

## TIER TWO REPORTING EXEMPTIONS

1. Any product that clearly states on its Material Safety Data Sheet (MSDS) that it is not a hazardous chemical, as defined under the OSHA Hazard Communication Standard (29 CFR 1910.1200).
2. Any product that clearly states on its MSDS that it is not reportable as a hazardous chemical **under Sections 311 and 312 of EPCRA** (SARA Title III). Please note that a similar statement that the product is not reportable under Section 313 of EPCRA (for Toxic Release Inventory Reporting) **DOES NOT** mean that the product is exempt from Section 312 of EPCRA (Tier Two Reporting).
3. Any substance to the extent it is used in a **research laboratory** or **hospital** or other **medical facility under the direct supervision of a technically qualified individual**. (The facility itself is not exempt, but the substances that are used in the research laboratory and medical facility areas are exempted.) This exemption includes quality control laboratory operations located within manufacturing facilities. Laboratories that produce chemical specialty products or full-scale pilot plant operations are considered to be part of manufacturing, rather than research operations, and would therefore not be exempted.
4. 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 consumer**. Some examples of this exemption are chemicals used on a farm or in a nursery operation. This exemption does **NOT** apply to chemical agricultural products held by farm cooperatives, since these businesses are classified as wholesalers.
5. Any **hazardous waste** as that term is defined by the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. Section 6901 et seq.), when subject to regulations issued under that Act by the Environmental Protection Agency.
6. **Radioactive waste.**
7. Any substance present in an **article**, which is defined as a manufactured item whose function is determined by its shape at the time of manufacture and which does not release a hazardous chemical under normal conditions of use or otherwise present a physical hazard or health risk to employees. Some examples of this article exemption are furniture, sealed toner cartridges for photocopiers, sealed capacitors, and dry cell batteries. **Please note that lead acid (wet cell) batteries can never be classified as articles.**
8. 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.**

The first part of this exemption applies to anything used for personal purposes, such as the gasoline and lead acid battery contained in an employee's automobile. The second part of the exclusion applies to anything that is packaged for sale as a consumer product, even if it is purchased for use at the facility. Please note that the product packaging must be a size normally available to consumers and must be labeled in accordance with the regulations of the Federal Consumer Product Safety Commission. For example, this exemption would not apply to a 55-gallon drum of a product if the product is not normally available to consumers in this quantity.

9. **Any substance being transported in pipelines, trucks, railcars, and similar transportation systems**, including the transportation and distribution of natural gas. However, such products may be reportable under Section 304 of EPCRA if they are spilled or accidentally released.

10. **Tobacco or tobacco products, and wood and wood products.**

If you have questions about application of particular exemptions for Tier Two reporting, please contact one of the Tier II Reporting Program's technical staff by telephone at:  
1-800-452-2791 (toll-free in Texas) or (512) 834-6603  
or by email at: [Tier Two Help@dshs.state.tx.us](mailto:Tier Two Help@dshs.state.tx.us)