

## RIGHT-TO-KNOW COMMON QUESTIONS AND ANSWERS

### SECTION I - TIER II FORM

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

##### **How do I request log-in credentials for Tier II filing?**

From the welcome page of the Tier II filing website, click *OBTAIN WEB ID* and answer the questions to obtain a User ID and password. The system-generated credentials will be emailed to you the next day. The credentials will allow access to facility inventory 24 hours after you receive the email.

##### **I have more than one facility. Do I need separate log-in credentials for each facility?**

No; you may access all facilities under one User ID.

##### **What is the facility identification number?**

The facility identification number identifies each facility and is used in filing Tier II inventory. Detailed filing instructions are located on the ESU webpage under *Useful Documents*.

##### **How can I add additional facilities to my user id?**

Email [RTK.Tier2@la.gov](mailto:RTK.Tier2@la.gov) listing the facilities IDs to which you need access, along with the access type for each facility. The three access status types for Tier II filing are *READER* - allows read-only access; *EDITOR* – allows the user to make changes to facility information and chemical inventory; *FILER* – allows editing of information and completion of filing the worksheet to submit the filing report. In the email, include the reason for accessing the facility – replacing existing filer, purchase or sale of facility, corrections to facility or company owner/operator name, etc.

##### **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 local address rather than a corporate or out-of-state owner's address to avoid delays in receiving important correspondence.

##### **I rent or lease my facility from a distributorship or 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?**

These questions focus on the issue of owner vs. operator. As distributors and dealerships do not have any input into the day-to-day operations of the facility (i.e. hiring/firing employees, opening and closing hours, etc.) and cannot be legally held responsible for the operation of the facility, then the operator should list his address in the owner/operator field.

##### **Does the term "facility" include subsurface operations and must hazardous chemicals stored in them be reported?**

Yes; 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 II form.

#### **What is the SIC code and where do I find my SIC code?**

The Standard Industrial Classification code classifies businesses according to the type of activity in which the business is engaged. <https://www.naics.com/sic-lookup-help/>

#### **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 II form which is not required.

### **B. CHEMICAL DESCRIPTION AND PHYSICAL AND HEALTH HAZARDS FIELDS**

#### **What is the CAS number?**

The 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 on our webpage for Extremely Hazardous Substances: [https://lsp.org/media/afhat1ke/rtk\\_hazlist.pdf](https://lsp.org/media/afhat1ke/rtk_hazlist.pdf). If no CAS number is provided, enter the number **1** in that field.

#### **When should I click “yes” after trade secret?**

Click “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 “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 II form the date on which the trade secret claim for the mixture or hazardous material was filed with EPA.

#### **How do I report a substance when I know the trade name, but don't know what the substance is?**

Obtain a material safety data sheet (MSDS) from the company that supplies 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.

#### **How do I report mixtures? (no EHS components)**

Most chemical mixtures have Safety Data Sheets (SDS) that show the needed information for filing. If you are entering a chemical ingredient that does not have its own CAS number, enter ‘1’ in the CAS field. If a chemical ingredient is a trade secret, enter a CAS number of ‘1’, then enter Trade Secret or Proprietary as the chemical name. If the entire mixture is considered to be a trade secret, you must submit copies of the required EPA forms showing the date the chemical was approved as a trade secret.

#### **How do I determine the amount of a component that is 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. Example: A mixture weighing 10,000 pounds contains hydrochloric acid in a concentration of 7% (10,000 pounds X .07 = 700 pounds of hydrochloric acid). Refer to Section 10109.D of the Right-to-Know Rules for clarification on reporting mixtures.

**Why does EPA require that owners/operators of a facility aggregate all extremely hazardous substances (EHS) present in pure form, in solution, or in mixtures and how should this be done?**

This is required in the final rules for SARA Title III, Sections 311 and 312. Refer to Section 10109.D in the Right-to-Know Rules. We request that you report the mixture containing the EHS as a whole according to the format outlined previously for mixtures. 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 II form.

**How do I report extremely hazardous substances (EHS) that are present in pure form or as components of mixtures?**

Hazardous chemicals may be present either in pure form 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 II form.

**a. EHS 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.

**b. EHS PRESENT AS COMPONENTS OF MIXTURES**

If an EHS is present as a component of a mixture, click "yes" under the EHS column under Mixture Components.

**C. INVENTORY AND STORAGE CODES AND LOCATIONS FIELDS**

**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) detailed information as to where the substance is actually stored on your facility. Storage location entries should list clear and concise location of the substance (e.g. stored along west wall).

**I am the owner of a pipeline. Pipelines must be reported, but the Tier II form doesn't seem appropriate. How do I comply?**

Owners and operators of pipelines should complete a Tier II 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 II form for that parish. This does not include fixed site facilities such as pumping stations, which must be reported on separate Tier II submittals. 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 or are submitting a map for the first time.

**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, click on New Pure or New Mixture, add that chemical again, and continue listing the storage codes and locations until you complete all storage areas.

**Do I have to complete the confidential location sheet?**

Use the Confidential Location Information Sheet only if you have a substance of which you wish to keep the location confidential. This form is available on the LSP/ESU webpage under *Useful Documents*.

#### **D. TIER II FILING**

**When attempting to complete my filing worksheet, I receive a 'not ready to file' status. How do I change to 'ready to file'?**

Go to the facility information page and select *EDIT*. Check *READY FOR FILING*, then select *SAVE*. Detailed filing instructions are located on the ESU webpage under *Useful Documents*.

**I did not complete my Tier II filing for the prior reporting year. Can I still file for the current reporting year?**

No; filing for the current reporting year is not accessible unless the prior reporting year was completed. Once a new reporting year has begun, the system will not allow reporting for prior years. You must contact [RTK.Tier2@la.gov](mailto:RTK.Tier2@la.gov) for help in completing your prior year filing. Once the prior year filing is complete, you will be able to access the current reporting year.

**How do I remove a chemical from my inventory?**

From your facility page, click CHEMICAL INVENTORY. Choose to list the chemical by name. When the list populates, click the chemical name, then click *REMOVE CHEMICAL*.

**Why do I receive an error message when attempting to log-in to the Tier II filing system?**

Error messages generally indicate heavy traffic on the website. To mitigate errors, use Chrome or Firefox browsers, clear browser history before logging in and ensure that pop-ups are allowed. If you continue to experience errors, email a screenshot of the error code to [RTK.Tier2@la.gov](mailto:RTK.Tier2@la.gov). The earlier in the filing season that you file, beginning January 1, the less likely you are to encounter errors.

**Can I submit a paper copy of the Tier II form?**

All industries and businesses, except small businesses, are required to utilize the Tier II Filing Website for inventory reporting. Small businesses are strongly encouraged to report their chemical inventory electronically. For small businesses choosing paper submission, refer to the Fees Calculation Worksheet on the Right-to-Know website for directions. A check or money order for the correct amount must be made payable to the Right-to-Know Unit and sent with a printed copy of the Tier II invoice, along with the Tier II Form and Fees Calculation Worksheet if you are a small business sending paper submission.

**Do I have to send this information to my 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 II form 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.

**I am a plant manager and 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.

**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.

**To whom should I pay the Tier II filing fee?**

Make all checks payable to *State Police Right-to-Know* and send the filing fee and Tier II computer-generated invoice to the Department of Public Safety, Office of Management and Finance, Financial Services Division, P.O. Box 66909, Baton Rouge, LA 70896. Contact your Local Emergency Planning Committee for information regarding local fees.

**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 for materials which you own or lease and which you store at your warehouse, but also for all materials stored at your facility by tenants. Under federal law, EPA maintains that it is the owner's responsibility to file. This would include the owners of industrial parks, mini-warehouses, etc. If neither warehouse owner nor the person leasing space files the form, then both could be held legally liable.

**I am the owner or operator of an oil and/or gas production and/or exploration facility. Is the use of the generic Tier II inventory form designed by the American Petroleum Institute acceptable in Louisiana?**

We will allow use of generic chemical categories recommended by API, however facilities must enter inventories using our Tier II reporting database. The preferred method of reporting is to submit an individual Tier II 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. 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. 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 II forms submitted electronically which do not conform to the above requirements. You may obtain additional information on Generic Tier II Inventory filing by contacting: Mid-Continent Oil and Gas Association at (225) 387-3205.

### **SECTION III - RELEASE REPORTING**

**What information will I be asked to provide when I report a release?**

If you have a reportable release, 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 Right-to-Know Rules. 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.

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"?

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.

**How do I determine whether a release or spill of a hazardous material has “escaped beyond the site of my facility”?**

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, the gas or liquid has escaped offsite since it is impossible to contain it. 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 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.

**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. This notice should be mailed to the Louisiana Emergency Response Commission c/o Department of Public Safety and Corrections, Office of State Police, Emergency Services - 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.

**My facility had a release and I called the hotline and reported it. Do I have to call any other agencies? 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?**

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. . Refer to <https://lsp.org/media/y4thkkbd/lepc-emergency-release-notification-phone-list-01-31-24.pdf> for the emergency release notification numbers for each of our 64 parishes. You must then call the State Police Hazardous Materials Hotline at (225) 925-6595 or (877) 925-6595. The Hotline is staffed 24 hours a day, year-round and hotline personnel will accept collect calls. In addition to notifying the Hotline, refer to LAC 33: V: 10111 which addresses Release and Incident Reporting for details on which other agencies should be notified of a release. Pursuant to Section 10111.F.2, proper notification to the State Police 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, as well as the Louisiana Emergency Response Commission.

## **SECTION IV – ENFORCEMENT**

**Why do I have to file the Tier II 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. 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.

**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. The Right-to-Know Unit staff checks to see if the owner/operator notified the Hotline within one hour and whether the company submitted a follow-up letter as required by rule within five business days. Finally, the staff checks to see if the company filed a Tier II 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.

**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. Ignorance of the law is no excuse for failure to comply.

**What happens if I receive a notice of violation? What are my rights?**

If your company receives a notice of violation, you must either remit payment for the assessed civil penalty or request an Administrative Hearing to present evidence regarding the violation(s) and/or penalty. If you choose to request a hearing, the request must be made in writing within 45 calendar days from receipt of the Notice of Violation. If a hearing is not requested within 45 calendar days, the civil penalty will become final and must then be paid. 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. The Administrative Law Judge will render a decision four to six weeks after the hearing.