

substantial number of small entities. This rule, therefore, does not require a Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and have been assigned OMB control number 2050.0072.

VIII. Submission of Reports

If necessary to obtain reporting forms, facilities should contact their State emergency response commission. Although EPA intends to provide camera-ready copy of the federal form for use by the SERCs, the commission will be responsible for co-ordinating with the LEPCs and fire departments regarding the printing and distribution of the inventory forms.

To obtain the address of a SERC, an individual or facility should contact their Governor's office or the Chemical Emergency Preparedness Hotline at (800) 535-0202 or (202) 479-2449 (DC and Alaska). The SERC should be able to provide information concerning the LEPCs within the State.

List of Subjects in 40 CFR Part 370

Chemicals, Hazardous substances, Extremely hazardous substances, Intergovernmental relations, Community right-to-know, Superfund Amendments and Reauthorization Act, Chemical accident prevention, Chemical emergency preparedness, Community emergency response plan, Contingency planning, Reporting and recordkeeping requirements.

Date: October 8, 1987.

Lee M. Thomas,
Administrator.

For the reasons set out in the Preamble, Subchapter J of Title 40 of the Code of Federal Regulations is amended by adding Part 370 to read as follows:

PART 370—HAZARDOUS CHEMICAL REPORTING: COMMUNITY RIGHT-TO-KNOW

Subpart A—General Provisions

- Sec.
370.1 Purpose
370.2 Definitions
370.5 Penalties

Subpart B—Reporting Requirements

- Sec.
370.20 Applicability
370.21 MSDS Reporting
370.25 Inventory Form Reporting
370.28 Mixtures

Subpart C—Public Access and Availability of Information

- Sec.
370.30 Requests for Information
370.31 Provision of Information

Subpart D—Inventory Forms

- Sec.
370.40 Tier I Emergency and Hazardous Chemical Inventory Form
370.41 Tier II Emergency and Hazardous Chemical Inventory Form
Authority: Secs. 311, 312, 324, 325, 328, 329 of Pub. L. 99-499, 100 Stat. 1613, 42 U.S.C. 11011, 11012, 11024, 11025, 11028, 11029.

Subpart A—General Provisions

§ 370.1 Purpose.

These regulations establish reporting requirements which provide the public with important information on the hazardous chemicals in their communities for the purpose of enhancing community awareness of chemical hazards and facilitating development of State and local emergency response plans.

§ 370.2 Definitions.

"Commission" means the State emergency response commission, or the Governor if there is no commission, for the State in which the facility is located.

"Committee" means the local emergency planning committee for the emergency planning district in which the facility is located.

"Environment" includes water, air, and land and the interrelationship that exists among and between water, air, and land and all living things.

"Extremely hazardous substance" means a substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

"Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.

"Hazard Category" means any of the following:

(1) "Immediate (acute) health hazard," including "highly toxic," "toxic," "irritant," "sensitizer," "corrosive," (as defined under § 1910.1200 of Title 29 of the Code of Federal Regulations) and other hazardous chemicals that cause an adverse effect to a target organ and which effect usually occurs rapidly as a result of short term exposure and is of short duration;

(2) "Delayed (chronic) health hazard," including "carcinogens" (as defined under § 1910.1200 of Title 29 of the Code of Federal Regulations) and other hazardous chemicals that cause an adverse effect to a target organ and which effect generally occurs as a result of long term exposure and is of long duration;

(3) "Fire hazard," including "flammable," "combustible liquid," "pyrophoric," and "oxidizer" (as defined under § 1910.1200 of Title 29 of the Code of Federal Regulations);

(4) "Sudden release of pressure," including "explosive" and "compressed gas" (as defined under § 1910.1200 of Title 29 of the Code of Federal Regulations); and

(5) "Reactive," including "unstable reactive," "organic peroxide," and "water reactive" (as defined under § 1910.1200 of Title 29 of the Code of Federal Regulations).

"Hazardous chemical" means any hazardous chemical as defined under § 1910.1200(c) of Title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

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

(2) 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.

(3) 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.

(4) 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.

(5) 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.

"Inventory form" means the Tier I and Tier II emergency and hazardous chemical inventory forms set forth in Subpart D of this Part

"Material Safety Data Sheet" or "MSDS" means the sheet required to be developed under § 1910.1200(g) of Title 29 of the Code of Federal Regulations.

"Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of State, or interstate body.

"Present in the same form and concentration as a product packaged for

distribution and use by the general public" means a substance packaged in a similar manner and present in the same concentration as the substance when packaged for use by the general public, whether or not it is intended for distribution to the general public or used for the same purpose as when it is packaged for use by the general public.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction.

"TPQ" means the threshold planning quantity for an extremely hazardous substance as defined in 40 CFR Part 355.

§ 370.5 Penalties

(a) *MSDA reporting.* Any person other than a governmental entity who violates any requirement of § 370.21 shall be liable for civil and administrative penalties of not more than \$10,000 for each violation.

(b) *Inventory reporting.* Any person other than a governmental entity who violates any requirement of § 370.25 shall be liable for civil and administrative penalties of not more than \$25,000 for each violation.

(c) *Continuing violations.* Each day a violation described in paragraphs (a) or (b) of this section continues shall constitute a separate violation.

Subpart B—Reporting Requirements

§ 370.20 Applicability.

(a) *General.* The requirements of this subpart apply to any facility that is required to prepare or have available a material safety data sheet (or MSDS) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act.

(b) *Minimum threshold levels.* Except as provided in paragraph (b)(3) of this section, the minimum threshold level for reporting under this subpart shall be according to the following schedule.

(1) The owner or operator of a facility subject to this Subpart shall submit an MSDS:

(i) On or before October 17, 1987 (or 3 months after the facility first becomes subject to this subpart), for all hazardous chemicals present at the facility in amounts equal to or greater than 10,000 pounds, or that are extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 55 gallons) or the TPQ, whichever is less, and

(ii) On or before October 17, 1989 (or 2 years and 3 months after the facility first becomes subject to this Subpart), for all hazardous chemicals present at the facility between 10,000 and zero pounds for which an MSDS has not yet been submitted.

(2) The owner or operator of a facility subject to this Subpart shall submit the Tier I form:

(i) On or before March 1, 1988 (or March 1 of the first year after the facility first becomes subject to this Subpart), covering all hazardous chemicals present at the facility during the preceding calendar year in amounts equal to or greater than 10,000 pounds, or that are extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 55 gallons) or the TPQ, whichever is less, and

(ii) On or before March 1, 1989 (or March 1 of the second year after the facility first becomes subject to this Subpart), covering all hazardous chemicals present at the facility during the preceding calendar year in amounts equal to or greater than 10,000 pounds, or that are extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 55 gallons) or the TPQ, whichever is less, and

(iii) On or before March 1990 (or March 1 of the third year after the facility first becomes subject to this Subpart), and annually thereafter, covering all hazardous chemicals present at the facility during the preceding calendar year in amounts equal to or greater than zero pounds or that are extremely hazardous substances present at the facility in an amount equal to or greater than 500 pounds (or 55 gallons) or the TPQ, whichever is less.

(3) The minimum threshold for reporting in response to requests for submission of an MSDS or a Tier II form pursuant to §§ 370.21(d) and 370.25(c) of this Part shall be zero.

§ 370.21 MSDS reporting.

(a) *Basic requirement.* The owner or operator of a facility subject to this Subpart shall submit an MSDS for each hazardous chemical present at the facility according to the minimum threshold schedule provided in paragraph (b) of § 370.20 to the committee, the commission, and the fire department with jurisdiction over the facility.

(b) *Alternative reporting.* In lieu of the submission of an MSDS for each hazardous chemical under paragraph (a) of this section, the owner or operator may submit the following:

(1) a list of the hazardous chemicals for which the MSDS is required, grouped by hazard category as defined under § 370.2 of this Part;

(2) the chemical or common name of each hazardous chemical as provided on the MSDS; and

(3) except for reporting of mixtures under § 370.28(a)(2), any hazardous component of each hazardous chemical as provided on the MSDS.

(c) *Supplemental reporting.* (1) The owner or operator of a facility that has submitted an MSDS under this section shall provide a revised MSDS to the committee, the commission, and the fire department with jurisdiction over the facility within three months after discovery of significant new information concerning the hazardous chemical for which the MSDS was submitted.

(2) After October 17, 1987, the owner or operator of a facility subject to this section shall submit an MSDS for a hazardous chemical pursuant to paragraph (a) of this section or a list pursuant to paragraph (b) of this section within three months after the owner or operator is first required to prepare or have available the MSDS or after a hazardous chemical requiring an MSDS becomes present in an amount exceeding the threshold established in § 370.20(b).

(d) *Submission of MSDS upon request.* The owner or operator of a facility that has not submitted the MSDS for a hazardous chemical present at the facility shall submit the MSDS for any such hazardous chemical to the committee upon its request. The MSDS shall be submitted within 30 days of the receipt of such request.

§ 370.25 Inventory reporting.

(a) *Basic requirement.* The owner or operator of a facility subject to this Subpart shall submit an inventory form to the commission, the committee, and the fire department with jurisdiction over the facility. The inventory form containing Tier I information on hazardous chemicals present at the facility during the preceding calendar year above the threshold levels established in § 370.20(b) shall be submitted on or before March 1 of each year, beginning in 1988.

(b) *Alternative reporting.* With respect to any specific hazardous chemical at the facility, the owner or operator may submit a Tier II form in lieu of the Tier I information.

(c) *Submission of Tier II information.* The owner or operator of a facility subject to this Section shall submit the Tier II form to the commission, committee, or the fire department having

jurisdiction over the facility upon request of such persons. The Tier II form shall be submitted within 30 days of the receipt of each request.

(d) *Fire department inspection.* The owner or operator of a facility that has submitted an inventory form under this section shall allow on-site inspection by the fire department having jurisdiction over the facility upon request of the department, and shall provide to the department specific location information on hazardous chemicals at the facility.

§ 370.28 Mixtures.

(a) *Basic reporting.* The owner or operator of a facility may meet the reporting requirements of §§ 370.21 (MSDS reporting) and 370.25 (inventory form reporting) of this Subpart for a hazardous chemical that is a mixture of hazardous chemicals by:

(1) Providing the required information on each component in the mixture which is a hazardous chemical, or

(2) Providing the required information on the mixture itself, so long as the reporting of mixtures by a facility under § 370.21 is in the same manner as under § 370.25, where practicable.

(b) *Calculation of the quantity.* (1) if the reporting is on each component of the mixture which is a hazardous chemical, then the concentration of the hazardous chemical, in weight percent (greater than 1% or 0.1% if carcinogenic) shall be multiplied by the mass (in pounds) of the mixture to determine the quantity of the hazardous chemical in the mixture.

(2) If the reporting is on the mixture itself, the total quantity of the mixture shall be reported.

Subpart C—Public Access and Availability of Information

§ 370.30 Requests for information.

(a) *Request for MSDS information.* (1) Any person may obtain an MSDS with respect to a specific facility by submitting a written request to the committee.

(2) If the committee does not have in its possession the MSDS requested in paragraph (a)(1) of this section, it shall request a submission of the MSDS from the owner or operator of the facility that is the subject of the request.

(b) *Requests for Tier II information.*

(1) Any person may request Tier II information with respect to a specific facility by submitting a written request to the commission or committee in accordance with the requirements of this section.

(2) If the committee or commission does not have in its possession the Tier II information requested in paragraph (b)(1) of this section, it shall request a submission of the Tier II form from the owner or operator of the facility that is the subject of the request, provided that the request is from a State or local official acting in his or her official capacity or the request is limited to hazardous chemicals stored at the facility in an amount in excess of 10,000 pounds.

(3) If the request under paragraph (b)(1) of this section does not meet the requirements of paragraph (b)(2) of this section, the committee or commission may request submission of the Tier II form from the owner or operator of the facility that is the subject of the request if the request under paragraph (b)(1) of this section includes a general statement of need.

§ 370.31 Provision of information.

All information obtained from an owner or operator in response to a request under this subpart and any requested Tier II form or MSDS otherwise in possession of the commission or the committee shall be made available 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 submitted as required in § 370.25(a). 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.

BILLING CODE 6560-50-M

Tier One **EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY**
Aggregate Information by Hazard Type

FOR OFFICIAL USE ONLY

ID # _____
Date Received _____

Important: Read instructions before completing form

Reporting Period From January 1 to December 31, 19____

Facility Identification

Name _____
Street Address _____
City _____ State _____ Zip _____
SIC Code [][][][] Dun & Brad Number [][]-[][][][]-[][][][][]

Owner/Operator

Name _____
Mail Address _____
Phone () _____

Emergency Contacts

Name _____
Title _____
Phone () _____
24 Hour Phone () _____

Name _____
Title _____
Phone () _____
24 Hour Phone () _____

Physical Hazards	Hazard Type	Max Amount*	Average Daily Amount*	Number of Days On-Site	General Location	<input type="checkbox"/> Check if site plan is attached
	Fire	[][]	[][]	[][][][]	_____	
Sudden Release of Pressure	[][]	[][]	[][][][]	_____	_____	
Reactivity	[][]	[][]	[][][][]	_____	_____	

Health Hazards	Immediate (acute)	Delayed (Chronic)	General Location	
	[][]	[][]	[][][][]	_____
Delayed (Chronic)	[][]	[][]	[][][][]	_____

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 this and all attached documents, 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

Signature Date signed

Reporting Ranges	Range Value	Weight Range in Pounds From... To...
00	0	99
01	100	999
02	1000	9,999
03	10,000	99,999
04	100,000	999,999
05	1,000,000	9,999,999
06	10,000,000	49,999,999
07	50,000,000	99,999,999
08	100,000,000	499,999,999
09	500,000,000	999,999,999
10	1 billion	higher than 1 billion

TIER ONE INSTRUCTIONS

GENERAL INFORMATION

Submission of this form is required by Title III of the Superfund Amendments and Reauthorization Act of 1986, Section 312, Public Law 99-499.

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.

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. However, OSHA regulations and Title III exempt some chemicals from reporting.

Section 1910.1200(b) of the OSHA regulations currently provides the following exemptions:

- (i) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.) when subject to regulations issued under that Act;
- (ii) Tobacco or tobacco products;
- (iii) Wood or wood products;
- (iv) "Articles"— defined under §1910.1200 (b) as a manufactured item;
 - Which is formed to a specific shape or design during manufacture;
 - Which has end use function(s) dependent in whole or in part upon the shape or design during end use; and
 - Which does not release, or otherwise result in exposure to a hazardous chemical under normal conditions of use.
- (v) Food, drugs, cosmetics or alcoholic beverages in a retail establishment which are packaged for sale to consumers;
- (vi) Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace;

(vii) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 1251 et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers; and

(viii) Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (i.e., tablets or pills).

In addition, 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.

Also, minimum reporting thresholds have been established under Title III, Section 312. You need to report only those hazardous chemicals that were present at your facility at any time during the preceding calendar year at or above the levels listed below:

- January to December 1987 (or first year of reporting) ...10,000 lbs.
- January to December 1988 (or second year of reporting) ...10,000 lbs.
- January to December 1989 (or third year of reporting) ...zero lbs.*
 - * EPA will publish the final threshold, effective in the third year, after additional analysis.
- For extremely hazardous substances...500 lbs. or the threshold planning quantity, whichever is less, from the first year of reporting and thereafter.

WHEN TO SUBMIT THIS FORM

Beginning March 1, 1988, owners or operators must submit the Tier One form (or substitute the Tier Two form) on or before March 1 of every year.

INSTRUCTIONS

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

WHERE TO SUBMIT THIS FORM

Send one completed inventory form to each of the following organizations:

1. Your State emergency planning 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.

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 describe the physical location of your facility (e.g., longitude and latitude). Include city, 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 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.

PHYSICAL AND HEALTH HAZARDS**Descriptions, Amounts, and Locations**

This section requires aggregate information on chemicals by hazard categories as defined in 40 CFR 370.3. 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.

- 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).

Select the option consistent with your Section 311 reporting of the chemical on the MSDS or list of MSDS chemicals.

- Where do I count a chemical that is a fire reactivity 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, which results in double-counting.

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 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...
 - 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 50 lbs. respectively. You add these together to reach a total of 10,050 lbs. Then you look at the Reporting Range at the bottom of your Tier One form and find that the value of 03 corresponds to 10,050 lbs. Enter 03 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 your facility at any point during the year.

To determine this amount:

1. List all of your 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.

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 02 corresponds to 1,200 lbs. Enter 02 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.

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

This must be completed by the owner or operator or the officially designated representative of the owner or operator. Enter your full name and official title. Sign your name and enter the current date.

§ 370.41 Tier II emergency and hazardous chemical inventory form.

(a) The form set out in paragraph (b) of this Section must be completed and submitted as required in § 370.25(c). 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.

BILLING CODE 6560-50-M

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. 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.

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 this Tier Two form if so requested by a State emergency planning 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 Communications Standard, found in Title 29 of the Code of Federal Regulations at §1910.1200.

WHAT CHEMICALS ARE INCLUDED

You must report the information required on this form for each hazardous chemical for which Tier Two information is requested. However, OSHA regulations and Title III exempt some chemicals from reporting.

Section 1910.1200(b) of the OSHA regulations currently provides the following exemptions:

(i) Any hazardous waste as such term is defined by the Solid Waste Disposal Act as amended (42 U.S.C. 6901 et seq.) when subject to regulations issued under that Act;

(ii) Tobacco or tobacco products;

(iii) Wood or wood products;

(iv) "Articles" - defined under §1910.1200(b) as a manufactured item:

- Which is formed to a specific shape or design during manufacture;
- Which has end use function(s) dependent in whole or in part upon the shape or design during end use; and
- Which does not release, or otherwise result in exposure to a hazardous chemical under normal conditions of use.

(v) Food, drugs, cosmetics or alcoholic beverages in a retail establishment which are packaged for sale to consumers;

(vi) Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

(vii) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 1251 et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers

(viii) Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (i.e., tablets or pills).

In addition, 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.

Also, minimum reporting thresholds have been established for Tier One under Title III, Section 312. You need to report only those hazardous chemicals that were present at your facility at any time during the preceding calendar year at or above the levels listed below:

- January to December 1987
(or first year of reporting) ...10,000 lbs.
- January to December 1988
(or second year of reporting) ...10,000 lbs.
- January to December 1989
(or third year of reporting) ...zero lbs.*
- * EPA will publish the final threshold, effective in the third year, after additional analysis.
- For extremely hazardous substances...500 lbs. or the threshold planning quantity, whichever is less, from the first year of reporting and thereafter.

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 must submit the Tier Two form to the requesting agency within 30 days of receipt of a written request from an authorized official.

WHERE TO SUBMIT THIS FORM

Send the completed Tier Two 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.

You may use the Tier Two form as a worksheet for completing the Tier One form. 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 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, 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 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 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 chemical information will be available 24 hours a day, every day.

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.

• 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).

Select the option consistent with your Section 311 reporting of the chemical on the MSDS or list of MSDS chemicals.

CHEMICAL DESCRIPTION

1. Enter the Chemical Abstract Service number (CAS#).

For mixtures, enter the CAS number of the mixture as a whole if it has been assigned a number distinct from its components. 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 chemical class (e.g., list toluene 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 Section 322 of Title III for detailed information on how to comply with trade secret requests.

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

3. Circle ALL applicable descriptors: pure or mixture, and solid, liquid, or gas.

EXAMPLE:

You have pure chlorine gas on hand, as well as two mixtures that contain liquid chlorine. You write "chlorine" and enter the CAS#. Then you circle "pure" and "mix" -- as well as "liq" 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 370.3. 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.

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...
00	0	99
01	100	999
02	1,000	9,999
03	10,000	99,999
04	100,000	999,999
05	1,000,000	9,999,999
06	10,000,000	49,999,999
07	50,000,000	99,999,999
08	100,000,000	499,999,999
09	500,000,000	999,999,999
10	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 your 5,000-gallon storage tank. You know that the solvent contains 10% benzene, which is a hazardous chemical.

You figure that 10% of 5,000 gallons is 500 gallons. You also know that the density of benzene is 7.29 pounds per gallon, so you multiply 500 by 7.29 to get a weight of 3,645 pounds.

Then you look at Table I and find that the range value 02 corresponds to 3,645. You enter 02 as the Maximum Amount.

(If you are using the form as a worksheet for completing a Tier One form, you should write 3,645 in the shaded area.)

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 5,000-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 929,250 gallons. By dividing 929,250 gallons by 315 days on-site, you calculate an average daily amount of 2,950 gallons.

You already know that the solvent contains 10% benzene, which is a hazardous chemical. Since 10% of 2,950 is 295, you figure that you had an average of 295 gallons of benzene. You also know that the density of benzene is 7.29 pounds per gallon, so you multiply 295 by 7.29 to get a weight of 2,150 pounds.

Then you look at Table I and find that the range value 02 corresponds to 2,150. You enter 02 as the Average Daily Amount.

(If you are using the form as a worksheet for completing a Tier One form, you should write 2,150 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 this column, along with storage types/conditions associated with each location.

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

- a. Look at Table II. For each location, find the appropriate storage type(s). Enter the corresponding code(s) in front of the parentheses.
- b. Look at Table III. For each storage type, find the temperature and pressure conditions. Enter the applicable pressure code in the first space within the parentheses. Enter the applicable temperature code in the last space within the parentheses.

AVERAGE DAILY AMOUNT

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

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 *site plan* with site coordinates indicated for buildings, lots, areas, etc. throughout your facility.
- A *list of site coordinate abbreviations* that correspond to buildings, lots, areas, etc. throughout your facility.

EXAMPLE:

You 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]

Table III - TEMPERATURE AND PRESSURE 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 code for ambient pressure is 1, and the code for less than ambient temperature is 6.

You enter: C(1,6)

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 a separate Tier Two Confidential Location Information Sheet, enter the name and CAS# 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.

This must be completed by the owner or operator or the officially designated representative of the owner or operator. Enter your full name and official title. Sign your name and enter the current date.

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.