

§ 370.40

to the person submitting the request under this subpart; provided upon request of the owner or operator, the commission or committee shall withhold from disclosure the location of any specific chemical identified in the Tier II form.

Subpart D—Inventory Forms

§ 370.40 Tier I emergency and hazardous chemical inventory form.

(a) The form set out in paragraph (b) of this section shall be completed and

40 CFR Ch. I (7–1–02 Edition)

submitted as required in §370.25(a) of this part. In lieu of the form set out in paragraph (b) of this section, the facility owner or operator may submit a State or local form that contains identical content.

(b) Tier I Emergency and Hazardous Chemical Inventory Form.

TIER ONE INSTRUCTIONS

General Information

Submission of this form is required by Title III of the Superfund Amendments and Reauthorization Act of 1986, Title III, Section 312, Public Law 99-499, codified at 42 U.S.C. §11022.

Certification

The owner or operator or the officially designated representative of the owner or operator must certify that all information included in the Tier I submission is true, accurate, and complete. On the Tier I form, enter your full name and official title. Sign your name and enter the current date. Also, enter the total number of pages in the submission, including all attachments.

The purpose of this form is to provide State and local officials and the public with information on the general types and locations of hazardous chemicals present at your facility during the past year.

You must provide all information requested on this form.

You may substitute the Tier Two form for this Tier One form. (The Tier Two form provides detailed information and must be submitted in response to a specific request from State or local officials.)

Who Must Submit This Form

Section 312 of Title III requires that the owner or operator of a facility submit this form if, under regulations implementing the Occupational Safety and Health Act of 1970, the owner or operator is required to prepare or have available Material Safety Data Sheets (MSDS) for hazardous chemicals 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 §1910.1200.

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 or if the weight of each covered hazardous chemical never equals or exceeds the

minimum threshold listed in Title III Section 312 during the reporting year.

What Chemicals Are Included

You must report the information required on this form for every hazardous chemical for which you are required to prepare or have available an MSDS under the Hazard Communication Standard, unless the chemicals are excluded under Section 311(e) of Title III or they are below the minimum reporting thresholds.

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 substance 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, §1910.1200(b), stipulate exemptions from the requirement to prepare or 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

Environmental Protection Agency

§ 370.40

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 3 of these instructions.

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.

Where to Submit This Form

Send one completed inventory form 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.

Penalties

Any owner or operator of a facility who fails to submit or supplies false Tier One information 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. In addition, any citizen may commence a civil action on his or her own behalf against any owner or operator who fails to submit Tier One information.

INSTRUCTIONS

*Please Read These Instructions Carefully.
Print or Type all Responses*

You may use the Tier Two form as a worksheet for completing Tier One. Filling in the Tier Two chemical information section should help you assemble your Tier One responses.

If your responses require more than one page, 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 complete 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 described 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 of 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 owner's 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 that 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, every day. This 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 One form, if the current information being reported is identical to that submitted last year. Chemical descriptions, amounts, and locations must be provided in this year's form, even if the information is identical to that submitted last year.

Physical and Health Hazards

Descriptions, Amounts, and Locations This section requires aggregate information on chemicals by hazard categories as 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. For each hazard type, indicate the total amounts and general locations of all applicable chemicals present at your facility during the past year.

HAZARD CATEGORY COMPARISON FOR REPORTING UNDER SECTIONS 311 AND 312

EPA's hazard categories	OSHA's hazard categories
Fire Hazard	Flammable Combustion Liquid Pyrophoric Oxidizer
Sudden Release of Pressure	Explosive Compressed Gas
Reactive	Unstable Reactive Organic Peroxide Water Reactive
Immediate (Acute) Health Hazards.	Highly Toxic Toxic Irritant Sensitizer 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.

- 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.

INSTRUCTIONS

Please Read These Instructions Carefully. Print or Type all Responses

- 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 in-

dicating either 100 lbs. of the mixture or 5 lbs. of the hazardous 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 has been reached for an EHS, you should report either the total weight of the EHS at your facility, or the weight of each mixture containing the EHS.

- Where do I count a chemical that is a fire and reactive physical hazard and an immediate (acute) health hazard?

Add the chemical's weight to your totals for all three hazard categories and include its location in all three categories. Many chemicals fall into more than one hazard category.

Maximum Amount

The amounts of chemicals you have on hand may vary throughout the year. The peak weights—greatest single-day weights during the year—are added together in this column to determine the maximum weight for each hazard type. Since the peaks for different chemicals often occur on different days, this maximum amount will seem artificially high.

To complete this and the following sections, you may choose to use the Tier Two form as a worksheet.

To determine the Maximum Amount:

1. List all of your reportable hazardous chemicals individually.
2. For each chemical . . .
 - a. Indicate all physical and health hazards that the chemical presents. Include all chemicals, even if they are present for only a short period of time during the year.
 - b. Estimate the maximum weight in pounds that was present at your facility on any single day of the reporting period.
3. For each hazard type—beginning with Fire and repeating for all physical and health hazard types . . .

Environmental Protection Agency

§ 370.40

a. Add the maximum weights of all chemicals you indicated as the particular hazard type.

b. Look at the Reporting Ranges at the bottom of the Tier One form. Find the appropriate range value code.

c. Enter this range value as the Maximum Amount.

Example: You are using the Tier Two form as a worksheet and have listed raw weights in pounds for each of your hazardous chemicals. You have marked an X in the immediate (acute) hazard column for phenol and sulfuric acid. The maximum amount raw weight you listed were 10,000 lbs. and 500 lbs. respectively. You add these together to reach a total of 10,500 lbs. Then you look at the Reporting Range at the bottom of your Tier One form and find that the value of 04 corresponds to 10,500 lbs. Enter 04 as your Maximum Amount for Immediate (acute) hazards materials.

You also marked an X in the Fire hazard box for phenol. When you calculate your Maximum Amount totals for fire hazards, add the 10,000 lb. weight again.

Average Daily Amount

This column should represent the average daily amount of chemicals of each hazard type that were present at or above applicable thresholds at your facility at any point during the year.

To determine this amount:

1. List all of your reportable hazardous chemicals individually (same as for Maximum Amount).

2. For each chemical . . .

a. Indicate all physical and health hazards that the chemical presents (same as for Maximum Amount).

b. Estimate the average weight in pounds that was present at your facility throughout the year. To do this, total all daily weights and divide by the number of days the chemical was present on the site.

3. For each hazard type—beginning with Fire and repeating for all physical and health hazards . . .

a. Add the average weights of all chemicals you indicated for the particular hazard type.

b. Look at the Reporting Ranges at the bottom of the Tier One form. Find the appropriate range value code.

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

INSTRUCTIONS

Please Read These Instructions Carefully.

Print or Type all Responses

Example: You are using the Tier Two form, and have marked an X in the immediate (acute) hazard column for nicotine and phenol. Nicotine is present at your facility 100 days during the year, and the sum of the daily weights is 100,000 lbs. By dividing 100,000 lbs. by 100 days on-site, you calculate an Average Daily Amount of 1,000 lbs. for nicotine. Phenol is present at your facility 50 days during the year, and the sum of the daily weights is 10,000 lbs. By dividing 10,000 lbs. by 50 days on-site, you calculate an Average Daily Amount of 200 lbs. for phenol. You then add the two average daily amounts together to reach a total of 1,200 lbs. Then you look at the Reporting Range on your Tier One form and find that the value 03 corresponds to 1,200 lbs. Enter 03 as your Average Daily Amount for Immediate (acute) Hazard.

You also marked an X in the Fire hazard column for phenol. When you calculate your Average Daily Amount for fire hazards, use the 200 lb. weight again.

Number of Days On-Site

Enter the greatest number of days that a single chemical within that hazard category was present on-site.

Example: At your facility, nicotine is present for 100 days and phosgene is present for 150 days. Enter 150 in the space provided.

General Location

Enter the general location within your facility where each hazard may be found. General locations should include the names or identifications of buildings, tank fields, lots, sheds, or other such areas.

For each hazard type, list the locations of all applicable chemicals. As an alternative you may also attach a site plan and list the site coordinates related to the appropriate locations. If you do so, check the Site Plan box.

§ 370.41

40 CFR Ch. I (7-1-02 Edition)

Example: On your worksheet you have marked an X in the Fire hazard column for acetone and butane. You noted that these are kept in steel drums in Room C of the Main Building, and in pressurized cylinders in Storage Shed 13, respectively. You could enter Main Building and Storage Shed 13 as the General Locations of your fire hazards. However, you choose to attach a site plan and list coordinates. Check the Site Plan box at the top of the column and enter site coordinates for the Main Building and Storage Shed 13 under General Locations.

If you need more space to list locations, attach an additional Tier One form and continue your list on the proper line. Number all pages.

Certification

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

[55 FR 30646, July 26, 1990]

§ 370.41 Tier II emergency and hazardous chemical inventory form.

(a) The form set out in paragraph (b) of this section shall be completed and submitted as required in § 370.25 of this part. In lieu of the form set out in paragraph (b) of this section, the facility owner or operator may submit a State or local form that contains identical content.

(b) Tier II Emergency and Hazardous Chemical Inventory Form.