

Public Request for Tier II Reports

Tennessee State Emergency Response Commission Guide for Request of Tier II Report

Pursuant to 42 U.S.C. §11001 *et. seq.*, the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as the Superfund Amendments and Reauthorization Act (SARA) of 1986, and the Tennessee Public Records Act (TPRA) Tenn. Code Ann. § 10-7-501, *et seq.*, the Tennessee State Emergency Response Commission (SERC) will make the fullest possible disclosure of records to the public.

Pursuant to 42 U.S.C. § 11022(e)(3)(A), "Any person may request a State emergency response commission, or local emergency planning committee for Tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility."

Blanket public records requests for Tier II information may be denied pursuant to provisions of EPCRA, as well as TPRA.

Requests for Tier II Information

- Any Tennessee resident may request Tier II information with respect to a specific facility by submitting a written request to the SERC in accordance with applicable laws and policy.
- Any Tier II information the SERC has in its possession shall be made available to a requestor as required by 42 U.S.C. § 11044, including Tier II information under 42 U.S.C. § 11022.
- If the SERC does not possess the requested Tier II information, the SERC shall request the information from the facility owner or operator and will make such information available to the person making the request in accordance with 42 U.S.C.A. § 11044. This service is limited to Tier II information concerning a hazardous chemical that a facility has stored in excess of 10,000 pounds present at the facility at any time during the preceding calendar year.
- Alternatively, if the SERC receives a request for Tier II information and does not possess information related to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds present at the facility at any time during the preceding calendar year, then the SERC may request that the information from the facility owner or operator on behalf of the original requestor.

- Fees may be applied pursuant to the TPRA, the Public Records Policy for the Tennessee Department of Military¹, and the "Schedule of Reasonable Charges"² established by the Comptroller of the Treasury, Office of Open Records Counsel. Fees may include, but are not limited to, labor, copies, electronic storage devices, and shipping costs.

Trade Secrets

- Pursuant to 42 U.S.C. §11042 and 40 CFR Part 350, the location of specific chemicals requested to be submitted with Tier II Information shall be maintained as confidential by the SERC provided that a claim of confidentiality is submitted with the information and satisfies all applicable requirements for such claims under EPCRA.

Timely Provision of Requested Information

- Pursuant to 42 U.S.C. §11022(e)(3)(D), the SERC shall respond to a request for Tier II information under this paragraph no later than 45 days after the date of receipt of the request.
- If it appears that a response will take longer than 45 days, the SERC will notify the requestor and provide an estimated date for when the information will be provided.

Information Available to the Public

The following is a summary of information that, upon request, is available to the public under EPCRA.

- **Follow-up Emergency Notice (Follow-up Written Report)**

As required under Section 304(c) of EPCRA, facilities are required to submit a follow-up report on any accidental releases of any extremely hazardous substances (EHSs) or CERCLA hazardous substances for which they made an initial notification to the SERC and LEPC. This follow-up report should be made available to the public.

- **Safety Data Sheet (SDS) (or Material Safety Data Sheet (MSDS)) or List of Hazardous Chemicals Received under Section 311(a)(2)**

The public may request SDSs (formerly known as MSDSs) and/or the list of hazardous chemicals submitted by facilities near the requestor's home or local schools. Facilities have the option to either submit SDSs (MSDSs) or a list of hazardous chemicals held above the reporting thresholds. If the SERC and LEPCs do not have the SDSs (MSDSs), they may request them from facilities.

- **Inventory Form Submitted Under Section 312 ("Tier II")**

¹ <https://www.tn.gov/military/who-we-are/state-administration-military/office-of-the-general-counsel-military.html>

² <https://comptroller.tn.gov/office-functions/open-records-counsel/office-of-open-records-counsel/policies---guidelines.html>

The hazardous chemical inventory form (Tier II) shall be made available to the public upon request. However, requestors must provide information for a specific facility.

Making a Public Records Request

1. All requests must be made in writing by mail or email by submitting a request to the SERC. The form located in **Attachment 1** may be used to make requests.
2. The requestor will provide the SERC Information Coordinator with sufficient information to respond to the request. The requestor may need to provide additional information or specificity to process the request.
3. Requested information will either be provided to the requestor or the request will be denied with an explanation for the denial.
4. Pursuant to the TPRA, upon a request for copies of records, the Tennessee Department of Military shall assess fees for the copying, labor, and any additional out-of-pocket costs based on the most current version of the "Schedule of Reasonable Charges" established by the Office of Open Records Counsel.
 - a. Prior to producing copies of records, the requestor will be provided with an itemized estimate of the fees.
 - b. Payment is required prior to beginning retrieval of requested records.
5. Requests for Tier II data can be sent via email or mailed to:
 - a. Email: EPCRA.TEMA@tn.gov
 - b. Mailing Address:
State Emergency Response Commission (SERC)
3041 Sidco Drive
Nashville, TN 37204

Public Request for Tier II Reports

Tier II Request Form

General: Fixed Facilities with reportable quantities of chemicals and hazardous substances in their inventory must submit Tier II reports annually. Reports must be submitted to the appropriate LEPC, the local fire department, and the SERC. Reports are due by March 1 of each year and represent inventories for the previous calendar year.

Under the Federal Emergency Planning and Community Right-to-Know Act (EPCRA), any person may request Tier II information from the state emergency response commission or the local emergency planning committee.

Individual Requesting Tier II:

Name:		Phone Number:		
Physical Address		Representing:	Self:	☐
			Agency (Include name):	
Email Address:				
Tier II requested:				
Business Name:				
Business Address:				
Reason for Requesting Data (Optional) *This information is used to refine the process.				
Signature:			Date:	