P.L. 99 499

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT

TITLE III EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT OF 1986

42 USC 11001
KRS CHAPTER 39E

# "HOW TO COMPLY" PACKET

JANUARY 2007

## CONTENTS


| | |
|---|---|
| Introduction | 2 |
| KyEM Area Office Information | 3 |
| Tier II Fact Sheet | 6 |
| UsingTier2 Submit Software | 7 |
| Annual Chemical Inventory Requirements | 8 |
| Fee Schedule | 9 |
| Definitions of Facility Categories | 10 |
| Multiple Facilities Fee Sheet | 11 |
| Facility Responsibilities | 12 |
| Spill Reporting Fact Sheet | 14 |
| Spill Reporting Notification | 15 |
| Plan Requirements | 16 |
| Explanation of Retail Gasoline Exemption | 17 |
| "Tier II" Form Instructions | 18 |
| "Tier II" Form | 23 |
| "Tier II" Confidential Location Form | 24 |

## INTRODUCTION

The Emergency Planning and Community Right to Know Act require covered facilities to comply with certain planning and reporting requirements.

The enclosed packet contains information sheets and forms to assist you in determining IF you are subject to any of the planning and/or reporting requirements and to provide you with the appropriate Tier II forms if you are subject to the reporting requirement.

If you need additional ASSISTANCE, please contact:

1. The Local Emergency Planning Committee (LEPC) in the county where your facility is located. If you do not have the address of your LEPC, please contact the Kentucky Division of Emergency Management (KyEM) area office for the address, or consult the KyEM web page at http://kyem.dma.state.ky.us. ***DO NOT FILE THE TIER II WITH THE KYEM AREA OFFICE.***

2. A listing of KyEM area offices showing counties within each area begins on page three (3). Remember that the area office is for **ASSISTANCE only--*DO NOT FILE THE TIER II WITH THE KYEM AREA OFFICE.***

3. The Kentucky Emergency Response Commission information line:
   ***502-607-5731 or World Wide Web:***
   ***http://kyem.dma.state.ky.us/sara/kyerc_1.htm***

4. The Environmental Protection Agency's federal information line:
   ***1-800-424-9346***

Directions for WHERE to file appropriate information is contained on pages six (6) and eight (8) of this packet.

## Division of Emergency Management Offices

**AREA 1 OFFICE**
**MAYFIELD**
Area Manager: Lori King
Admin Spec III: Ms. Cindy Painter
502-607-1601
270-247-9712
Fax: 270-247-4072

**AREA 1 COUNTIES:**
Ballard
Calloway
Carlisle
Fulton
Graves
Hickman
Marshall
McCracken

**AREA 2 OFFICE**
**HOPKINSVILLE**
Area Manager: Mr. Jere McCuiston
Admin Spec III: Ms. Vickie Martin
502-607-3425
502-607-3426
270-889-6004
Fax: 270-889-6005

**AREA 2 COUNTIES:**
Caldwell
Christian
Crittenden
Hopkins
Livingston
Lyon
Muhlenberg
Todd
Trigg

**AREA 3 OFFICE**
**OWENSBORO**
Area Manager: Mr. Rick Cox
Admin Spec III: Ms. Laura Hamilton
502-607 3296
270-686-0531 ext. 3296
Fax: 270-686-3235

**AREA 3 COUNTIES:**
Daviess
Hancock
Henderson
McLean
Ohio
Union
Webster

**AREA 4 OFFICE**
**BOWLING GREEN**
Area Manager: Mr. Gary Fancher
Admin Spec III: Ms. Diane Jones
502-607-1604
270-746-7843
Fax: 270-746-7504

**AREA 4 COUNTIES:**
Allen
Barren
Butler
Edmonson
Hart
Logan
Metcalfe
Monroe
Simpson
Warren

**AREA 5 OFFICE**
**ELIZABETHTOWN**
Area Manager: Mr. Gene Logue
Admin Spec III: Ms. Virginia Paulsen
502-607-5011
502-607-5012
270-769-0492
Fax: 270-769-0543

**AREA 5 COUNTIES:**
Breckinridge
Grayson
Green
Hardin
Larue
Marion
Meade
Nelson
Taylor
Washington

**NOTE:** TIER II IS FILED WITH THE LEPC, THE FIRE DEPARTMENT, AND THE KENTUCKY EMERGENCY RESPONSE COMMISSION ONLY. FACILITY PLANS AND PLAN UPDATES ARE FILED WITH THE LEPC ONLY. **FACILITIES DO NOT FILE PLANS OR TIER II WITH THE KYEM AREA OFFICES.**

## Division of Emergency Management Offices

**AREA 6 OFFICE**
**LOUISVILLE**
Area Manager: Mr. John Bastin
Admin Spec III: Ms. Diane Parrett
502-607-1666
502-636-0439
Fax: 502-638-9524

**AREA 6 COUNTIES:**
Anderson
Bullitt
Henry
Jefferson
Oldham
Shelby
Spencer
Trimble

**AREA 7 OFFICE**
**WALTON**
Area Manager: Mr. Rick Watkins
Admin Spec III: Ms. LeeAnn Gibson
502-607-1607
859-485-4134
Fax: 502-607-3113

**AREA 7 COUNTIES:**
Boone
Campbell
Carroll
Gallatin
Grant
Kenton
Owen
Pendleton
Scott

**AREA 8 OFFICE**
**MOREHEAD**
Area Manager: Mr. Larry Dixon
Admin Spec III: Ms. Donna Gardner
502-607-3391 ext. 3325 or 3326
606-784-5830
Fax: 606-780-4410

**AREA 8 COUNTIES:**
Bath
Bracken
Fleming
Lewis
Mason
Menifee
Montgomery
Morgan
Robertson
Rowan

**AREA 9 OFFICE**
**PRESTONSBURG**
Area Manager: Ms. Marcia Salyer
Admin Spec III: Ms. Sherry Jenkins
502-607-1609
606-886-9157
Fax: 606-886-1386

**AREA 9 COUNTIES:**
Boyd
Carter
Elliott
Floyd
Greenup
Johnson
Lawrence
Magoffin
Martin
Pike

**AREA 10 OFFICE**
**HAZARD**
Area Manager: Mr. Roy Benge
Admin Spec III: Mr. David Akers
502-607-1654
606-435-6012
Fax: 606-435-6130

**AREA 10 COUNTIES:**
Breathitt
Harlan
Knott
Lee
Leslie
Letcher
Owsley
Perry
Wolfe

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## Division of Emergency Management Offices

**AREA 11 OFFICE**
**MIDDLESBORO**
Area Manager: Mr. Jerry Rains
Admin Spec III: Ms. Johna Gray
606-877-3149
Fax: 606-878-2575

**AREA 11 COUNTIES:**
Bell
Clay
Jackson
Knox
Laurel
McCreary
Rockcastle
Whitley

**AREA 12 OFFICE**
**SOMERSET**
Area Manager: Mr. Don Franklin
Admin Spec III: Ms. Carolyn Padgett
502-607-1656
606-677-0528
Fax: 606-677-0537

**AREA 12 COUNTIES:**
Adair
Boyle
Casey
Clinton
Cumberland
Lincoln
Mercer
Pulaski
Russell
Wayne

**AREA 13 OFFICE**
**LEXINGTON**
Area Manager: Mr. Dan Hayden
Admin Spec III: Ms. Fonseca Welch
502-607-2461
502-607-2462
859-246-2334
Fax: 502-607-2440

**AREA 13 COUNTIES:**
Bourbon
Clark
Estill
Fayette
Garrard
Harrison
Jessamine
Madison
Nicholas
Powell
Woodford

**AREA 14 OFFICE**
**FRANKFORT**
Area Manager: Mr. Steve Oglesby
502-607-1658
Fax: 502-607-1863

**AREA 14 COUNTIES:**
Franklin

**NOTE:** TIER II IS FILED WITH THE LEPC, THE FIRE DEPARTMENT, AND THE KENTUCKY EMERGENCY RESPONSE COMMISSION ONLY. FACILITY PLANS AND PLAN UPDATES ARE FILED WITH THE LEPC ONLY. **FACILITIES DO NOT FILE PLANS OR TIER II WITH THE KYEM AREA OFFICES.**

## 42 USC 11022/KRS CHAPTER 39E.110, 39E.210
## ANNUAL CHEMICAL INVENTORY REPORT TIER II

| | |
|---|---|
| DUE MARCH 1: | "Tier II" Emergency and Hazardous Chemical Inventory Report (File SIMULTANEOUSLY with required fee) |
| SUBMIT TIER II TO: | Kentucky Emergency Response Commission, Local Emergency Planning Committee, Local Fire Department with Jurisdiction |
| SUBMIT FEE TO: | Kentucky Emergency Response Commission |
| WHO MUST FILE: | The owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheets (MSDS) for a hazardous chemical as defined under the OSHA Hazard Communication Standard, 29CFR 1910.1200. |
| QUANTITY: | 10,000 pounds for a hazardous chemical<br><br>500 pounds or the threshold planning quantity, whichever is lower, for "Extremely Hazardous Chemicals" listed under Section 302 of EPCRA (40 CFR Part 355). |
| FAILURE TO COMPLY: | Under federal and state statutes, civil penalties may be assessed.<br><br>Citizen suits against facility owners or operators for failure to comply are also authorized. |

Kentucky requires hard-copy submission of the Tier II report. Tier2 Submit 2006 can be used to print the report. Kentucky also requests that in addition to the submitted hardcopy, Tier2 submit electronic files be submitted to: *kytier2reports@ng.army.mil* or on CD to the KyERC.

Most LEPCs and Fire Departments also require a hard-copy report. However, the Jefferson County (Louisville) LEPC requires electronic submission.

Using Tier2 Submit 2006

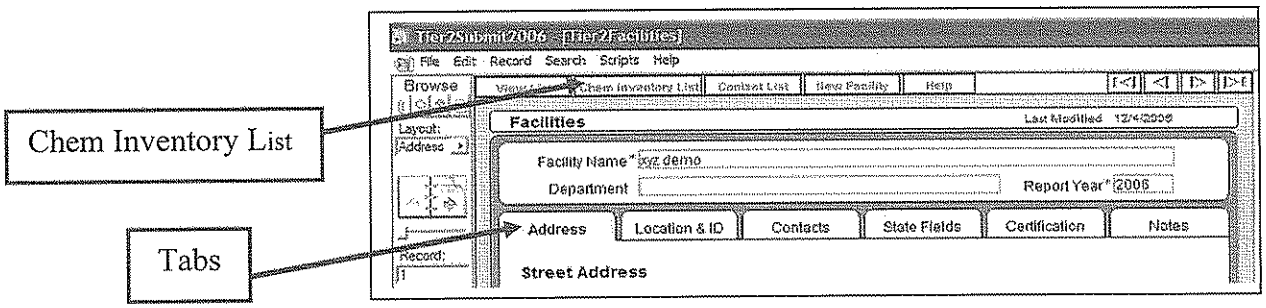
The Tier2 Submit Software can be found at:
http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/tier2.htm

1. On the webpage select Tier2 Submit Software. A list of states will be brought up. If you select Kentucky you will see the same message as the one given above. There is also a link back to the SARA Title III page of the Kentucky Division of Emergency Management website.

2. In order to download the Tier2 Submit Software select the appropriate choice given below the state list for the type of operating system (Windows or Macintosh) you have.

3. Select Run or Save. When you run the software you will get a start up window. After starting the program the following window will appear:

4. Enter chemical information by selecting *Chem Inventor List* on the top of the Tier2 Submit form.




5. Enter all mandatory information (indicated by a Blue Star) on the Facilities page and in each of the Tabs provided on the page.

6. On the certification page type in the name of the individual who will be signing the Tier2 and the date of completion of the Tier 2.

*****In addition to the mandatory information, other information including longitude and latitude can be entered on the form. While this information is not mandatory, its inclusion would be appreciated by the state.*

7. After completing all mandatory and other information select Create Submission from the File Menu. If you are still in the Chem Inventory List you will need to return to Facility Record prior to selecting the File Menu.

8. The program will guide you through a verification process to determine if any mandatory information has been omitted or entered incorrectly. If the form fails the validation process you can view or print a copy of the Validation Report. The Report will identify what information needs to be provided or corrected for the facility to pass validation. You will need to go back to the Tier 2 form and enter or change the information shown on the Validation Report.

9. After passing the Validation Report you will be able to prepare a hardcopy report. Select Create Submission from the File Menu. You will have the option of printing a full report or an original-style report for hardcopy submission. Regardless of which style you choose, the certification page must be signed, dated and accompanied by the proper payment for submission to the KYERC.

10. To create an electronic file, select this option from the Create Submission page. You will be prompted to save the file to a directory of your choice. If you are going to submit the electronic file by e-mail, select the .t2s extension to save the file since the state file server does not allow receipt of .zip files. If you prefer, a CD of the electronic file can be sent to the KYERC at Boone Center.

A summary of the annual chemical inventory reporting requirements may be found on the next page.

## SUMMARY OF ANNUAL CHEMICAL INVENTORY REQUIREMENTS

Section 312 of SARA Title III requires the annual filing of a chemical inventory reporting form known as "Tier I" or "Tier II". The Kentucky Emergency Response Commission REQUIRES the **Tier II** form for all of Kentucky facilities required to report.

March 1 is the due date for filing Tier II, and it covers the previous calendar year. Submission is REQUIRED on form SARA 312. A computer-generated form containing all the information in SARA-312 may be accepted. Tier II and the applicable fee are REQUIRED to be filed SIMULTANEOUSLY to the Kentucky Emergency Response Commission.

This requirement applies to the owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical as defined under the OSHA Hazard Communication Standard, 29 CFR 1910.1200.

U.S. EPA has established a threshold of 10,000 pounds for hazardous chemicals present at the facility at any given time during a calendar year, as the threshold for requiring the filing of the Tier II.

U.S. EPA has established a much more conservative reporting threshold for "Extremely Hazardous Substances." An Extremely Hazardous Substance is subject to reporting if it is present at the facility in an amount equal to or greater than 500 pounds, or the "Threshold Planning Quantity," whichever is less.

The Tier II form contains specific information about the quantities and storage conditions of specific hazardous chemicals at a facility. It includes information on the specific location of the chemicals. The specific location of the chemicals may be withheld from the public under section 324 of SARA Title III. A "Confidential Location Information Sheet," form SARA-312-C, may be used for this purpose. You will find a set of instructions included in this packet that covers filing the Tier II, and if appropriate, will include how to file the Confidential Location Information Sheet.

Remember, if you are subject to paying a fee, the fee must be filed SIMULTANEOUSLY with the appropriate report as required by 106 KAR 1:081.

## KRS 39E.050

## FEE SCHEDULE

March 1

All fees and forms must be filed SIMULTANEOUSLY.

Make check payable to: Kentucky State Treasurer

Mark all checks: "For KyERC Account"*

Mail to: Kentucky Emergency Response Commission
EOC, Boone Center
100 Minutemen Parkway
Frankfort, KY 40601 6168

Fees shall be payable in accordance with the schedule listed below except the same owner or owners of two or more facilities in a single county subject to paying a fee shall pay a fee not to exceed $250 for all those facilities in that county. ***If your check covers payment for more than one facility, please use the "Multiple Facility Fee Sheet" found on page ten (10) of the "How to Comply" package.***

| | |
|---|---|
| $0 | Category One Facility |
| $40 | Category Two Facility |
| $250 | Category Three, Four and Five Facilities |

*NOTE: Failure to indicate "For KyERC Account" may result in the check being incorrectly deposited. **Please be sure to mark "For KyERC Account."**

A summary of the definitions of the categories may be found on the next page.

## DEFINITIONS

### Category One Facility

Any facility owned or operated by local, state or federal government. Category One facilities are exempted from paying any fee in accordance with KRS 39E.050. This exemption applies solely to fees and does not exempt any Category One Facility from reporting requirements.

### Category Two Facility

Any facility that has not less than ten thousand (10,000) pounds and not more than four hundred ninety nine thousand, nine hundred ninety nine (499,999) pounds of each of ten (10) or fewer hazardous substances at any time during the calendar year. The combined total of all hazardous substances shall not exceed four hundred ninety nine thousand, nine hundred ninety nine (499,999) pounds.

### Category Three Facility

Any facility that has ten thousand (10,000) pounds or more of each of eleven (11) or more hazardous substances. The combined total of all hazardous substances shall not exceed four hundred ninety nine thousand, nine hundred ninety nine (499,999) pounds.

### Category Four Facility

Any facility that has a total inventory of over four hundred ninety nine thousand, nine hundred ninety-nine (499,999) pounds of hazardous substances.

### Category Five Facility

Any facility that has an Extremely Hazardous Substance listed in 40 CFR 355 as amended (EPA's list of Extremely Hazardous Substances) in excess of the threshold planning quantity.

SARA TITLE III
MULTIPLE FACILITIES FEE SHEET

KENTUCKY EMERGENCY
RESPONSE COMMISSION
EOC/Boone Center
100 Minutemen Parkway
Frankfort, KY 40601-6168

_____
Owner/Operator

Check # _____
Check Date _____

| Facility Name | Street Address | City | County | Fee |
|---|---|---|---|---|
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**TOTAL** _____

## EMERGENCY PLANNING AND RIGHT TO KNOW ACT (SARA TITLE III) FACILITY RESPONSIBILITIES

### FEES

Fees are due March 1 each year and must be filed SIMULTANEOUSLY with applicable required forms.

### Subtitle A-Emergency Planning & Notification-Sec.301, 302, 303

1. **Committee Membership-Sec.301(c)**
   a. Facility owners and operators subject to emergency planning and notification requirements shall be members of their Local Emergency Planning Committee.

2. **Emergency Planning Notification-Sec.302(c), 303(3), 303(d)**
   a. Facility owners and operators shall notify the Kentucky Emergency Response Commission (KyERC), Local Emergency Planning Committee (LEPC) and Fire Department with jurisdiction that they are subject to the requirements of this section.
   b. Facilities must notify the KyERC and LEPC of any changes.
   c. Facilities must notify the LEPC who the facility emergency coordinator is who will participate in the emergency planning process by assisting the LEPC develop the Tab Q-7 or KyERC-approved equivalent.
   d. By March 1 each year, the facility shall comply with the annual plan review process.
   e. Upon request by the LEPC, facilities will promptly provide information.

3. **Spill Reporting -Sec. 304(b)(c)**
   a. Immediately after the release of a substance covered by this section, the facility must notify the Local Emergency Planning Committee's designated emergency reporting number and the Kentucky Emergency Response Commission. This notification is in addition to reporting requirements under other statutes.
   b. As soon as practicable after a release requiring notification, facilities shall provide a written follow-up notice.

### Subtitle B-Reporting Requirements-Sec.311, 312 and 313

1. **Material Safety Data Sheets-Sec.311**
   a. Facilities required to prepare or have available a Material Safety Data Sheet for a hazardous chemical under OSHA, shall submit a Material Safety Data Sheet for each chemical or a list of chemicals with hazards to:
      i. The Local Emergency Planning Committee
      ii. The Kentucky Emergency Response Commission
      iii. The fire department with jurisdiction over facility

2. **Hazardous Chemical Inventory Form-Tier Two-Sec.312 due March 1**
   a. Facilities subject to Sec.311 shall prepare and submit annually a hazardous chemical inventory form. Kentucky requires Tier Two. This form should be submitted to:

      i. The Local Emergency Planning Committee
      ii. The Kentucky Emergency Response Commission
      iii. The Fire Department with jurisdiction over facility

3. **Fire Department Access-Sec. 312(f)**
   a. Upon the request of the local committee, facilities shall allow inspection by fire departments with jurisdiction.
4. **Toxic Chemical Release Form R-Sec.313**
   a. Facilities subject to these requirements shall submit Form R annually, July 1, to EPA, Washington, D.C and to:

      Cabinet for Natural Resources and Environmental Protection
      Department of Environmental Protection
      18 Reilly Road
      Frankfort, KY 40601

**Subtitle C-General Provisions**

1. **Provision of Information to Health Professionals, Doctors & Nurses-Sec.323**
   a. Facilities subject to section 311, 312 or 313 must provide specific chemical identity, upon written request from a health professional.

2. **Public Availability of Plans, Data Sheets, Forms, and Follow-up Notices-Sec.324**
   a. Facilities may request the location of a specific chemical be withheld from disclosure.

3. **Enforcement-Sec.325**
   a. Civil penalties for emergency planning
   b. Civil, administrative and criminal penalties for emergency notification
   c. Civil and administrative penalties for reporting requirements
   d. Civil, administrative and criminal penalties with respect to trade secrets
   e. Special enforcement provisions for information required by health professionals

## SECTION 304 - EMERGENCY NOTIFICATION
## REPORT OF RELEASE OF SUBSTANCE

If there is a chemical accident at a facility or on a transportation route in your community, and if the accident results in the release of any one of a large number of hazardous substances (except if the release results in exposure to persons solely within the site), there are certain state and federal emergency reporting requirements.

Under state and federal Title III statutes, a facility must immediately notify the Local Emergency Planning Committee (LEPC) and the Kentucky Emergency Response Commission (42 USC 11004 and KRS 39E.190) of the release of more than a predetermined amount *(RQ) of any one of these chemicals. The National Response Center (42 USC 11004) must be notified if the release is a CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) substance. Kentucky's Cabinet for Natural Resources and Environmental Protection must also be notified in the event of a release of ANY hazardous substance that exceeds the limit permitted contained in KRS 224.01-400.

The hazardous materials section in the State Fire Marshal's office and the fire department with jurisdiction must be notified of uncontrolled hazardous gas leaks or hazardous material or combustible or flammable liquid spills as contained in KRS.227.300/815 KAR 10.020, Sec 11 (1) (b).

If the release results from a transportation accident, the transporter can dial 911 or the local telephone operator to report it. DOT has specific reporting requirements contained in 49 CFR 171.15 and 171.16 and 49 CFR 172.

Chemicals covered by these requirements include not only the "Extremely Hazardous Substances (EHS)" listed by EPA in 40 CFR Part 355 known as the EHS list, but also more than 700 hazardous substances subject to the emergency notification requirements under section 103(a) of the of 1980 in 40 CFR Part 302 (known as CERCLA). Some chemicals are on both the EHS list and the CERCLA list.

*Each EPA hazardous substance has an assigned value called a "reportable quantity" or RQ. An RQ is a quantity of a hazardous substance that, when released into the environment, triggers reporting requirements.

NOTE: A matrix summary is on the next page. Contact appropriate agency (ies) for details.

# SPILL REPORTING NOTIFICATION

## Organizations Receiving Report

| Chemical | LEPC | KyERC | EPPC | NRC | Operator or 911 | SFM/FD |
|---|---|---|---|---|---|---|
| EHS | X | X | X | | | |
| CERCLA | X | X | X | X | | |
| Hazardous Substance spilled at fixed site | | | X | | | |
| Hazardous Substance spilled during transportation | | | X | | X | |
| Hazardous Gas Leak<br>Hazardous Material<br>Combustible<br>Flammable Liquid | | | X | | | X |
| ***Continuous Releases** | | | | | | |
| ****Federal/State Permitted Releases are EXEMPT** | | | | | | |

***CONTINUOUS RELEASES** (40 CFR Parts 302 and 355) are exempt from SARA Title III Section 304 reporting requirements. This rule sets less stringent requirements for reporting releases of hazardous substances IF those releases are continuous, stable in quantity and rate and incidental to manufacturing or treatment processes. Initial notification is required as well as certain follow-up procedures.

****FEDERAL/STATE PERMITTED RELEASES** are exempt from SARA Title III Section 304 reporting requirements. A Federal/State permitted release is a permitted release if it is subject to and in compliance with specific limitations established under federal or state environmental programs. The release must fall within the definition of a federal/state permitted release AND the hazardous substance released complies with the applicable permit license or control mechanism and falls within the permitted limit. REPORT THESE RELEASES IF THE AMOUNT SPILLED ABOVE THE PERMITTED AMOUNT EXCEEDS THE REPORTABLE QUANTITY.

**FD** - *Fire Department with Jurisdiction*
**KyERC** - *Kentucky Emergency Response Commission-- (502) 607-1610*
**LEPC** - *Local Emergency Planning Committee--24-hour warning point*
**EPPC** - *Kentucky Environmental and Public Protection Cabinet-- (800) 928-2380 or (502) 564-2380*
**NRC** - *National Response Center-- (800) 424-8802*
**SFM** - *Kentucky State Fire Marshal's Office-- (502) 573-0382*

## PLAN REQUIREMENTS

## FACILITY PLAN REQUIREMENTS

Section 302(c), KRS 39E.130

Facilities subject to the planning requirements must notify the Kentucky Emergency Response Commission (KyERC), the Local Emergency Planning Committee (LEPC) and the Fire Department with jurisdiction that they are subject to the planning provisions. Facilities must notify the LEPC of the facility emergency coordinator who will work with the local committee and who shall provide information necessary to the development of those plans.

Annual review is required by March 1. If you have an approved plan, please review that plan. Do not develop another plan.

## LEPC PLAN REQUIREMENTS

Section 303, KRS 39E.110

The Local Emergency Planning Committee's primary responsibility is to develop an emergency response plan. Annual review is required.

## PLAN IMPROVEMENTS

KRS Chapter 39E.040

In support of planning requirements, the KyERC established the following guidance for improving and enhancing the planning effort statewide.

1. Beginning March 1, 1993, a four-year cycle was established with all NEW tabs/plans being developed in accordance with recommended improvements and 25% of all tabs/plans being revised each year, beginning March 1, 1993, until all tabs were revised by March 1997.

2. **The use of the *North American Emergency Response Guidebook* is no longer acceptable for the vulnerable zone determination.** All NEW tabs/plans must use *Technical Guidance for Hazard Analysis (Green Book), CAMEO or equivalent* to designate a vulnerable zone. *All existing tabs/plans must be updated no later than March 1, annually.*

## PLAN PROCESS DUE DATES

106 KAR 1:081 and 106 KAR 1:091

| | |
|---|---|
| March 1 | Facility submits plan status to (LEPC) |
| April 1 | LEPC submits plan/revision/certification to KyEM Area Manager |
| May 1 | KyEM Area Manager submits plan/revision/certification to KyERC |
| June 1 | KyERC approves/disapproves plan/revisions/certifications |

# SUMMARY OF EXEMPTIONS FOR RETAIL GAS STATIONS ONLY

Reference: Emergency Planning and Community Right-to-Know Act,
Sections 311 & 312

Convenience stores and truck stops that sell gasoline to the public also meet the definition of "***retail gas stations***". This rule does not apply to facilities such as school bus or public transportation gas depots.

Federal EPCRA Sections 311 and 312 inventory reporting requirements changed effective February 1, 1999. ***If*** your tanks hold less than 75,000 gallons of gasoline or less than 100,000 gallons of diesel fuel ***and*** you are in compliance with Underground Storage Tank (UST) requirements, you are no longer required to report these inventories annually to the KyERC, your LEPC, or the local fire department with jurisdiction. This change applies **only** if you store your fuel entirely underground.

Retail gas stations that were **not** in compliance with all applicable UST requirements at any time during a calendar year **may not apply** the new thresholds for EPCRA reporting for that calendar year.

Any retail gas station that has at least 10,000 pounds of gasoline or diesel fuel stored in tanks that **are not entirely underground** must report on the total gasoline or diesel fuel at the facility, *including* any part that is stored entirely underground. Similarly, any retail gas station that has at least 75,000 gallons of gasoline or 100,000 gallons of diesel fuel **stored entirely underground** must report on the total gasoline and diesel fuel at the facility, including *any* that is not stored entirely underground. **In other words, whether a facility triggers the threshold for underground storage or for aboveground storage, they report on the total gasoline or diesel fuel at the facility.**

*If you have questions about Underground Storage Tank requirements, check out EPA's UST home page at http://www.epa.gov/oust/.*

For more information on how these changes affect you, call
The Kentucky Division of Emergency Management,
Local Programs and Training Branch at (502) 607-5731, or
The **EPA Hotline at (800)** 424-9346, or
EPA's homepage at:
http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/index.html .

# KENTUCKY EMERGENCY RESPONSE COMMISSION
# TIER TWO INSTRUCTIONS

## GENERAL INFORMATION

Submission of this Tier Two form (when requested) is required by Title III of the Superfund Amendments and Reauthorization Act of 1986, Section 312, Public Law 99-499, codified at 42 U.S.C. Section 11022. The purpose of this Tier Two form is to provide State and local officials and the public with specific information on hazardous chemicals present at your facility during the past year.

### CERTIFICATION

The owner or operator or the officially designated representative of the owner or operator must certify that all information included in the Tier Two submission is true, accurate, and complete. On the first page of the Tier Two report, enter your full name and official title. Sign your name and enter the current date. Also, enter the total number of pages included in the Confidential and Non-Confidential Information Sheets as well as all attachments. An original signature is required on at least the first page of the submission. Submissions to the SERC, LEPC, and fire department must each contain an original signature on at least the first page. Subsequent pages must contain either an original signature, a photocopy of the original signature, or a signature stamp. Each page must contain the date on which the original signature was affixed to the first page of the submission and the total number of pages in the submission.

### YOU MUST PROVIDE ALL INFORMATION REQUESTED ON THIS FORM TO FULFILL TIER TWO REPORTING REQUIREMENTS.

This form may also be used as a worksheet for completing the Tier One form or may be submitted in place of the Tier One form.

### WHO MUST SUBMIT THIS FORM

Section 312 of Title III requires that the owner or operator of a facility submit their Tier Two form if so requested by a State emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility.

This request may apply to the owner or operator of any facility that is required, under regulations implementing the Occupational Safety and Health Act of 1970, to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical present at the facility. MSDS requirements are specified in the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard, found in Title 29 of the Code of Federal Regulations at ξ1910.1200.

This form does not have to be submitted if all of the chemicals located at your facility are excluded under Section 311(e) of Title III.

### WHAT CHEMICALS ARE INCLUDED

If you are submitting Tier Two forms in lieu of Tier One, you must report the required information on this Tier Two form for each hazardous chemical present at your facility in quantities equal to or greater than established threshold amounts (discussed below), unless the chemicals are excluded under Section 311(e) of Title III. Hazardous chemicals are any substance for which your facility must maintain an MSDS under OSHA's Hazard Communication Standard.

If you elect to submit Tier One rather than Tier Two, you may still be required to submit Tier Two information upon request.

### WHAT CHEMICALS ARE EXCLUDED

Section 311(e) of Title III excludes the following substances:

(I) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration:

(II) Any substance present as a solid in any manufactured item to the extent exposure to the sub-stance does not occur under normal conditions of use;

(III) 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 general public;

(IV) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual;

(V) 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.

OSHA regulations, Section 1910.1200(b), stipulate exemptions from the requirement to prepare to have available an MSDS.

### REPORTING THRESHOLDS

Minimum thresholds have been established for Tier One/ Tier Two reporting under Title III, Section 312. These thresholds are as follows:

For Extremely Hazardous Substances (EHSs) designated under Section 302 of Title III, the reporting threshold is 500 pounds (or 227 kg.) or the threshold planning quantity (TPQ), whichever is lower.

For all other hazardous chemicals for which facilities are required to have or prepare an MSDS, the minimum reporting threshold is 10,000 pounds (or 4.540 kg.).

You need to report hazardous chemicals that were present at your facility at any time during the previous calendar year at levels that equal or exceed these thresholds. For instructions on threshold determinations for components of mixtures, see "What About Mixtures?" on page 2 of these instructions.

A requesting official may limit the responses required under Tier Two by specifying particular chemicals or groups of chemicals. Such requests apply to hazardous chemicals regardless of established thresholds.

# INSTRUCTIONS

## *Please read these instructions carefully. Print or type all responses*

### WHEN TO SUBMIT THIS FORM

Owners or operators of facilities that have hazardous chemicals on hand in quantities equal to or greater than set threshold levels must submit either Tier One or Tier Two forms by March 1.

If you choose to submit Tier One, rather than Tier Two, be aware that you may have to submit Tier Two Information later, upon request of any authorized official. You must submit the Tier Two form within 30 days of receipt of a written request.

### WHERE TO SUBMIT THIS FORM

Send either a completed Tier One form or Tier Two form(s) to each of the following organizations:

1. Your State Emergency Response Commission.
2. Your Local Emergency Planning Committee.
3. The fire department with jurisdiction over your facility.

If a Tier Two form is submitted in response to a request, send the completed form to the requesting agency.

### PENALTIES

Any owner or operator who violates any Tier Two reporting requirements shall be liable to the United States for a civil penalty of up to $25,000 for each such violation. Each day a violation continues shall constitute a separate violation.

If your Tier Two responses require more than one page, use additional forms and fill in the page number at the top of the form.

### REPORTING PERIOD

Enter the appropriate calendar year, beginning January 1 and ending December 31.

### FACILITY IDENTIFICATION

Enter the full name of your facility (and company identifier where appropriate).

Enter the full street address or state road. If a street address is not available, enter other appropriate identifiers that describe the physical location of your facility (e.g., longitude and latitude). Include city, county, state and zip code.

Enter the primary Standard Industrial Classification (SIC) code and the Dun & Bradstreet number for your facility. The financial officer of your facility should be able to provide the Dun & Bradstreet number. If your firm does not have this information, contact the State or regional office of Dun & Bradstreet to obtain your facility number or have one assigned.

### OWNER/OPERATOR

Enter the owners or operator's full name, mailing address, and phone number.

### EMERGENCY CONTACT

Enter the name, title, and work phone number of at least one local person or office who can act as a referral if emergency responders need assistance in responding to a chemical accident at the facility.

Provide an emergency phone number where such emergency information will be available 24 hours a day, everyday. The requirement is mandatory. The facility must make some arrangement to ensure that a 24-hour contact is available.

### IDENTICAL INFORMATION

Check the box indicating identical information, located below the emergency contacts on the Tier Two form, if the current chemical information being reported is identical to that submitted last year. Chemical descriptions, hazards, amounts, and locations must be provided in this year's form, even if the information is identical to that submitted last year.

### CHEMICAL INFORMATION: Description, Hazards, Amounts, and Locations

The main section of the Tier Two form requires specific information on amounts and locations of hazardous chemicals, as defined in the OSHA Hazard Communication Standard.

If you choose to indicate that all of the information on a specific hazardous chemical is identical to that submitted last year, check the appropriate optional box provided at the right side of the storage codes and locations on the Tier Two form. Chemical descriptions, hazards, amounts, and locations must be provided even if the information is identical to that submitted last year.

- What units should I use?

  Calculate all amounts as *weight in pounds*. To convert gas or liquid volume to weight in pounds, multiply by an appropriate density factor.

- What about mixtures?

  If a chemical is part of a mixture, *you have the option* of reporting either the weight of the entire mixture or only the portion of the mixture that is a particular hazardous chemical (e.g., if a hazardous solution weighs 100 lbs. but is composed of only 5% of a particular hazardous chemical, you can indicate either 100 lbs. of the mixture *or* 5 lbs. of the chemical).

  The option used for each mixture must be consistent with the option used in your Section 311 reporting.

  Because EHSs are important to Section 303 planning, EHSs have lower thresholds. The amount of an EHS at a facility (both pure EHS substances and EHSs in mixtures) must be aggregated for purposes of threshold determination. It is suggested that the aggregation calculation be done as a first step in making the threshold determination. Once you determine whether a threshold for an EHS has been reached, you should report either the total weight of the EHS at your facility, or the weight of each mixture containing the EHS.

## CHEMICAL DESCRIPTION

1. Enter the Chemical Abstract Service registry number (CAS). For mixtures, enter the CAS number of the mixture as a whole if it has been assigned a number distinct from its constituents. For a mixture that has no CAS number, leave this item blank or report the CAS numbers of as many constituent chemicals as possible.

   If you are withholding the name of a chemical in accordance with criteria specified in Title III, Section 322, enter the generic class or category that is structurally descriptive of the chemical (e.g., list toulene diisocyanate as organic isocyanate) and check the box marked Trade Secret. Trade secret information should be submitted to EPA and must include a substantiation. Please refer to EPA's final regulation on trade secrecy (53 FR 28772, July 29, 1988) for detailed information on how to submit trade secrecy claims.

2. Enter the chemical name or common name of each hazardous chemical.

3. Check box for *ALL* applicable descriptors: pure or mixture; *and* solid, liquid, or gas; and whether the chemical is or contains an EHS.

4. If the chemical is a mixture containing an EHS, enter the chemical name of each EHS in the mixture.

**EXAMPLE:**

You have pure chlorine gas on hand, as well as two mixtures that contain liquid chlorine. You write "chlorine" and enter the CAS number. Then you check "pure" *and* "mix" -- as well as "liquid" *and* "gas".

## PHYSICAL AND HEALTH HAZARDS

For each chemical you have listed, check all the physical and health hazard boxes that apply. These hazard categories are defined in 40 CFR 370.2. The two health hazard categories and three physical hazard categories are a consolidation of the 23 hazard categories defined in the OSHA Hazard Communication Standard, 29 CFR 1910.1200.

**Hazard Category Comparison**
**For Reporting Under Sections 311 and 312**

| EPA's Hazard Categories | OSHA's Hazard Categories |
|---|---|
| Fire Hazard | Flammable<br>Combustion Liquid<br>Pyrophoric<br>Oxidizer |
| Sudden Release of Pressure | Explosive<br>Compressed Gas |
| Reactive | Unstable Reactive<br>Organic Peroxide<br>Water Reactive |
| Immediate (Acute) Health Hazards | Highly Toxic<br>Toxic<br>Irritant<br>Sensitizer<br>Corrosive |
| | Other hazardous chemicals with an adverse effect with short term exposure |
| Delayed (Chronic) Health Hazard | Carcinogens |
| | Other hazardous chemicals with an adverse effect with long term exposure |

## MAXIMUM AMOUNT

1. For each hazardous chemical, estimate the greatest amount present at your facility on any single day during the reporting period.

2. Find the appropriate range value code in Table I.

3. Enter this range value as the Maximum Amount.

**Table I REPORTING RANGES**

| Range Value | Weight Range in Pounds From... | To... |
|---|---|---|
| 01 | 0 | 99 |
| 02 | 100 | 999 |
| 03 | 1,000 | 9,999 |
| 04 | 10,000 | 99,999 |
| 05 | 100,000 | 999,999 |
| 06 | 1,000,000 | 9,999,999 |
| 07 | 10,000,000 | 49,999,999 |
| 08 | 50,000,000 | 99,999,999 |
| 09 | 100,000,000 | 499,999,999 |
| 10 | 500,000,000 | 999,999,999 |
| 11 | 1 billion | higher than 1 billion |

If you are using this form as a worksheet for completing Tier One, enter the actual weight in pounds in the shaded space below the response blocks. Do this for both Maximum Amount and Average Daily Amount.

**EXAMPLE:**

You received one large shipment of a solvent mixture last year. The shipment filled five 5,000-gallon storage tanks. You know that the solvent contains 10% benzene, which is a hazardous chemical.

You figure that 10% of 25,000 gallons is 2,500 gallons. You also know that the density of benzene is 7.29 pounds per gallon, so you multiply 2,500 gallons by 7.29 pounds per gallon to get a weight of 18.225 pounds.

Then you look at Table I and find that the range value 04 corresponds to 18.225. You enter 04 as the Maximum Amount.

(If you are using the form as a worksheet for completing a Tier One form, you should write 18.255 in the shaded area.)

## AVERAGE DAILY AMOUNT

1. For each hazardous chemical, estimate the average weight in pounds that was present at your facility during the year.

To do this, total all daily weights and divide by the number of days the chemical was present on the site.

2. Find the appropriate range value in Table I.

3. Enter this range value as the Average Daily Amount.

**EXAMPLE:**

The 25,000-gallon shipment of solvent you received last year was gradually used up and completely gone in 315 days. The sum of the daily volume levels in the tank is 4,536,000 gallons. By dividing 4,536,000 gallons by 315 days on-site, you calculate an average daily amount of 14,400 gallons.

You already know that the solvent contains 10% benzene, which is a hazardous chemical. Since 10% of 14,400 is 1,440, you figure that you had an average of 1,440 gallons of benzene. You also know that the density of benzene is 7.29 pounds per gallon, so you multiply 1,440 by 7.29 to get a weight of 10,500 pounds.

Then you look at Table I and find that the range value 04 corresponds to 10,500. You enter 04 as the Average Daily Amount.

(If you are using the form as a worksheet for completing Tier One form, you should write 10,500 in the shaded area.)

## NUMBER OF DAYS ON-SITE

Enter the number of days that the hazardous chemical was found on-site.

**EXAMPLE:**

The solvent composed of 10% benzene was present for 315 days at your facility. Enter 315 in the space provided.

## STORAGE CODES AND STORAGE LOCATIONS

List all non-confidential chemical locations in the column, along with storage types/conditions associated with each location. Please note that a particular chemical may be located in several places around the facility. Each row of boxes followed by a line represents a unique location for the same chemical.

**Storage Codes:** Indicate the types and conditions of storage present:

a. *Look at Table II.* For each location, find the appropriate storage type and enter the corresponding code in the first box.
b. *Look at Table III.* For each location, find the appropriate storage types for pressure and temperature conditions. Enter the applicable pressure code in the second box. Enter the applicable temperature code in the third box.

**Table II - STORAGE TYPES**

| CODES | Types of Storage |
|---|---|
| A | Above ground tank |
| B | Below ground tank |
| C | Tank inside building |
| D | Steel drum |
| E | Plastic or non-metallic drum |
| F | Can |
| G | Carboy |
| H | Silo |
| I | Fiber drum |
| J | Bag |
| K | Box |
| L | Cylinder |
| M | Glass bottles or jugs |
| N | Plastic bottles or jugs |
| O | Tote bin |
| P | Tank wagon |
| Q | Rail car |
| R | Other |

**Table III - PRESSURE AND TEMPERATURE CONDITIONS**

| CODES | Storage Conditions |
|---|---|
| | (PRESSURE) |
| 1 | Ambient pressure |
| 2 | Greater than ambient pressure |
| 3 | Less than ambient pressure |
| | (TEMPERATURE) |
| 4 | Ambient temperature |
| 5 | Greater than ambient temperature |
| 6 | Less than ambient temperature but not cryogenic |
| 7 | Cryogenic conditions |

**EXAMPLE:**

The benzene in the main building is kept in a tank inside the building, at ambient pressure and less than ambient temperature.

Table II shows you that the code for a tank inside a building is C. Table III shows you that the code for ambient pressure is 1, and the code for less than ambient temperature is 6.

You enter: | C | 1 | 6 |

## STORAGE LOCATIONS:

Provide a brief description of the precise location of the chemical, so that emergency responders can locate the area easily. You may find it advantageous to provide the optional site plan or site coordinates as explained below.

For each chemical, indicate at a minimum the building or lot. Additionally, where practical, the room or area may be indicated. You may respond in narrative form with appropriate site coordinates or abbreviations.

If the chemical is present in more than one building, lot, or area location, continue your responses down the page as needed. If the chemical exists everywhere at the plant site simultaneously, you may report that the chemical is ubiquitous at the site.

Optional attachments: If you choose to attach one of the following, check the appropriate Attachments box at the bottom of the Tier Two form.

a. *A site plan* with site coordinates indicated for buildings, lots, areas, etc. throughout your facility.
b. *A list of site coordinates abbreviations* that correspond to buildings, lots, areas, etc. throughout your facility.
c. *A description of dikes and other safeguard measures* for storage locations throughout your facility.

**EXAMPLE:**

You may have benzene in the main room of the main building, and in tank 2 in tank field 10. You attach a site plan with coordinates as follows: main building = G-2, tank field 10 = B-6. Fill in the Storage Location as follows:

B-6 [Tank 2] G-2 [Main Room]

## CONFIDENTIAL INFORMATION

Under Title III, Section 324, you may elect to withhold location information on a specific chemical from disclosure to the public. If you choose to do so:

- Enter the word "confidential" in the Non-Confidential Location section of the Tier Two form on the first line of the storage locations.
- On a separate Tier Two Confidential Location Information Sheet, enter the name and CAS number of each chemical for which you are keeping the location confidential.
- Enter the appropriate location and storage information, as described above for non-confidential locations.
- Attach the Tier Two Confidential Location Information Sheet to the Tier Two form. This separates confidential locations from other information that will be disclosed to the public.

## CERTIFICATION

Instructions for this section are included on page one of these instructions.

**STORAGE LOCATIONS:**

Provide a brief description of the precise location of the chemical, so that emergency responders can locate the area easily. You may find it advantageous to provide the optional site plan or site coordinates as explained below.

For each chemical, indicate at a minimum the building or lot. Additionally, where practical, the room or area may be indicated. You may respond in narrative form with appropriate site coordinates or abbreviations.

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**CERTIFICATION**

Instructions for this section are included on page one of these instructions.

# Tier Two EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY

*Specific Information by Chemical*

**Facility Identification**

Name _____

Street _____

City _____ County _____ State _____ Zip _____

SIC Code _____ Dun & Brad Number _____

**FOR OFFICIAL USE ONLY**

ID # _____ Fee Received $ _____

Date Received _____ Check Number _____

**Owner/Operator Name**

Name _____ Phone ( ) _____

Mail Address _____

**Emergency Contact**

Name _____ Title _____

Phone ( ) _____ 24 Hr. Phone ( ) _____

Name _____ Title _____

Phone ( ) _____ 24 Hr. Phone ( ) _____

***Important: Read all instructions before completing form***

Reporting Period From January 1 to December 31, 20____

[ ] Check if information below is identical to the information submitted last year.

| Chemical Description | Physical and Health Hazards *(check all that apply)* | Inventory | Container Type / Pressure / Temperature | Storage Codes and Locations (Non-Confidential) *Storage Locations* | Optional |
|---|---|---|---|---|---|
| CAS _____ Trade Secret _____<br>Chem. Name _____<br>*Check all that apply* [ ] Pure [ ] Mix [ ] Solid [ ] Liquid [ ] Gas [ ] EHS<br>EHS Name _____ | [ ] Fire<br>[ ] Sudden Release of Pressure<br>[ ] Reactivity<br>[ ] Immediate (acute)<br>[ ] Delayed (chronic) | Max. Daily Amount (code) ____<br>Avg. Daily Amount (code) ____<br>No. of Days On-site (days) ____ | | | [ ] |
| CAS _____ Trade Secret _____<br>Chem. Name _____<br>*Check all that apply* [ ] Pure [ ] Mix [ ] Solid [ ] Liquid [ ] Gas [ ] EHS<br>EHS Name _____ | [ ] Fire<br>[ ] Sudden Release of Pressure<br>[ ] Reactivity<br>[ ] Immediate (acute)<br>[ ] Delayed (chronic) | Max. Daily Amount (code) ____<br>Avg. Daily Amount (code) ____<br>No. of Days On-site (days) ____ | | | [ ] |
| CAS _____ Trade Secret _____<br>Chem. Name _____<br>*Check all that apply* [ ] Pure [ ] Mix [ ] Solid [ ] Liquid [ ] Gas [ ] EHS<br>EHS Name _____ | [ ] Fire<br>[ ] Sudden Release of Pressure<br>[ ] Reactivity<br>[ ] Immediate (acute)<br>[ ] Delayed (chronic) | Max. Daily Amount (code) ____<br>Avg. Daily Amount (code) ____<br>No. of Days On-site (days) ____ | | | [ ] |

**Certification** ***(Read and sign after completing all sections)***

I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through _____ and that based on my inquiry of those individuals responsible for obtaining the information. I believe that the submitted information is true, accurate and complete

_____ _____

Name and official title of owner/operator OR owner/operator's authorized representative Date

## Optional Attachments

[ ] I have attached a site plan

[ ] I have attached a list of site coordinate abbreviations

[ ] I have attached a description of dikes and other safeguard measures

## Check Appropriate Box

[ ] $250 fee attached

[ ] $40 fee attached

[ ] No fee required

**Tier Two EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY**

***Specific Information by Chemical***

**Facility Identification**

Name _____

Street _____

City _____ County _____ State _____ Zip _____

SIC Code _____ Dun & Brad Number _____

**FOR OFFICIAL USE ONLY**

ID # _____ Fee Received $ _____

Date Received _____ Check Number _____

**Owner/Operator Name**

Name _____ Phone ( ) _____

Mail Address _____

**Emergency Contact**

Name _____ Title _____

Phone ( ) _____ 24 Hr. Phone ( ) _____

Name _____ Title _____

Phone ( ) _____ 24 Hr. Phone ( ) _____

***Important: Read all instructions before completing form***

Reporting Period From January 1 to December 31, 20_____

[ ] Check if information below is identical to the information submitted last year.

# CONFIDENTIAL LOCATION INFORMATION SHEET

| | Container Type | Pressure | Temperature | Storage Codes and Locations (Non-Confidential) *Storage Locations* | Optional |
|---|---|---|---|---|---|
| CAS<br>Chemical Name | | | | | [ ] |
| CAS<br>Chemical Name | | | | | [ ] |
| CAS<br>Chemical Name | | | | | [ ] |

**Certification** ***(Read and sign after completing all sections)***

I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through _____ and that based on my inquiry of those individuals responsible for obtaining the information. I believe that the submitted information is true, accurate and complete

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