

October, 2015

Dear Facility Owner or Operator:

On September 29, 2015 Governor Gina Raimondo signed Executive Order 15-15 amending Executive Order 07-05, Emergency Planning which established the Department of Environmental Management (DEM) as the primary agency for implementing the Emergency Planning and Community Right-to-Know Act (EPCRA) Tier II reporting requirements under Section 312 of EPCRA.

On behalf of the Rhode Island State Emergency Response Commission, the Department of Environmental Management (DEM) is responsible for the collection of Tier II reports and the transfer of data pursuant to Section 312 of EPCRA.

The required annual Tier II reporting must be completed electronically only, utilizing the Tier2 Submit program. All required Tier II reports should be addressed to DEM.TIER2@DEM.RI.GOV by March 01, 2016, the EPCRA Tier II deadline. Please include the facility name in the subject line of the e-mail. All site plans and floor plans must be attached to your submission, please do not send a separate file for your site plans. Please follow the nomenclature to name the Tier II report file being exported from the Tier2 Submit system. Example, Company name The Smith & Brother's Company; File name for the Tier 2 Submit file being export should be TheSmithBrothersCompany2015.

The electronic submission for calendar year 2015 must be submitted to this Department, the appropriate local municipal fire department and the Local Emergency Planning Committee by March 01, 2016. A map and contact information for the five Local Emergency Planning Committees (LEPC) is available on the DEM web site.

To access and download the Tier2 Submit software, you may go to either the United States Environmental Protection Agency web site at the following address: <http://www2.epa.gov/epcra/tier2-submit-software> or to the Rhode Island Department of Environmental Management EPCRA web site address: <http://www.dem.ri.gov/epcra.htm> and select the Tier2 software link. A list of Extremely Hazardous Substances (EHS) can be found on the DEM web site. The list of EHS chemicals is NOT the only chemicals required to be reported on your Tier II report.

WHO MUST SUBMIT THIS FORM

Section 312 of EPCRA requires the owner or operator of a facility to annually submit their Tier II report if so requested by a State Emergency Response Commission (SERC), a local emergency planning committee (LEPC), or local fire department with jurisdiction over the facility.

This request for a Tier II report 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 Safety Data Sheet (SDS) for a hazardous chemical present at the facility. SDS requirements are specified in the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HCS), found in Title 29 of the Code of Federal Regulations (CFR) at Section 1910.1200.

REPORTING THRESHOLDS

Minimum thresholds have been established for Tier II reporting in 40 CFR part 370. These thresholds are as follows:

For Extremely Hazardous Substances (EHSs) designated under EPCRA Section 302 the reporting threshold is 500 pounds (or 227 kg.) or the threshold planning quantity (TPQ), whichever is lower. ("EPA's List of Lists" or EHSs and their TPQs are listed in 40 CFR part 355, Appendix A and B). EPA's List of List (March 2015) may be accessed and downloaded in many forms at <http://www2.epa.gov/epcra/consolidated-list-lists>

For gasoline (all grades combined) at a retail gas station, the threshold level is 75,000 gallons (or approximately 283,900 liters), if the tank(s) was stored entirely underground and was in compliance at all times during the preceding calendar year with all applicable Underground Storage Tank (UST) requirements at 40 CFR part 280 or requirements of the State UST program approved by the Agency under 40 CFR part 281.

For diesel fuel (all grades combined) at a retail gas station, the threshold level is 100,000 gallons (or approximately 378,500 liters), if the tank(s) was stored entirely underground and the tank(s) was in compliance at all times during the preceding calendar year with all applicable Underground Storage Tank (UST) requirements at 40 CFR part 280 or requirements of the State UST program approved by the Agency under 40 CFR part 281.

Note: A retail gas station means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public for motor vehicle use on land.

For all other hazardous chemicals for which facilities are required to have or prepare an SDS, the minimum reporting threshold is 10,000 pounds (or 4,540 kg.).

You need to report hazardous chemicals or mixtures containing hazardous chemical(s) that were present at your facility at any time during the previous calendar year at levels that equal or exceed these thresholds.

WHAT CHEMICALS ARE EXCLUDED Section 311(e) of EPCRA excludes the following hazardous substances (chemicals/mixtures/products):

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

CERTIFICATION:

The owner or operator or the officially designated representative of the facility must certify that all information included in the Tier II report (electronic submission) is true, accurate, and complete.

Do you need a note: Failure to comply with EPCRA, Section 312, Annual Tier II Reporting requirement, may result in an enforcement action by the US EPA with penalties up to \$37,500 per chemical per day.

If you have any questions or need further assistance, please contact me at 401 222-1360 x7128 or by email at Thomas.campbell@dem.ri.gov.

Sincerely,

Thomas Campbell

Oil & Hazardous Materials Specialist II

RIDEM Office of Emergency Response