a lower reporting threshold.

If the facility determines that it has reportable chemicals, it must obtain the address of the SERC, LEPC, and local fire department. Copies of the SDSs for these chemicals may be submitted, or if it prefers, the facility may provide a list of the subject chemicals grouped by

hazard type. To use the list option, the facility would have to read each SDS to determine into which of the five hazard types the chemical falls and to identify it on the list.

The same chemicals that a facility would report under section 311 need to be reported under section 312. To complete the Tier II form, the facility must monitor its inventory records for the chemical (to determine the inventory information), add the quantities for chemicals with the same hazards, and determine the correct code for the total quantity.

A site map may be a convenient way to show locations of hazardous chemicals, or the facility may choose to provide the general location.

As mentioned in the previous section of this document, all states now require facilities to submit the federal Tier II inventory form or the state developed inventory reporting format, including electronic submission.

## **5. THE INFORMATION COLLECTED: AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT**

### **5(a) Agency Activities**

No information provided under sections 311 and 312 is sent to EPA. It is submitted to the state and local agencies, so EPA incurs no burden under this ICR.

EPA developed electronic reporting software, Tier2 Submit, for facilities to submit their hazardous chemical inventory form. Some states use Tier2 Submit and some states have created software using their own resources and require facilities to submit electronically using their state-developed form. Eight to ten states requested that EPA add state specific fields to the Tier2 Submit software.

According to the most up-to-date information EPA has, currently, 22 states use Tier2 Submit software as their reporting system and 21 states use their state-developed or commercial software. These 43 states require facilities to submit electronically, online, or on a CD or diskette. Seven states require their facilities to use E-plan to report the Tier II information. Two states accept hard copy paper submissions. EPA will review and update these figures as needed during the public comment period.

*Note: E-plan is managed by the University of Texas Dallas (UTD). E-plan contains Tier II information under EPCRA section 312 and risk management plan under Section 112(r) of the Clean Air Act. Some states use E-plan as their reporting tool. States that have their own reporting system share their Tier II data with UTD so it can be shared by emergency planners and responders.*

### **5(b) Collection Methodology and Management**

EPA does not receive the submitted data; therefore, EPA has no special data collection methodology or management.

### **5(c) Small Entity Flexibility**

EPA considers the burden for small businesses to be smaller than that for large facilities because of the reduced number of chemicals on-site at smaller facilities.

### **5(d) Collection Schedule**

The collection frequency for EPCRA sections 311 and 312 is required by statute. The submittal of a list of chemicals or SDSs under section 311 is a one-time requirement unless significant new information arises concerning a previously submitted SDS or list. In that event, a facility must submit a revised SDS or list. Facilities must submit updates to the list or SDSs within three months of having a new hazardous chemical on-site in a quantity above the reporting threshold. The facilities subject to section 312 are required to submit either the Tier II form (or state equivalent) on March 1 annually.

## **6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION**

### **6(a) Estimating Respondent Burden**

EPA estimated the respondent burden hours and costs associated with all reporting requirements of EPCRA sections 311 and 312. This ICR accounts for reporting updates under section 311, annual reporting and recordkeeping activities under section 312, which apply to all currently regulated facilities, as well as all initial reporting burdens for new facilities that are expected to become subject to the reporting requirements during the three-year ICR renewal period. The estimated burden to complete each reporting and recordkeeping activity is outlined below.

The unit burden estimates associated with this collection for facilities are presented in Exhibit 1. For state and local agencies, the unit burden estimates per government agency are in Exhibit 2.

### **Read and Understand Regulations**

EPA assumes that the initial reporting activity of reading and understanding regulations for currently covered facilities under EPCRA sections 311 and 312 has occurred already and therefore, is not included in this ICR. While EPA expects no new facilities to become subject to the regulations during this ICR period, the agency is maintaining the conservative assumption from the previous ICR renewals that 140 newly regulated manufacturing facilities will need to read and understand the regulations (40 CFR Part 370) annually. SERCs and LEPCs are assumed to have already completed the rule familiarization activities. EPA assumes that facilities spend an average of 10 hours to read and understand regulations in 40 CFR Part 370.

### **Section 311: SDS Reporting for Facilities (40 CFR 370.30)**

EPA assumes that the initial reporting activity of section 311 submission(s) for currently covered facilities under EPCRA sections 311 and 312 has occurred already and therefore, are not included in this ICR. EPA estimates that 140 newly regulated manufacturing facilities will need to determine which chemicals exceed the threshold limits. Of this universe, EPA estimates that 30 percent (42 facilities) will submit SDSs to LEPCs, SERCs, and local fire departments. Alternatively, facilities may submit a list of hazardous chemicals grouped by hazard category or a list of the chemical or common names of each hazardous chemical in lieu of submitting an SDS. EPA estimates that 70 percent (98 facilities) will submit such lists.

In addition, EPA estimates that 23,132 facilities (five percent of the 462,640 facilities reporting under section 312) will need to submit a revised SDS(s) and 23,132 facilities will need to submit a new SDS(s) in accordance with 40 CFR 370.31. This activity represents the incremental burden for a facility that has acquired a new chemical or has otherwise changed its inventory. Because little information is required from facilities after the initial submittal, EPA also estimates that only one percent of the total universe (4,626 facilities) may be specifically requested to submit an SDS to LEPC in accordance with 40 CFR 370.32(b). Facility unit burden for each activity under section 311 is in Exhibit 1.

### **Section 312: Inventory Reporting for Facilities (40 CFR 370.40 to 370.42)**

The inventory reporting burden applies to new and currently covered facilities. Although EPA published two inventory forms, Tier I and Tier II, all 50 states accept only the Tier II form or a form developed by the state. All 50 states accept inventory forms electronically, using either Tier2 Submit, the state-developed electronic reporting format or a commercial software. Only two states accept hard copy submissions of Tier II form. All burden estimates for the Inventory Reporting Activity now include an additional .25 hour of technical labor, or a total of 115,660 hours, attributable to the consolidation of EPA ICR 2436.03 with this ICR.

As noted previously, EPA is not aware of any states that accept the Tier I form. Therefore, EPA included no burden for completing the Tier I form. The Tier II form or state-developed forms are useful for developing emergency response plans because these forms contain more detailed information than Tier I.

For this ICR, EPA assumes small facilities are those that report between one to 15 chemicals, medium facilities are those that report up to 80 chemicals, and large facilities are those that report more than 80 chemicals. Most non-manufacturing sector facilities store few chemicals in amounts that exceed reporting thresholds compared to the number of chemicals stored at manufacturing facilities. Therefore, the corresponding burden estimates for completing Tier II inventory forms are lower for non-manufacturing facilities.

In previous ICR renewals, EPA used the estimate small facilities spent between one and 24 hours annually to gather information and submit their inventory form. Non-manufacturers have fewer chemicals to report. The small facilities with which EPA consulted for this ICR spent between one and eight hours annually. However, EPA is maintaining the conservative estimates of the average of 14.25 hours for small manufacturers and 10.25 hours for small non-manufacturers.

In previous ICR renewals, EPA used the estimate that medium size facilities spend between 24 and 80 hours annually. In consultation calls with medium facilities for this ICR, EPA was told that these facilities spend between four and 300 hours. However, EPA is maintaining the conservative assumption of 80.25 burden hours for medium manufacturers and 40.25 burden hours for medium non-manufacturers.

One large manufacturer that EPA contacted in the previous ICR renewal reported having up to 700 chemicals at the facility, yet it spends 60 hours on inventory and reporting activities. Most large manufacturers are likely to have a system in place to conduct regular inventory of their chemicals which would reduce the time required to file an inventory form. To be conservative, as in the previous ICRs, EPA estimates that large manufacturers spend 120.25 hours and large non-manufacturers spend 40.25 hours. Although the facility burden likely is now reduced because most states require electronic reporting, to be conservative, EPA is using the same estimates from the previous ICRs for large manufacturers.

Most states require facilities to submit electronically (online, CD, or diskette) by using state-developed software, a commercial software or Tier2 Submit. The burden for electronic submission is lower than the burden for submitting in paper form. Only two states accept paper submissions of the Tier II form. EPA believes that those facilities submitting electronically will maintain an electronic copy of their form, which revised easily. Most of the information may be the same as previous year and the information from the previous year is imported to the new reporting year. Although the burden incurred may be lower for those submitting electronically, EPA applied the same unit burden for both electronic submitters and paper submitters.

### **Information Requests for SERCs and LEPCs (40 CFR 370.30)**

Information request burdens in 40 CFR 370.61 are incurred by LEPCs and SERCs. These agencies are required to provide public access to the SDSs and Tier II forms submitted by facilities. EPA estimates that the LEPCs or SERCs will be requested to provide SDSs to the public for one percent of the total universe of facilities reporting Tier I or Tier II inventories annually (4,626 facilities). SERCs and LEPCs are also estimated to provide Tier II information on one percent of the same universe of facilities (4,626 facilities) resulting from requests from the public for such information.

### **Data Management for SERCs and LEPCs**

SERCs and LEPCs receive annual inventory forms from facilities and must make the forms available to the public on request. The burden hours to manage these forms vary depending on both the number of forms received and how the LEPC or SERC uses the data. Smaller LEPCs receive few forms each year; LEPCs in industrialized areas or areas that cover several counties, and SERCs, may receive many forms. The degree to which the information is used depends on whether the LEPC or SERC has the resources to actively handle the data. Based on earlier discussions with LEPCs, EPA determined that small LEPCs spend on average five hours a year, updated to 5.8 hours, handling the forms; large LEPCs may spend as much as three months processing the forms. SERCs supported by fees are also likely to spend considerable time on the data. As in the previous ICR, EPA developed a weighted average of 37.6 hours, a

year, based on the assumption that 120 LEPCs and 27 SERCs devote considerable effort organizing and checking the data. In addition, a limited number of SERCs and LEPCs have developed databases and input the section 312 data into their CAMEO software systems. Based on previous discussions with LEPCs that have databases, EPA estimate that this effort would require two months or 370 hours. Forty-three states have the capability to accept inventory forms electronically.

## **6(b) Estimating Respondent Costs**

### **(i) Estimating Labor Costs**

EPA estimates costs to respondents by multiplying the respondent burden estimates for each labor category by the corresponding labor rate for that category. EPA updated labor rates from the previous ICR using the most recent data available for employer costs for employee compensation tables from the Bureau of Labor Statistics (BLS), March 2018. EPA then multiplied unit costs for each respondent or activity by the number of respondents or activities performed on an annual basis to yield a total cost for each information collection activity in section 6(d). These costs are shown in Exhibit 1.

Updated hourly respondent labor costs for manufacturing facility respondents are \$70.10 for managerial staff, \$55.39 for technical staff, and \$26.02 for clerical staff, including wages and benefits. Updated hourly respondent labor costs for non-manufacturing facility respondents are \$59.57 for managerial staff, \$32.27 for technical staff, and \$24.86 for clerical staff.<sup>2</sup>

EPA then calculated weighted average labor rates for each labor category. Manufacturing facilities comprise 30 percent of all facilities and non-manufacturing facilities comprise 70 percent of all facilities. Therefore, the weighted average wage rate for managerial labor is calculated as  $(\$70.10 * .30) + (\$59.57 * .70) = \$62.73$ . Using the same weights for technical and clerical labor in manufacturing and non-manufacturing facilities results in a technical labor weighted average wage rate of \$39.10 and a clerical labor weighted average wage rate of \$25.21.

Updated hourly labor rates, including wages and benefits, for LEPCs and SERCs are \$59.33 for managerial staff, \$57.75 for technical staff, and \$34.16 for clerical staff.<sup>3</sup>

### **(ii) Estimating Capital and O&M Costs**

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<sup>2</sup> Bureau of Labor Statistics. Economic News Release, March 2018. Table 9. Private industry, goods-producing and service-providing industries, by occupational group. Table 9. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: private industry workers, goods-producing and service-providing industries, by occupational group, March 2018.

<sup>3</sup> Bureau of Labor Statistics. Economic News Release, March 2018. T

able 4. State and local government, by occupational and industry group. Table 4. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: state and local government workers, by occupational and industry group, March 2018.

All 50 states allow facilities to submit their inventory reports (Tier II form) electronically using Tier2 Submit, or state-developed or commercial software. Currently, only two states allow facilities to submit Tier II form in hard copy. So therefore, only these two states would need to store these reports in file cabinets. Those two states have approximately 1,100 facilities that submit Tier II inventory form. EPA assumes that some LEPCs and fire departments do not have the capability to store these reports electronically, so these agencies would also need to purchase file cabinets. Capital costs include the cost of filing cabinets required to store the forms. Using an estimated cost of \$800 per filing cabinet and annualizing the costs over 15 years, a single file cabinet has annualized cost of approximately \$50. So, for 3,052 SERCs and LEPCs, the total cost for file cabinets would be \$152,000 annually.

The 1,100 facilities that would submit Tier II form in hard copy need to maintain copies of their annual inventory reports. For these facilities, the total annualized capital costs is estimated to be \$55,000.

O&M costs consist of mailing costs. Facilities are assumed to incur postage costs for mailing new and revised SDS's to SERCs, LEPCs and fire departments; lists of hazardous chemicals, and the annual inventory reports. Postage costs for facilities and state and local governments are estimated to be \$10 per certified package. Facilities are estimated to incur \$5,136,704 annually in mailing costs.

State and local governments are assumed to incur postage costs to provide SDS's upon request and to provide Tier II information upon written request. SERCs and LEPCs are estimated to incur \$60,520 annually in mailing costs.

### **6(c) Estimating Agency Burden and Cost**

EPA estimates no annual Agency recordkeeping burden associated with this ICR. Only state and local government entities incur burden and cost to manage information submitted by facilities.

EPA updates the electronic reporting software, Tier2 Submit annually and accommodates state requests by including state-required fields. EPA estimates it spends \$50,000 per year to update and maintain Tier2 Submit software, including changes requested by states.

### **6(d) Estimating the Respondent Universe and Total Annual Respondent Burden and Costs**

Based on updated numbers of facilities in the E-Plan database and information provided by EPA Regions for 2017, EPA is estimating a 16.42 percent increase in the number of facilities that may be subject to the requirements covered by this ICR over the previous estimate. This represents an increase from 400,000 facilities to 465,692 facilities. This figure is an estimate and is based, in part, on several assumptions which may lead to an over-or under-estimate. For example, data for two states, Wyoming, and West Virginia, and for Puerto Rico, is from the previous ICR (2014 data); data for Colorado is from 2012 because more recent data from those states was not available; and, some portion of the data for New York includes facilities subject to section 302. In addition, EPA was unable to obtain facility numbers from Guam, American

Samoa or the Commonwealth of the Northern Mariana Islands (CNMI). However, overall, EPA considers the higher facilities estimate to be more accurate than the 400,000 facilities estimate used in the previous ICR, and therefore, is basing the burden and cost estimates for this ICR renewal on the updated figure. To the extent that the Agency's unit burden estimates for individual activities are overly conservative, the total burden hour estimates may be an overestimate.

EPA is maintaining the assumption that 30 percent of facilities (138,792) are manufacturers and 70 percent (323,848 facilities) are non-manufacturers. Also, as in the previous ICR, EPA makes the conservative assumption that a total of 420 new manufacturing facilities (140 annually) will be covered by the requirements under sections 311 and 312 during the three-year ICR renewal period.

Exhibits 1 and 4 present information collection activities, unit burden and annual burden and costs for facilities. The average annual respondent burden for 462,640 facilities is 6,825,633 hours, for a total annual cost of \$295,598,544. The total burden and cost includes the additional 115,660 hours and \$4,522,306 cost attributable to the consolidation of EPA ICR 2436.03 with this ICR.<sup>4</sup>

EPA estimates of 3,000 LEPCs and 52 SERCs that will implement the regulation remain constant during the period covered by this ICR. Exhibits 2 and 3 present information collection activities, unit burden and annual burden and costs for SERCs and LEPCs to implement the program. The total average annual respondent burden for 3,052 SERCs and LEPCs is 141,772 hours, for a total annual labor cost of \$5,414,758. Including capital and O&M costs, the total annual cost is \$5,659,878.

#### **6(e) Bottom Line Burden Hours and Cost**

The estimated annual burden for facilities is 6,825,633 hours at a cost of \$295,598,544. The estimated annual burden to LEPC and SERC respondents is 141,772 hours at a cost of \$5,659,878. Exhibits 5, 6, and 7 present summaries of the bottom line burden and cost estimates for the ICR for facilities and state and local governments.

#### **6(f) Reasons for Change in Burden**

The estimated average annual burden for facilities for reporting and recordkeeping activities under EPCRA sections 311 and 312 is 6,825,633 hours per year. This is an increase of 1,193,596 hours compared to the previous ICR approved by OMB. This increase in burden is attributable mainly to the 16.42 percent increase in the estimated number of facilities subject to Tier II reporting, based on a re-count of the number of facilities in the E-Plan database and information provided by EPA Regions. Approximately 10 percent of the burden increase is attributable to the consolidation of EPA ICR 2436.03 with this ICR, and a small portion of the change is attributable to the correction of math errors found while preparing this ICR renewal.

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<sup>4</sup> The cost of this additional burden is lower than the estimate included in EPA ICR 2436.03, even though the total burden hours estimate is higher (because of the higher facilities universe estimate used here) because EPA ICR 1352.14 uses a weighted average technical wage rate (based on BLS manufacturer and non-manufacturer technical wage rates) which is lower than the technical wage rate used in EPA ICR 2436.03.



Changes in cost are attributable to several sources. First, and most important, the change in the number of facilities subject to Tier II reporting generated higher burden estimates, and therefore, higher labor costs. Second, labor rates were updated from June 2015 to March 2018 using BLS data described previously in this section. Third, EPA calculated weighted average labor rates for management, technical and clerical labor using weights that correspond to the shares of manufacturing (30 percent) and non-manufacturing (70 percent) facilities of all facilities subject to this ICR. The previous ICR renewal did not use weighted average labor rates. Fourth, EPA consolidated EPA ICR 2436.03, which included the facility burden to complete additional data elements in the Tier II form, with this ICR, so the burden attributable to EPA ICR 2436.03 is now included in this ICR. Fifth, O&M costs were adjusted according to the revised numbers of facilities, and the cost to mail a certified package was adjusted to \$10. And finally, math errors corrected in the burden estimates resulted in different costs, regardless of any changes in labor rates used to calculate total costs, and math errors in previous cost calculations led to incorrect costs in selected activities.

The combined effects of these adjustments and corrections is to increase the facilities annual burden by 1,193,596 hours.

The state and local government annual burden is estimated to be 141,772 hours, an increase of 22,770 hours over the previous ICR estimate of 119,002 hours. The reason for this increase is attributable to the increase in the number of facilities EPA estimates are subject to Tier II reporting over the previous ICR estimate.

#### **6(g) Burden Statement**

The average burden for SDS reporting (basic and additional reporting) is estimated at 6.75 hours for new facilities. Additional reporting, which is to submit revised and new SDSs for currently covered and new facilities is 2 hours. The average burden for new and currently covered facilities to submit SDS upon request is 1 hour.

The average burden to comply with Tier II inventory reporting for small, medium and large manufacturers is 14.25, 80.25 and 120.25 hours, respectively. The average burden to comply with Tier II inventory reporting for small, medium and large non-manufacturers is 10.25, 40.25, and 40.25 hours, respectively. There are no recordkeeping requirements for facilities under EPCRA sections 311 and 312, although EPA assumes that they will maintain a copy of annual reports to use for future filings. The recordkeeping for SDSs is mandated under OSHA HCS.

The average burden for state and local governments to respond to requests for SDSs or Tier II information under 40 CFR 370.30 is estimated to be 1.2 hours per request. The average burden for managing and maintaining the reports and files is estimated to be 37.6 hours. The average burden for maintaining and updating a section 312 database is estimated to be 370 hours.

The annual public reporting and recordkeeping burden for this collection of information is estimated to range from 10.25 to 120.25 hours per response, which covers the range from small non-manufacturers to large manufacturers. Burden means the total time, effort, or financial

resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-SFUND-2004-0006, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Superfund Docket in the EPA Docket Center (EPADC), EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Docket is (202) 566-0276. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-SFUND-2004-0006 and OMB Control Number 2050-0072 in any correspondence.

**Exhibit 1**  
**Section 311 and 312 Reporting and Recordkeeping Requirements**  
**Estimated Unit Burden and Labor Costs -- *Facilities***

<b>Information Collection Activity</b>	<b>Management</b>	<b>Technical</b>	<b>Clerical</b>	<b>Total Hours</b>	<b>Annual Unit Cost</b>
<b>RULE FAMILIARIZATION</b>					
Read and understand regulations	2.5	7.5	0	10	\$450.08
<b>SDS REPORTING</b>					
<b>Basic Reporting</b>					
Determine which chemicals meet/exceed the thresholds (new facilities)	1	3	0	4	\$180.03
Submit SDSs to SERC, LEPC, and fire department (new facilities)	0.25	1	0.5	1.75	\$67.39
<b>Alternative Reporting</b>					
Submit list of hazardous chemicals grouped by hazard category (new facilities)	0	1	0.25	1.25	\$45.40
Submit revised SDSs (new and currently covered facilities)	0.25	0.5	0.25	1	\$41.54
Submit new SDSs (new and currently covered facilities)	0.25	0.5	0.25	1	\$41.54
<b>Additional Reporting</b>					
Submit SDS upon request (new and currently covered facilities)	0.25	0.5	0.25	1	\$41.54
<b>INVENTORY REPORTING</b>					
<b>Basic Reporting</b>					
Develop and submit Tier II (new and currently covered facilities)					
<b><i>Manufacturers</i></b>					
Small	4	10.25	0	14.25	\$651.70
Medium	4	76.25	0	80.25	\$3,232.30
Large	8	112.25	0	120.25	\$4,890.82
<b><i>Non-manufacturers</i></b>					
Small	2	8.25	0	10.25	\$448.04
Medium	4	36.25	0	40.25	\$1,668.30
Large	6	34.25	0	40.25	\$376.38
<b>GRAND TOTAL</b>					<b>\$12,135.02</b>

**Exhibit 2**

**Sections 311 and 312 Reporting and Recordkeeping Requirements**  
**Estimated Unit Burden and Labor Costs**  
*State and Local Governments*

	Management Hours	Technical Hours	Clerical Hours	Total Hours	Annual Unit Cost
<b>INFORMATION REQUESTS</b>					
File and maintain annual inventory forms and data	0	5.8	31.8	37.6	\$1,420
Input data and maintain database of 312 data	0	46.3	323.8	370.1	\$13,734
Provide SDSs upon written request	0	0.6	0.6	1.2	\$53
Provide Tier II information upon written request	<b>0</b>	<b>0.6</b>	<b>0.6</b>	<b>1.2</b>	<b>\$53</b>
<b>Total</b>	<b>0</b>	<b>53.2</b>	<b>356.8</b>	<b>410.0</b>	<b>\$15,261</b>

**Exhibit 3**  
**Sections 311 and 312 Reporting and Recordkeeping Requirements**  
**Estimated Annual Burden and Labor Costs**  
*State and Local Governments*

	Number of Respondents	Management Hours	Technical Hours	Clerical Hours	Total Annual Hours	Annual Cost
<b>INFORMATION REQUESTS</b>						
File & maintain annual inventory forms and data	3,052	0	17,650	97,073	114,755	<b>\$4,333,840</b>
Input data and maintain database of 312 data	43	0	1,989	13,925	15,914	<b>\$590,562</b>
LEPCs provide SDS on written request	4,626	0	1,735	1,735	5,551	<b>\$245,178</b>
SERCs and LEPCs provide Tier II information upon written request	4,626	0	1,765	1,765	5,551	<b>\$245,178</b>
<b>Total</b>		<b>0</b>	<b>23,139</b>	<b>114,499</b>	<b>141,772</b>	<b>\$5,414,758</b>

**Exhibit 4**  
**Section 311 and 312 Reporting and Recordkeeping Requirements**

**Estimated Annual Burden and Labor Costs - Facilities**

	<b>Number of Respondents</b>	<b>Management Hours</b>	<b>Technical Hours</b>	<b>Clerical Hours</b>	<b>Total Burden Hours</b>	<b>Annual Cost</b>
<b>RULE FAMILIARIZATION</b>						
Read and understand regulations	140	350	1050	0	1,400	\$63,011
<b>Subtotal</b>					<b>1,400</b>	<b>\$63,011</b>
<b>SDS REPORTING</b>						
<b>Basic Reporting</b>						
Determine which chemicals meet/exceed the thresholds (new facilities)	140	140	420	0	560	\$25,204
Submit SDSs to SERC, LEPC, and fire department (new facilities)	42					
<b>Alternative Reporting</b>						
Submit list of hazardous chemicals grouped by hazard category (new facilities)	98	0	98	24.5	122.5	4,449
Submit revised SDSs (new and currently covered facilities)	23,132	5,783	11,566	5,783	23,132	\$960,903
Submit new SDSs (new and currently covered facilities)	23,132	5,783	11,566	5,783	23,132	\$960,903
<b>Additional Reporting</b>						
Submit SDS upon request (new and currently covered facilities)	4,626	1,157	2,313	1,157	4,626	\$192,181
<b>Subtotal</b>					<b>51,646</b>	<b>\$2,146,471</b>
<b>INVENTORY REPORTING</b>						
<b>Basic Reporting</b>						
Develop and submit Tier II (new and currently covered facilities)						
<i>Manufacturers</i>						
Small	124,219	496,875	1,273,243	0	1,770,118	\$80,953,397
Medium	10,409	41,638	793,717	0	835,354	\$33,646,290
Large	4,164	33,310	467,382	0	500,692	\$20,364,195
<i>Non-manufacturers</i>						
Small	312,282	624,564	2,576,327	0	3,200,891	\$139,914,849
Medium	6,940	27,758	251,561	0	279,319	\$11,577,339
Large	4,626	27,758	158,454	0	186,213	\$1,741,288
<b>Subtotal</b>	462,640	1,251,904	5,520,683		<b>6,772,587</b>	<b>\$288,197,357</b>
<b>GRAND TOTAL (Facilities)</b>					<b>6,825,633</b>	<b>\$290,406,839</b>

**Exhibit 5  
Summary of Total Burden and Cost Estimates  
Facilities**

	<b>Total Burden Hours</b>	<b>Labor Cost</b>	<b>Capital Cost</b>	<b>O&amp;M Cost</b>	<b>Total Cost</b>
<b>Annual</b>	6,825,633	\$290,406,839	\$55,000	\$5,136,704	\$295,598,544
<b>Three-Year</b>	20,476,900.2	\$871,220,518	\$165,000	\$15,410,113	\$886,795,631

**Exhibit 6**  
**Summary of Total Burden and Cost Estimates**  
*SERCs and LEPCs*

	<b>Total Burden Hours</b>	<b>Labor Cost</b>	<b>Capital Cost</b>	<b>O&amp;M Cost</b>	<b>Total Cost</b>
<b>Annual</b>	141,772	\$5,141,758	\$152,600	\$92,520	\$5,659,878
<b>Three-Year</b>	425,316	\$16,244,274	\$457,800	\$277,560	\$16,979,634

**Exhibit 7**  
**Total Public Burden**

	<b>Total Burden Hours</b>	<b>Labor Cost</b>	<b>Capital Cost</b>	<b>O&amp;M Cost</b>	<b>Total Cost</b>
Facilities	6,824,633	\$290,406,839	\$55,000	\$5,136,704	\$295,598,544
SERCs and LEPCs	141,772	\$5,141,758	\$152,600	\$92,520	\$5,659,878
<b>Annual Total</b>	6,967,405	\$295,821,597	\$207,600	\$5,229,224	\$301,258,422
<b>Three-Year Total</b>	20,902,216	\$887,464,792	\$622,800	\$15,687,672	\$903,775,265