

MOST COMMONLY ASKED QUESTIONS AND ANSWERS

The following sections represent the most commonly asked questions and answers regarding both the state and federal community Right-to-Know laws.

SECTION I - TIER TWO FORM

A. FACILITY IDENTIFICATION, OWNER/OPERATOR, AND EMERGENCY CONTACT FIELDS

1. WHY ARE THERE LINES FOR "MAILING ADDRESS" IN THE FACILITY IDENTIFICATION FIELD?

These lines were included to allow us to contact the facility directly on matters regarding the community Right-to-Know laws. It has been our experience that much of the material which we send to a facility is lost or misrouted due to the use of corporate mailing addresses, improperly completed owner/operator fields, out-of-state owners, etc. While we realize that many facilities such as pipelines and oil and gas wells will have neither a street address nor a mailing address, the bulk of all reporting facilities will have a local (i.e., Louisiana) mailing address. Please consult the Tier Two form instructions for additional information.

2. WHICH NAME AND ADDRESS SHOULD BE RECORDED IN THE OWNER/OPERATOR FIELD?

The address listed in the owner/operator field is considered the home of record. This is the address where the bulk of all correspondence (including the annual renewal notice or e-mail) will be sent. It may be to your advantage to list your facility's address rather than a corporate or out-of-state owner's address to avoid delays in receiving correspondence, etc.

3. I RENT OR LEASE MY FACILITY FROM A DISTRIBUTORSHIP, WHOSE NAME SHOULD I PUT IN THE OWNER/OPERATOR FIELD? I RENT MY OXYGEN TANKS AND PROPANE TANKS FROM A DEALERSHIP, WHOSE NAME SHOULD I PUT IN THE OWNER/OPERATOR FIELD? MY DISTRIBUTOR FILLED OUT THE FORM FOR ME - SHOULDN'T HIS NAME BE IN THE OWNER/OPERATOR FIELD?

The bulk of these questions all focus on the issue of owner vs. operator. In the first question, many service station operators rent or lease their liquified petroleum gas tanks, waste oil tanks, etc. from a distributor. If the distributor does not have any input into the day-to-day operations of the service station (i.e., hiring/firing of employees, opening and closing hours, etc.) and cannot be legally held responsible for the operation of the station, then the operator of the station should list his address in the owner/operator field. In the second question, the operator rents oxygen or other tanks from a dealership. The dealership may own the tanks, but it is the responsibility of the owner/operator of the facility to file the Tier Two form, not the dealership. In the last question, many distributors will complete the Tier Two form for their clients as a favor.

Despite the fact that the distributor may own the tanks, as in the first question above, if the distributor does not have any input into the day-to-day operations, then the facility owner/operator must record his name and address in the owner/operator field.

4. DOES THE TERM "FACILITY" INCLUDE SUBSURFACE OPERATIONS AND MUST HAZARDOUS CHEMICALS STORED IN THEM BE REPORTED?

Yes. The federal definition of "facility" has been amended to include manmade structures as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. Owners/operators must use the best information available, knowledge of the operating processes of the facility, and engineering judgement to estimate the quantities of hazardous chemicals present in subsurface containment structures and indicate the appropriate ranges on the Tier Two form.

5. WHAT IS THE SIC CODE AND WHERE DO I GET MY SIC CODE?

The SIC code or Standard Industrial Classification code is a four digit numerical code which classifies businesses according to the type of activity in which the business is engaged. The Office of State Police does not assign these codes. You may usually get this information from the Standard Industrial Classification Manual at your local parish or university library.

6. DO I NEED A DUN AND BRADSTREET NUMBER?

If you do not have a Dun and Bradstreet number you do not need to obtain one and complete this field. This is the only piece of information on the Tier Two form which does not need to be completed.

7. WHAT IS THE FACILITY IDENTIFICATION NUMBER AND WHEN SHOULD I USE IT?

The facility identification number is a unique number which identifies a specific facility located at a specific site. It is not a corporate or business number and should not be considered as such under any circumstance. If you have previously filed a Tier Two, a Facility ID number has already been assigned to your facility, that Facility ID number will be used when you obtain a User ID and Password.

If your facility has not filed before, a Facility ID number can be created while you obtain your User ID and Password by clicking on Create New User ID for a New Facility. For additional facilities, a Facility ID number can be created after you have obtained a User ID and Password. On your home page, simply click on User Maintenance, then Create New Facility.

B. CHEMICAL DESCRIPTION AND PHYSICAL AND HEALTH HAZARDS FIELDS

8. WHAT IS THE CAS NUMBER AND WHEN SHOULD I USE IT?

The CAS number or Chemical Abstract Service registry number is the unique number assigned to a given chemical or chemical compound as assigned by Chemical Abstract Service. This number may generally be found on material safety data sheets (MSDS) and for Extremely Hazardous Substances in Item I of the Table of Contents on the web page. The CAS number should be recorded on the initial CAS number line if a substance or compound as a whole has been assigned a unique CAS number. CAS numbers of components within a mixture should be recorded in the Mixture Components section. For example, a certain company manufactures a product called "Mighty Clean." This product contains methyl alcohol, benzene, and toluene - each of which has a separate CAS number. You would need to record the three components and their CAS numbers under Mixture Components since the product is a mixture. If, however, the Chemical Abstract Service had assigned "Mighty Clean" its own CAS number then for reporting purposes, it is considered Pure. You would record the CAS number for that product on the initial CAS number line. If **no** CAS number is provided, enter the number **1** in that field.

Additional information regarding mixtures may be found in the instructions for the Tier Two form and in additional questions in this section.

9. WHEN SHOULD I CLICK ON “YES” AFTER TRADE SECRET?

Click on “yes” after Trade Secret only if you are the manufacturer of a product and have filed a trade secret claim with U.S. EPA. Otherwise, click on “no” if you use a product which has trade secret components listed on the MSDS. Manufacturers wishing to file a trade secret claim should comply with the EPA's requirements and indicate on the Tier Two the date on which the trade secret claim for the mixture or hazardous material was filed with EPA.

10. WHEN DO I REPORT A SINGLE SPECIFIC CHEMICAL?

To report a single specific chemical (e.g., propane), record the CAS number assigned to that specific chemical (i.e., 74-98-6) on the CAS number line above Proper Name which is “propane.”

11. HOW DO I REPORT A SUBSTANCE WHEN I KNOW THE TRADE NAME, BUT DON'T KNOW WHAT THE SUBSTANCE IS?

The first thing to do is to obtain a material safety data sheet (MSDS) from the company that supplies you with the substance or from the manufacturer of the substance. In most cases the MSDS will tell you the chemical name or family of the substance and provide you with the CAS number. For example, ABC Manufacturers market their product, methyl alcohol, as "Mighty Klean." You obtain an MSDS from the manufacturer and find

that the product is in reality methyl alcohol. You record the CAS number and on the chemical description Proper Name line record "methyl alcohol." On the Trade Name line you enter "Mighty Klean." If ABC Manufacturers had claimed a trade secret on their product, you should enter Trade Secret on that Mixture Component line. If the manufacturer has indicated the component is proprietary, enter Proprietary on that mixture component line.

12. HOW DO I REPORT MIXTURES? (NO EHS COMPONENTS)

Mixtures will fall into three categories. The following represents our policy on how these mixtures should be recorded:

a. MIXTURES WITH NO TRADE NAMES AVAILABLE

In this case you would enter the CAS number only if a CAS number has been assigned to that specific mixture. You would then report the mixture by its components (e.g., benzene and toluene) and list the CAS number and percentage weight for each component as it appears on the MSDS.

b. MIXTURES WITH TRADE NAME, AND COMPONENTS AVAILABLE

In this case you have an MSDS available which lists the components of a trade name mixture. Again, you would enter the CAS number above Proper Name only if a CAS number has been assigned to that specific trade name mixture (e.g., ABC Manufacturers 123 EZ - CAS number 000-00-1). Next, you would record the mixture by listing its trade name (e.g., ABC Manufactures 123 EZ). Finally, you would list the mixture's primary components (benzene, toluene, and methyl alcohol) followed by their CAS numbers and percentage weights as they appear on the MSDS.

c. MIXTURES WITH TRADE NAME, BUT NO OTHER INFORMATION AVAILABLE

In many cases the manufacturer will withhold information on components because of trade secret or proprietary information exclusions. Enter Trade Secret or Proprietary as stated in Question 11. In this case, you would enter the trade name and you would send a copy of the MSDS along with your Tier Two submittal. This is the only instance where submission of an MSDS along with the Tier Two submittal is mandatory.

13. HOW DO I DETERMINE THE AMOUNT OF A COMPONENT THAT IS PRESENT IN A MIXTURE?

To determine the quantity of a hazardous chemical present in a mixture, multiply the total mass in pounds of the mixture by the concentration of the hazardous chemical expressed as a percent of the total weight. A component of a mixture need not be reported if it is present in a quantity less than 0.1% for carcinogens and 1% for other hazardous components.

Example: A mixture weighing 10,000 pounds contains hydrochloric acid in a concentration of 7% of its total weight. (10,000 pounds X .07 = 700 pounds of hydrochloric acid.)

For state Tier Two filing purposes, if OSHA requires an MSDS on the mixture itself or when the composition of a mixture is unknown, facilities should report on the mixture as a whole, using the total quantity of the mixture. Refer to Section 10109.D of the Right-to-Know Rules for clarification on reporting mixtures.

14. WHY DOES EPA REQUIRE THAT OWNERS/OPERATORS OF A FACILITY "AGGREGATE" ALL EXTREMELY HAZARDOUS SUBSTANCES PRESENT IN PURE FORM, IN SOLUTION, OR IN MIXTURES AND HOW SHOULD THIS BE DONE?

To "aggregate all extremely hazardous substances" simply means to "add together" or "to consider as a whole" all EHS's present in pure form, in solution, or in mixtures when determining if the threshold (inventory) quantity (TQ) of 500 pounds or lower has been met or exceeded. This is required in the final rules for SARA Title III, Sections 311 and 312 reporting that appear in the Federal Register of July 26, 1990. EPA believed that the importance of EHS's to emergency planning and community Right-to-Know warranted a requirement that these chemicals be reported whenever they are present at facilities in above threshold quantities. Therefore, if a facility has an EHS, and its quantities within mixtures, in solutions, and in pure form equal or exceed its applicable threshold, under federal rules the facility must report that EHS.

Please refer to Section 10109.D in the Right-to-Know Rules promulgated on June 20, 2001. We request that you report the mixture containing the EHS as a whole according to the format outlined in Question 15b. For example, if five mixtures each contained 100 pounds of ammonia (an EHS), you would report each of the five mixtures as a separate entry on the Tier Two form.

15. HOW DO I REPORT EXTREMELY HAZARDOUS SUBSTANCES THAT ARE PRESENT IN PURE FORM OR AS COMPONENTS OF MIXTURES?

As previously discussed in Questions 10 through 14, hazardous chemicals may be present either in pure form (including solutions containing certain concentrations) or as components within mixtures. If a chemical is on the Extremely Hazardous Substance List, the federal EPA and the Louisiana Right-to-Know Rules require that it be reported in a specific format on the Tier Two form. The following represents our policy on how EHS data should be entered in the chemical description and other fields of the electronic inventory form.

a. EHS'S IN PURE FORM

If an EHS is present in pure form and has its own CAS number, click on New Pure on the Chemical Inventory screen. If the EHS does not have its own CAS number, then click on New Mixture on the Chemical Inventory screen. Indicate if the EHS is present in solid, liquid or gas form. Complete the remaining fields under physical and health hazards, inventory, and storage codes and locations according to instructions, but calculate maximum daily amount and average daily amount based on the total weight in pounds of the pure EHS or the EHS solution, whichever is applicable.

b. EHS'S PRESENT AS COMPONENTS OF MIXTURES

If an EHS is present as a component of a mixture, follow the instructions in Question 12 for mixture reporting and list the mixture by its trade name followed by the primary components (ABC Manufacturers 123 EZ {contains benzene, toluene, etc.}). List the CAS numbers for the components as they appear on the MSDS for the mixture. If, as in Question 12b, an EHS such as ammonia is also a component in the mixture, click on EHS block, the mix line; and indicate if the mixture is a solid, liquid or gas. Enter the name, CAS number, and percentage weight of the EHS component(s) of the mixture. Click on "yes" under the EHS column under Mixture Components and complete the remaining sections as instructed. When calculating maximum daily amount and average daily amount, report the weight of the entire mixture.

16. DO I HAVE TO COMPLETE THE "PHYSICAL AND HEALTH HAZARDS" LINES?

Yes, this information is necessary for proper completion of the Tier Two form. Please click on all hazards that apply to the material you are reporting. This information may be obtained from the material safety data sheet. Please refer to the Tier Two instructions for an explanation of the physical and health hazards as defined in SARA Title III.

C. INVENTORY AND STORAGE CODES AND LOCATIONS FIELDS

17. DO I HAVE TO COMPLETE THE INVENTORY LINES, STORAGE CODES, AND STORAGE LOCATIONS SECTIONS?

Yes, this information is necessary for proper completion of the Tier Two form. Information on how to complete these fields is contained in the Tier Two instructions.

18. CAN I LIST MY STREET ADDRESS AS THE STORAGE LOCATION?

No. The purpose of this section is to give first responders (i.e., fire and police) information as to where the substance is actually stored on your facility.

First responders having access to Tier Two information are already aware that there are hazardous substances stored at your facility. The intent of this section is to give them detailed information (e.g. stored along west wall).

19. I AM THE OWNER OF A PIPELINE. PIPELINES MUST BE REPORTED, BUT THE TIER TWO FORM DOESN'T SEEM APPROPRIATE. HOW DO I COMPLY?

Owners and operators of pipelines should complete a Tier Two submittal for every parish that their pipeline traverses. If you operate more than one pipeline in a parish, you should report all of your pipelines on one Tier Two form for that parish. (This does not, however, include fixed site facilities such as pumping stations. These must be reported on separate Tier Two submittals.) You should complete the chemical description field. List there the product the pipeline is carrying. Complete the physical state sections and the physical and health hazards as well. In the space marked Storage Location, record the diameter of the pipeline, the maximum operating pressure, and tell us if you have previously submitted a map, are on the current set of DeWitt maps, or are submitting a map for the first time.

20. I STORE THE SAME CHEMICAL IN VARIOUS SECTIONS OF MY FACILITY. SHOULD I REPORT EACH LOCATION SEPARATELY OR SHOULD I REPORT ALL LOCATIONS UNDER ONE CHEMICAL?

You should report the chemical once and each of its locations separately in the storage codes and locations sections. Each chemical description field allows for eight storage locations. If additional space is needed, simply click on New Pure or New Mixture, add that chemical again, and continue listing the storage codes and locations until such time as you complete all storage areas. **Remember that the “Maximum Daily Amount” inventory code line reflects the total amount of that given substance at your facility, not the total amount stored at a particular location within your facility.**

21. DO I HAVE TO COMPLETE THE CONFIDENTIAL LOCATION SHEET?

This document is not included on the Tier Two web site but was distributed in past years. The intent of the Confidential Location Information Sheet is to provide businesses with a way to keep certain sensitive information confidential (e.g., the location of a certain process within a plant). Use the Confidential Location Information Sheet only if you have a substance the location of which you wish to keep confidential. Please refer to past editions of the compliance package if you wish to utilize this option or call the Right-to-Know Unit for copies of the form.

SECTION II - RELEASE REPORTING

22. WHAT INFORMATION WILL I BE ASKED TO PROVIDE WHEN I REPORT A RELEASE?

If you have a reportable release (i.e., one that meets the requirements specified by either the state and/or federal Right-to-Know Rules), you will be asked to provide a variety of information relating to the release. The questions you will be asked appear in

Section 10111.G of the June 20, 2001, Right-to-Know Rules and on the Uniform Hazardous Materials Reporting Form found in Item H of the Table of Contents. After providing the required information, you should ask the Hazardous Materials Hotline Operator for the "Incident Number" assigned to your report. You should refer to this number in any follow-up telephone calls or written correspondence.

23. MY FACILITY HAD A RELEASE AND I CALLED THE SHERIFF'S OFFICE OR LOCAL STATE POLICE TROOP. DOESN'T THAT COUNT AS REPORTING A RELEASE?

No. In order to properly report a release under both state and federal Right-to-Know laws, you must first call your Local Emergency Planning Committee. Then you must call (225) 925-6595 or toll free 1(877) 925-6595. This is the number of the State Police Hazardous Materials Hotline. The Hotline is staffed 24 hours a day year-round and hotline personnel will accept collect calls.

24. THE RIGHT-TO-KNOW RULES SPECIFY THAT A RELEASE OF A HAZARDOUS MATERIAL THAT MEETS OR EXCEEDS THE REPORTABLE QUANTITY AND ESCAPES BEYOND THE SITE OF THE FACILITY MUST BE REPORTED "IMMEDIATELY." WHAT IS CONSIDERED "IMMEDIATE"?

For purposes of reporting releases of hazardous materials, the Right-to-Know law defines "immediately" as "a reasonable period of time after taking prompt measures to determine the nature, quantity, and potential offsite impact of a release, considering the exigency of the circumstances." The State Police Right-to-Know Unit reviews all incidents reported to the Hotline to determine compliance with the rules. If a company delays reporting a release more than one hour after learning of the release, it is considered out of compliance and subject to a violation being issued.

25. HOW DO I DETERMINE WHETHER A RELEASE OR SPILL OF A HAZARDOUS MATERIAL HAS "ESCAPED BEYOND THE SITE OF MY FACILITY"?

The Right-to-Know law defines "facility" as the physical premises used by the owner or operator at which the hazardous materials are manufactured, used, or stored." In releases of solids or liquids from plants with fence lines or property lines, it is easy to determine escape offsite. In releases of gases to the atmosphere or liquids to water, it is our position that the gas or liquid has escaped offsite since it is impossible to contain it.

If the facility in question is an oil field or oil lease or a pipeline which crosses one or more parishes, the determination as to whether the release has escaped offsite is more complex. With reference to pipelines, a liquid flowing onto the pipeline right-of-way (land leased on either side of the pipeline) is considered as escaping offsite.

With reference to oil fields or oil leases, if a material escapes beyond the boundary of a tank battery, drilling rig, or production facility, or crosses a public road or highway, it is considered as escaping offsite.

26. AM I REQUIRED TO SUBMIT A WRITTEN FOLLOW-UP LETTER IF MY COMPANY HAS A SPILL OR RELEASE OF A HAZARDOUS MATERIAL AND HOW DO I SUBMIT IT?

If you have a legally reportable release, you must provide a written follow-up notice within five business days of the release. This notice updates the information that you included in the initial notice and any other information required by SARA, Title III. Examples of additional information would include actual response actions taken, any known or anticipated acute or chronic health risks associated with the release, and advice regarding medical attention necessary for exposed individuals. This notice should be mailed to the Louisiana Emergency Response Commission c/o Department of Public Safety and Corrections, Office of State Police, TESS - Right-to-Know Unit and the Local Emergency Planning Committee in the parish where the release occurred.

When follow-up letters are received from companies, they are filed with the computer generated record of the telephone notification. Information provided in the follow-up written report can provide further details and will be used during incident review to determine compliance with the rules and whether the incident is categorized in the database as legally reportable or a courtesy notification.

27. MY FACILITY HAD A RELEASE AND I CALLED THE HOTLINE AND REPORTED IT. DO I HAVE TO CALL ANY OTHER AGENCIES?

Yes. In addition to notifying the Hotline which receives hazardous material release notifications on behalf of the Louisiana Emergency Response Commission and State Police, you must first call the Local Emergency Planning Committee of the parish in which the release occurs, since this agency can provide immediate assistance. Refer to Item J of the Table of Contents for the emergency release notification numbers for each of our 64 parishes. If the release involves a CERCLA Hazardous Substance or oil, you must also call the National Response Center at 1-800-424-8802.

As indicated in Section 10111 which addresses "Release and Incident Reporting," depending on the nature of the material and medium into which the release occurs, other agencies may need to be notified. Please note that pursuant to Section 10111.F.2, proper notification to the State Police's Hazardous Materials Hotline shall constitute a legal and proper notification to the Louisiana Department of Environmental Quality, Louisiana Petroleum Gas Commission, and the Louisiana Oil Spill Coordinator. Facilities and transporters are responsible for determining the appropriate parties to be contacted.

SECTION III - GENERAL INFORMATION

28. I HAVE A PERSONAL COMPUTER. WHAT ABOUT COMPUTER GENERATED TIER TWO FORMS?

Since the Louisiana State Police Right-to-Know Unit (which receives and processes Tier Two filings for the Louisiana Emergency Response Commission) has implemented Tier Two filing via the Internet, all industries and businesses, except small businesses, will be required to utilize this electronic means of inventory reporting. Small businesses are strongly encouraged to report their chemical inventory electronically.

Facilities that file electronically will have their fees automatically calculated. For small businesses that choose the option of paper submission, please refer to Item B, Fees Calculation Worksheet on the Right-to-Know website, <http://www.lsp.org/rtk.html> for directions. A check for the correct amount must be made payable to the Right-to-Know Unit and sent with a printed copy of the Tier Two invoice if filing electronically or attached with your Tier Two Form and Fees Calculation Worksheet if you are a small business sending paper submission, to the address indicated.

29. DO I HAVE TO SEND THIS INFORMATION TO THE LOCAL FIRE DEPARTMENT? WHAT HAPPENS IF THE LOCAL FIRE DEPARTMENT IS A RURAL VOLUNTEER FIRE DEPARTMENT?

The law requires that a copy of the Tier Two form must be submitted to the Louisiana Emergency Response Commission, the Local Emergency Planning Committee, and the local fire department which has jurisdiction over your facility. It makes no difference whether the fire department is a major metropolitan department or a small rural volunteer fire department.

30. I AM A PLANT MANAGER. WE HAVE OUR OWN FIRE DEPARTMENT. DO WE REPORT TO THEM?

No. The intent of the law is that the nearest community fire department should be given this information.

31. NOTHING HAS CHANGED SINCE WE REPORTED LAST YEAR. DO WE STILL HAVE TO REPORT?

Yes. This is an annual reporting requirement. You are required to file by March first of each year and report the hazardous materials you had on-site on any single day of the preceding calendar year. The threshold inventory quantity for Louisiana is at or above 500 pounds unless the threshold quantity for an Extremely Hazardous Substance is lower. In addition, you must pay the appropriate filing fees. (See Section 10121 of the Right-to-Know Rules)

32. TO WHOM SHOULD I PAY THE FEE?

As it states in the June 20, 2001, Right-to-Know Rules, make all checks payable to the Right-to-Know Unit and send the filing fee and Tier Two computer generated invoice to the Office of State Police, TESS Right-to-Know Unit - P.O. Box 66168, Baton Rouge, LA 70896-6168 or 7919 Independence Blvd., Baton Rouge, LA 70806. Local governments may also charge a fee if it was enacted before the 1997 Regular Legislative Session. Please contact your Local Emergency Planning Committee for information regarding any fees they might charge. If the list of LEPCs appearing under Item K of the Table of Contents does not contain an accurate telephone number for a particular LEPC, you may wish to write the local governmental entity at the address provided for additional information. Please do not call this office as we have provided the most current information regarding the LEPCs as is available.

33. WHO IS USING ALL OF THIS INFORMATION?

By law, the Louisiana Emergency Response Commission is required to present this information to any citizen who requests it. Thus, individual citizens or groups of citizens (e.g., environmental groups) can and do request to see the information gathered about a certain facility. This information is used by emergency response personnel and it is being used by the parishes for planning purposes.

34. DOES THIS LAW ALLOW PARISHES TO CHARGE A FEE?

From 1988 to 1997, the Right-to-Know law allowed parishes to charge a Tier Two filing fee. In 1997 the Legislature rescinded the authority of local governments to impose filing fees unless the fees had previously been imposed by the Local Emergency Planning Committee. Please contact your Local Emergency Planning Committee for information regarding local fees.

35. I AM THE OWNER OF A PUBLIC WAREHOUSE. AM I RESPONSIBLE FOR REPORTING WHAT A TENANT STORES IN THE WAREHOUSE SPACE HE LEASES?

Yes. As the owner, you are responsible not only for those materials which you own or lease and which you store at your warehouse, but also for all materials stored at your facility by tenants. It is your responsibility to determine what your tenants are storing at your facility. Under federal law, EPA maintains that it is the owner's responsibility to file. This would include the owners of industrial parks, mini-warehouse, etc. Under state law it is our interpretation that the person who caused the storage (or placed the regulated material into storage) is equally responsible for reporting. We recommend that warehouse operators specify in lease agreements what hazardous materials will be stored, what information is required, and who will be responsible for filing inventory forms with the Louisiana Emergency Response Commission, Local Emergency

Planning Committee, and fire department. If neither warehouse owner nor the person leasing space files the form, then both could be held legally liable.

36. I AM THE OWNER OR OPERATOR OF AN OIL AND/OR GAS PRODUCTION AND/OR EXPLORATION FACILITY. IS THE USE OF THE GENERIC TIER TWO INVENTORY FORM DESIGNED BY THE AMERICAN PETROLEUM INSTITUTE ACCEPTABLE IN LOUISIANA?

After dialogue with representatives of the oil and gas industry, we have incorporated the reporting procedures recommended by the American Petroleum Institute (API) in its December 1, 1990, Bulletin on the Generic Hazardous Chemical Category List and Inventory for the Oil and Gas Exploration and Production Industry. We will allow use of generic chemical categories in an effort to cooperate with industry as well as gather more detailed information. As in years past, the preferred method of reporting is to submit an individual Tier Two form for each field location listing specific hazardous chemicals, specific quantities, specific storage information, etc. We remind you that the threshold in Louisiana which triggers inventory reporting is 500 pounds or more of a hazardous chemical on which OSHA requires an MSDS (lower TPQ for some extremely hazardous substances). Please refer to Section 10109 of the Right-to-Know rules.

The generic reporting format is designed for oil and gas exploration and production field operations with a wide variety of hazardous chemicals. Companies wishing to file their Tier Two chemical inventories utilizing the generic categories (for example: produced hydrocarbons, salt solutions, etc.) must file electronically. After referring to the API Bulletin referenced above, filers should enter the categories of chemicals they actually have present at well heads, tank batteries, etc. in the fields they are reporting. They should then enter the appropriate range codes, container types, pressure and temperature codes, and location information that describes the fields they are reporting. They should not merely copy the sample information that appears on the API Generic Tier Two. Furthermore, generic reporting categories should not be used by owners/operators of fields or facilities with a small number of wells or specific chemicals on site. In this case, chemical-specific reporting should be done.

The Louisiana State Police/Right-to-Know Unit reserves the right to reject any Tier Two forms submitted electronically which do not conform to the above requirements. You may obtain additional information on Generic Tier Two Inventory filing by contacting:

Mid-Continent Oil and Gas Association
801 North Blvd, Suite #201
Baton Rouge, LA 70802-5727
(225) 387-3205

SECTION IV – ENFORCEMENT

37. WHY DO I HAVE TO FILE THE TIER TWO INVENTORY FORM AND REPORT RELEASES OF CHEMICALS? WHAT WILL HAPPEN IF I DON'T FILE THESE REPORTS?

The intent of both federal and state laws is that the private citizen has a Right-to-Know about and protect himself from potentially hazardous substances in his community and that the community has a responsibility to make plans regarding protection of life and property in the event of an accident involving these hazardous substances. In order for this to be accomplished, it is necessary for you to comply with the law. Failure to comply with the law by properly reporting your chemical inventories and immediately notifying the Hotline of releases could subject you to possible combined civil penalties under both state and federal laws of up to \$50,000.

38. HOW DOES STATE POLICE KNOW IF MY COMPANY HAS VIOLATED THE RIGHT-TO-KNOW LAW?

When a call is made to the Hotline to report a spill or release of a hazardous material, the staff of the Right-to-Know Unit reviews the written or computer - generated record of the telephone call and related follow-up letter to determine if the release was "legally reportable" (a release of a hazardous material that exceeded its reportable quantity and escaped offsite) or a "courtesy notification" that did not meet all three criteria.

Because releases may jeopardize public safety, they "trigger" most enforcement actions. The Right-to-Know Unit staff checks to see if the owner/operator notified the Hotline immediately and whether the company submitted a follow-up letter as required by rule within five business days (seven calendar days). Finally, the staff checks to see if the company filed a Tier Two Inventory form on the material by March first for the preceding calendar year.

Failure to comply with any or all of the above requirements can result in a civil penalty ranging from a warning letter to a monetary penalty up to \$25,000 depending on the severity of the violation.

In some cases, State Police learns of a spill from a third party other than the company responsible. These third parties include: sheriffs' offices in parishes, fire departments, police departments, the Department of Environmental Quality, the National Response Center, etc. If a company fails to report a release and State Police learns of it only from a "third party," penalties can be more severe.

39. NOBODY TOLD ME OR MY COMPANY ABOUT THE FEDERAL AND STATE RIGHT-TO-KNOW LAWS. HOW CAN I BE FINED WHEN I DIDN'T KNOW ABOUT THE REQUIREMENTS?

Any company doing business in the state has the obligation to determine which laws and regulations on a state and federal level govern the operation of their facility. The Federal Register, the Louisiana Administrative Code, and publications of various federal and state agencies are excellent sources for this information. Another way to keep informed of regulations is to join industry groups and trade associations which update their members on regulatory requirements.

With reference to the federal and state Right-to-Know laws in particular, the staff of State Police Right-to-Know Unit, U.S. Environmental Protection Agency, and other agencies have done numerous seminars open to the public and advertised in newspapers and trade journals to inform industry of reporting requirements which have been in place since 1985 on a state level and 1986 on a federal level.

IGNORANCE OF THE LAW IS NO EXCUSE FOR FAILURE TO COMPLY!

40. WHAT HAPPENS IF I RECEIVE A NOTICE OF VIOLATION? WHAT ARE MY RIGHTS?

If your company receives a notice of violation, you have thirty (30) days from the date the notice of violation is received to either pay the civil penalty assessed or to request a hearing.

If you decide to request a hearing, you must do so in writing as specified in the violation letter. Upon receiving your hearing request, the staff of the Right-to-Know Unit will schedule a hearing with an Administrative Law Judge in the Division of Administrative Law. At the hearing, both parties will present the facts of the case under oath and will have the opportunity to question each other. The Administrative Law Judge will render a decision in four to six weeks after the hearing. The Judge may affirm the penalty as assessed, reduce the penalty to a smaller amount, or rescind the violation.

If the company to which the violation was issued is not pleased with the Judge's decision, it can be appealed to the Nineteenth Judicial District Court in East Baton Rouge.