Tier II Guide

2022 EDITION

A COMPREHENSIVE GUIDE TO TIER II RY 2021

ENC△MP

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Welcome to the
Tier II Guide 2022:

The Emergency Planning and Community Right-to-Know Act (EPCRA) is a federal law passed by the United States Congress in October of 1986. The purpose of EPCRA is to help communities plan for chemical emergencies and, in effect, reduce the likelihood of disasters stemming from extremely hazardous chemicals. After 35 years, the ever-evolving EPCRA regulations and Tier II reporting requirements for environmental compliance continues to become increasingly complex.

Fortunately for professionals like you in the EHS industry, modern technology has led to solutions that address the complexities of environmental regulatory reporting. Largely in the form of cloud-based software, digitized data, and automation, new digital tools are aiding many EHS professionals (like yourself) in their Tier II reporting efforts. EHS and Operations teams are now able to simplify the most tedious tasks, ensure accurate, unbiased reporting, and automate processes for Tier II report preparations and submissions to various state portals with a click of a button.

Not sure if your Tier II Reporting process needs help? Take the following self-assessment quiz.

Is your Tier II Reporting process automated?
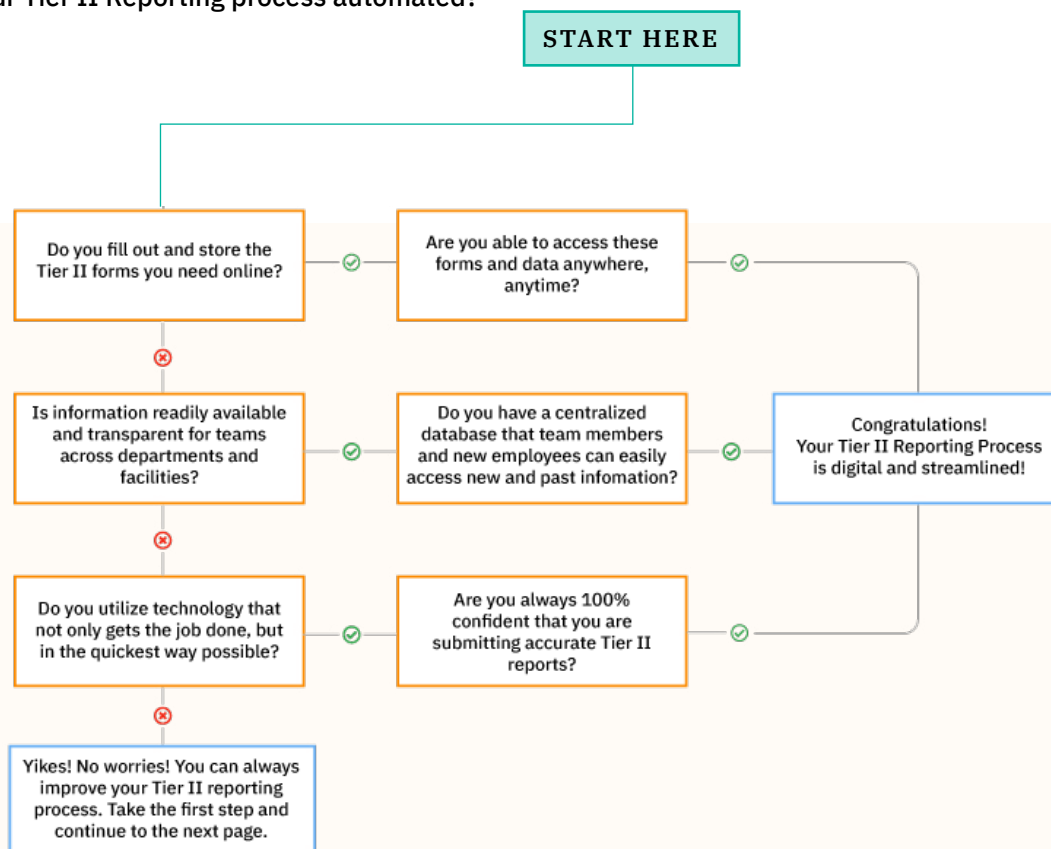
EPCRA Sections in Detail

EPCRA Sections

EPCRA compliance can be quite the challenge, even for seasoned EHS professionals such as yourself. To further understand what each EPCRA section needs, we've broken them down into three categories: Who Must Comply, Regulated Chemicals, and What Must The Report Include.

Sections 301-303
Emergency Planning

WHO MUST COMPLY:

- Any facility with an **Extremely Hazardous Substance** (EHS) present in an amount equal to or greater than that EHS's **Threshold Planning Quantity** (TPQ).
- Any facility that has been designated for emergency planning purposes.

WHAT CHEMICALS ARE REGULATED:

- Any EHS listed in the **Final Rule**.

WHAT MUST BE INCLUDED IN THE EMERGENCY PLANNING REPORT:

- Emergency planning notification
- Facility emergency coordinator
- Changes relevant to emergency planning

Section 304
Emergency Notification

WHO MUST COMPLY:

- Any facility that releases into the environment one of the listed types of chemicals in an amount equal to or greater than its reportable quantity.

WHAT CHEMICALS ARE REGULATED:

- Any EHS listed in **Appendix A** or **Appendix B**.

WHAT MUST BE INCLUDED IN THE EMERGENCY PLANNING REPORT:

For Verbal Notification (ASAP)
- The chemical name
- An indication of whether the substance is extremely hazardous
- An estimate of the quantity released into the environment
- Time and duration of the release
- Whether the release occurred into air, water, and/or land
- Any known or anticipated acute or chronic health risks associated with the emergency
- Proper precautions
- Contact person

For the written follow-up (within 30 days)
- Updates to any information in the verbal notification
- Actions taken to respond and contain the release
- Any known or anticipated acute or chronic health risks associated with the release
- Where appropriate, advice regarding medical attention necessary for exposed individual

Sections 311-312
Community Right-to-Know Requirements

WHO MUST COMPLY:

- Any facility that's required to maintain Safety Data Sheets (SDSs) under OSHA regulations.

WHAT CHEMICALS ARE REGULATED:

- Extremely Hazardous Substances in **Appendix A** and **Appendix B** with a TPQ of 500 lbs or lower.
- Retail gas stations that have at least 75,000 gallons of gasoline.
- Retail gas stations that have at least 10,000 gallons of diesel fuel.
- Hazardous chemicals with a TPQ of 10,000 pounds.

WHAT MUST BE INCLUDED IN THE EMERGENCY PLANNING REPORT:

- Basic chemical information
- An estimated maximum amount of chemical present at any time during the preceding calendar year and the average daily amount
- The manner of storage of the chemical
- The location of the chemical at the facility

Tier II falls under EPCRA Section 312

Chemical thresholds are federally mandated under Section 312 for Tier II reporting, although they can be superseded by state or local requirements.

Chemical inventories are submitted to a facility's:

- State Emergency Response Commission (SERC) or Tribal Emergency Response Commission (TERC)
- Local Emergency Planning Committee (LEPC)
- Local fire department

Do you need software that can calculate chemical inventories, validate data, and automatically submit Tier II reports to the correct SERC, LEPC, and Fire Department? **Encamp can!**

Read how it works

Section 313
Toxic Release Inventory

WHO MUST COMPLY:

- Typically larger facilities involved in manufacturing, chemical manufacturing, or hazardous waste treatment. **Find out if your facility is in a TRI-covered industry.**

WHAT CHEMICALS ARE REGULATED:

- Chemicals that cause cancer or other chronic human health effects, significant adverse acute human health effects, if your facility has TRI-covered chemicals, or significant adverse environmental effects. **Check the TRI chemical changes as of January 2021.**

WHAT MUST BE INCLUDED IN A TRI REPORT:

- Facility name and location
- Chemical name
- Whether you manufacture, import, process, or otherwise use the chemical
- Maximum quantity of the chemical on-site
- The total quantity of the chemical released during the year
- Off-site locations to which you shipped wastes containing the chemical
- On-site recycling, energy recovery, or treatment methods used

Opportunities and Challenges for Tier II Reporting

Common Problems:
Chemical Inventory

Tedious Chemical Inventory

When it comes to compliance management and Tier II reporting, there's no shortage of tasks that demand your attention. If you were to rank your compliance tasks from the least to most time-consuming, chemical management might just be up there as the most tedious task.

Not only does gathering chemical data take time and attention to detail, it bears a lot of pressure to maintain accuracy. As with any compliance task and the March 1st deadline for Tier II filings, it's important to stay proactive and understand the chemical inventory reporting requirements for your facilities.

So how should you go about Tier II hazardous chemical inventory reporting? EPA guidance recommends two methods:

1. **Report each component individually.** With this option, the amount of each component is calculated using the percent weight of each component and the total weight of the mixture. After each component has been converted, aggregate the amount with any other instances of the same component. **Source**

2. The other option is **reporting the mixture as a whole.** If any component is unknown (such as trade secrets), the chemical must be reported as a mixture.

Do you need help improving your environmental compliance processes? **Encamp can help!**

Your Guide To **Proactive Environmental Compliance**

Read the eBook

Your Guide to **Proactive Environmental Compliance**

Eliminating the risks of non-compliance

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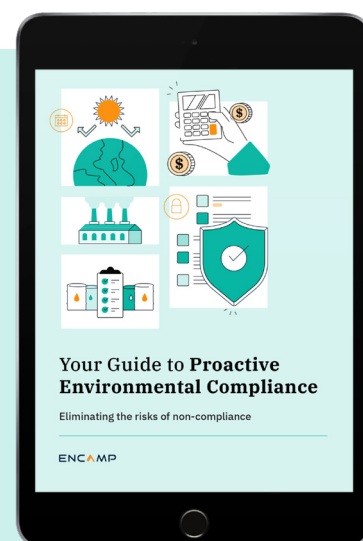
Depending on your facility's inventory, whether it's pure chemicals or mixtures, here are the different reporting requirements for Tier II:

For Pure Chemicals

- On the Tier II Inventory Form, provide the chemical name as provided on the Safety Data Sheet (SDS). Enter the Chemical Abstract Service (CAS) registry number.
- Indicate if the chemical is an EHS.
- *Note the appropriate descriptor for the chemical. Is it solid, liquid, or gas?*
- *Note: If you are withholding the name of the chemical as a trade secret, you may check that option as well.*

For Mixtures

- If a hazardous chemical is part of a mixture, you have the option of reporting the entire mixture or only the portion of the mixture that is a particular, reportable hazardous chemical.
- *Note: The option used for each mixture at your facility must be consistent with the option used in your Section 311 reporting.*

For Unknown Compositions

- When the composition of a mixture is unknown, you should report on the mixture as a whole, using the total quantity of the mixture. Whichever option you decide to use, the reporting of mixtures must be consistent for Sections 311 and 312.

HELPFUL TIP

Don't forget to factor in short-term or seasonal chemicals used for projects or specialty blends. Although such chemicals may be onsite for a short period of time, if they exceed the threshold while at your facility, you're required to report it. According to EPCRA Section 312, you must account for any chemical present at the facility at any given time during the year above the threshold.

Common Problems:
Non-Standardized Processes

Many companies, such as yours, might assign Tier II and other compliance reporting tasks at the facility level. When you do, it's often up to someone in Operations or at each facility to collect the appropriate data, review it, and submit final reports. However, nothing about the process is centralized or standardized — a common problem that's magnified when a company maintains facilities in multiple states.

Another problem is that data can't always be trusted. Information that comes from decentralized spreadsheets, data silos and paper trails might well go unchecked and be reported incompletely or inaccurately — *or both*. For any data QA/QC by regional or corporate environmental subject matter experts (SMEs, who might or might not be part of the quality process), it's critical that data stays visible all the way to the submission stage.

Data is most visible — and most scrutinized to be accurate and up to date — when internal processes are standardized across facilities and encompass all reporting stakeholders.

When processes are standardized

Reporting processes become systematic

Companies extend consistent processes and data flows to every facility and all regional and corporate environmental SMEs.

Data is easier to distribute and access

Teams no longer must "track down" information and risk overlooking critical data.

Data and reporting quality improves

QA/QC is processed universally and minimizes errors across the reporting spectrum.

The Tier II reporting cycle becomes repeatable

Data collection and Tier II preparations stay consistent and repeatable from year to year.

Business continuity takes hold

Should key contributors retire or leave the EHS team, compliance reporting stays on track.

Common Problems:
Complex State Requirements and Submission Portals

Along with the nuances of chemical inventories and non-standardized processes, final submissions for Tier II reports add yet another layer of complexity. Just when you think you've made it to the finish line of filing your Tier II reports, you must adhere to the submission requirements and portals each state has in place — which is completely different for all 50 states.

If you're submitting Tier II reports for 25 facilities in different states across the U.S., templates won't work. You'll be forced to prepare 25 individual reports, in accordance with 25 sets of requirements, and submit them to 25 individual portals. The submission maze further includes navigating these various softwares that state portals utilize for Tier II submissions:

- **Tier2 Submit** - Developed by the EPA, facilities that submit through Tier2 Submit must **download the latest version** every year. Idaho, Utah, Colorado, New Mexico, Oklahoma, Arkansas, Maine, Vermont, Connecticut, Rhode Island, New Hampshire, Virginia, Hawaii, Puerto Rico, Wyoming and Ohio utilize the Tier2 Submit portal.

- **Tier II Manager** - A web-based application that does not need to be re-downloaded every year Minnesota, Illinois, Indiana, Michigan, Kentucky, West Virginia, Delaware, Maryland, Nevada, North Dakota, Pennsylvania, Wisconsin and Massachusetts use the Tier II Manager portal.

- **E-Plan** - Like the Tier II Manager, E-Plan is also web-based and can be accessed via the internet. Montana, Iowa, Tennessee, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Florida, Alaska, and New York use E-Plan as a state portal.

- **State-Specific** - Arizona, California, Kansas, Louisiana, Missouri, Nebraska, New Jersey, South Dakota, Texas, Washington

Even though most state portals are online, you must still go through the tedious process of submitting and paying fees according to where your facility is located. Check this **map** to see how each state requires Tier II information to be submitted.

HELPFUL T I P

Encamp not only helps you prepare your Tier II reports, it automatically submits them with a click of a button to each state portal, regardless of which software a state requires.

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If you're filing for multiple facilities over multiple states, it can get tricky just keeping up with each state's nuances. As far as your data collection goes, **the earlier you can start the better**.

Megan Walters, CHMM

Encamp's VP of Compliance & Customer Success

Common Reporting Errors

Common Reporting Errors

Encamp has submitted more than 8,000 Tier II reports on behalf of our customers since 2019. Here are the most common errors we've seen EHS professionals make, which can be completely unavoidable:

1   Companies don't submit environmental compliance reports even though they should. Do you know if **EPCRA Sections 311 and 312** apply to your sites and certain hazardous chemicals you store?

2   Chemicals are reported inconsistently across sites/facilities. Do your facilities confirm if they're storing a chemical included in the **EHS list**? Do your sites verify the threshold planning quantity (**TPQ**) for an EHS? Or are you inconsistently naming your chemicals?

3   Chemical inventory is reported incorrectly or inaccurately. Do you have non-standardized processes with no formal QA/QC process to ensure data quality and hygiene?

4   Outdated or incorrect contact information. The information for facility-level emergency contacts might be a small detail for some, but it's critical for first responders. How confident are you that this information is not only updated but also properly verified?

5   Certain chemicals aren't reported when they should be. Do you store short-term or seasonal chemicals that exceed the threshold? This must be included in your Tier II report if such chemicals were present at any facility any time during the year.

6   Incorrectly-marked extremely hazardous substances. Do you designate EHSs incorrectly or fail to designate a chemical as an EHS in the first place?

7   Increased reporting fees for incorrectly-marked chemicals. Even reporting fees vary per state, which can also become complex on its own. Are you able to verify changes in reporting fees across multiple states?

8   Out-of-date Safety Data Sheets. Do you re-submit your SDSs within three months after a chemical manufacturer or employer becomes aware of new information on a chemical?

9   Wrong hazard codes in reports. How familiar are you with your hazard codes? EPCRA sections 311 and 312 require reporting only on hazardous chemicals for which a facility is required to prepare or have available Material Safety Data Sheets (MSDSs, or basically, SDSs).

HELPFUL TIP

To answer questions from the SERC, LEPC, or local fire department, a facility's contact must be knowledgeable both about the chemicals on site and the resulting Tier II report.

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If you're an EHS professional who needs your facilities person to collect data, it's essential to make it really easy for them to be able to get it done quickly and accurately. Being able to communicate to that person why this matters and simplify the process for them is essential for timely and accurate compliance reporting.

Luke Jacobs

Encamp's CEO and Co-Founder

What's New with Tier II

Latest Updates

SERCs and TERCs may update their Tier II reporting requirements on a yearly basis. The federal EPCRA program, however, moves at a slightly slower pace. Here are the updates for 2021 that are worth taking note of as you prepare for the upcoming Tier II season.

Tier2 Submit 2021 - The Tier2 Submit software is developed by the EPA and published each year. NOAA will be releasing an updated version for RY2021 in early November.

New Texas Tier II Rules - Texas updated its Tier II rules in November 2020 (now found in 30 TAC 325) to include additional obligations for facilities, primarily: a year-round requirement to submit an updated Tier II report within 90 days of any change on the report, including contact information, chemical quantities and storage locations.

Vermont LEPC Consolidation - Beginning in July 2021, Vermont consolidated its 13 LEPCs into a single state-wide LEPC. This means that for RY2021, all Vermont Tier II reports are to be submitted to a single LEPC, regardless of where sites are located.

New Tier II Portals - Beginning with the RY2020 reporting season, both Missouri and North Dakota transitioned to new reporting systems. **Read additional details about these transitions here.** Encamp has not seen any indication that any state reporting portals will be changing for RY2021.

On the horizon - In coming reporting years, EPA is exploring implementing a rule that would provide reporting exemptions for certain materials that have historically been required to be included on Tier II reports. This could include substances such as sand, gravel, and rock salt, as well as any other substances the facility has determined poses minimal hazards and minimal risks. Stay tuned!

If you need any assistance with EPA regulations and Tier II reporting, visit the **Encamp Help Center**.
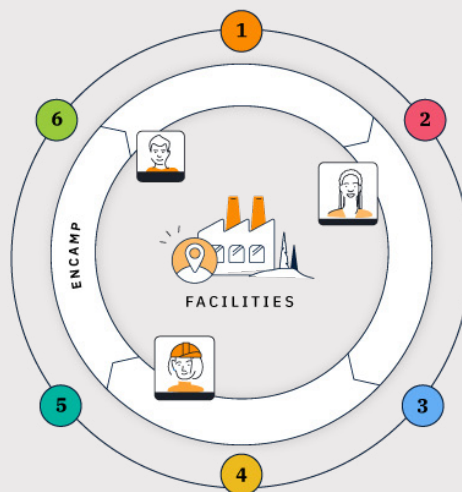
Encamp's Environmental Compliance Reporting Solution
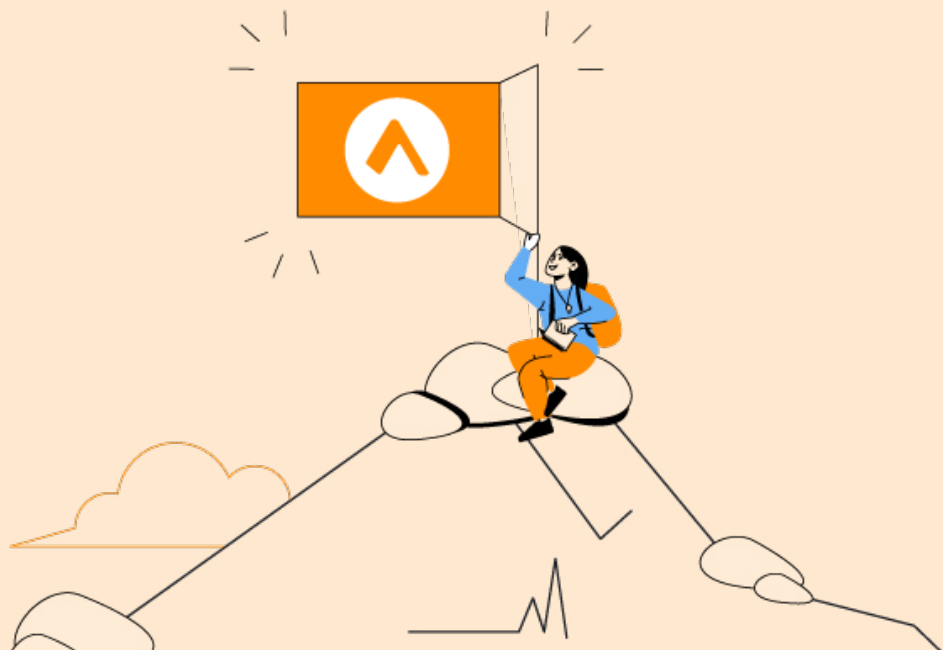
Encamp's Solution

How Encamp Works

A platform that makes it simple to manage your environmental compliance tasks, validate your data, and submit your compliance reports to all 50 state portals, on time, every time.

1 Get Started Quickly

Encamp automates facility and Tier II report importing, which makes onboarding and adoption easy, efficient and quick.

2 Single Pane of Glass

Encamp provides you with the ability to validate, standardize, and centralize your EPCRA related programs and processes to ensure proactive compliance and data quality.

3 Near Real-Time Monitoring

Utilize encamp to track on-site chemical inventories against federal, state and local TPQs.

4 Management Review

One application to QA/QC data for all of your facilities - eliminate the need for back-and-forth emails and sharing spreadsheets.

5 Automated Reporting

Whether you are reporting for one location or hundreds, we've got you covered. Encamp automates the entire reporting process, ensures that your reports are sent to the proper state, territory, tribal, and local agencies, and provides you with an itemized fee schedule for easy allocation.

6 Business Continuity

Encamp eliminates institutional knowledge and data silos and provides users with an auditable record for internal and external audits.

ENCAMP

Tier II Reporting, Automated.

Find out more: **encamp.com/demo**