

(1) Carbon dioxide streams that meet all of the following conditions are excluded from the definition of hazardous waste:

(i) Transportation of the carbon dioxide stream must be in compliance with applicable Department of Transportation requirements;

(ii) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI Underground Injection Control wells, including the applicable requirements in 40 CFR parts 144 and 146;

(iii) No other hazardous wastes may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

(iv) Any generator of a carbon dioxide stream, and any Class VI Underground Injection Control well owner or operator, who claims that a carbon dioxide stream is excluded under paragraph (h)(1) of this section, must have an authorized representative (as defined in 40 CFR 260.10) sign a certification statement worded as follows:

I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 40 CFR 261.4(h)(1) meets all of the conditions set forth in that paragraph.

The signed certification statement must be kept on-site for no less than three years. The signed certification statement must be made available within 72 hours of a written request from the Regional Administrator or state Director (if located in an authorized state), or their designee, and shall be renewed every year by persons claiming the exclusion in 40 CFR 261.4(h). The yearly renewal of a certification statement under this paragraph means that an authorized representative must annually prepare and sign a new copy of the certification statement.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 370

[EPA-HQ-SFUND-2010-0763; FRL-9448-8]

RIN 2050-AG64

### Hazardous Chemical Reporting: Revisions to the Emergency and Hazardous Chemical Inventory Forms (Tier I and Tier II)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The U.S Environmental Protection Agency (EPA or the Agency)

is proposing to revise the Emergency and Hazardous Chemical Inventory Forms (Tier I and Tier II) under Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) to add new data elements and revise some existing data elements.

**DATES:** Comments must be received on or before October 7, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2010-0763 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov).

- *Fax:* (202) 566-0224.

- *Mail:* EPA Docket Center, Superfund Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

- *Hand Delivery:* Environmental Protection Agency West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-2010-0763. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your

name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Superfund Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Superfund Docket is (202) 566-0276.

**FOR FURTHER INFORMATION CONTACT:** Sicy Jacob, Office of Emergency Management, Mailcode 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20004; telephone number: (202) 564-8019; fax number: (202) 564-2620; e-mail address: [jacob.sicy@epa.gov](mailto:jacob.sicy@epa.gov). You may also contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at (800) 424-9346 or (703) 412-9810 (in the Washington, DC, metropolitan area). You may wish to visit the Office of Emergency Management (OEM) Internet site at <http://www.epa.gov/emergencies>.

**SUPPLEMENTARY INFORMATION:** Here are the contents of today's preamble.

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## I. General Information

### A. Who is affected by this proposed rule?

Entities that would be affected by this proposed rule are those organizations and facilities subject to Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and its implementing regulations found in 40 CFR part 370. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

### B. What should I consider as I prepare my comments for EPA?

*Tips for Preparing Your Comments.* When submitting comments remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible.

- Make sure to submit your comments by the comment period deadline identified.

### C. What is the statutory authority for this proposed rule?

This proposed rule is being issued under EPCRA, which was enacted as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499). The Agency relies on sections 312 and 328 of EPCRA for general rulemaking authority.

### D. What is the background of this proposed rule?

Title III of SARA (EPCRA) establishes authorities for emergency planning and preparedness, emergency release notification reporting, community right-to-know reporting, and toxic chemical release reporting. It is intended to encourage State and local planning and preparedness for releases of extremely hazardous substances (EHSs) and to provide the public, local governments, fire departments and other emergency officials with information concerning chemical releases and the potential chemical risks in their communities. EPCRA consists of emergency planning notification and community right-to-know reporting of hazardous and toxic chemicals. The implementing regulations as well as substances and reporting thresholds are codified in 40 CFR parts 355 and 370.

Under the emergency planning provisions of EPCRA, codified in 40 CFR part 355, a facility is required to provide a one-time notification to the State Emergency Response Commission (SERC) and the local emergency planning committee (LEPC) if the facility has any EHS present at the site in excess of its threshold planning quantity (TPQ). EHSs and their TPQs are listed in 40 CFR part 355, Appendix A and B. The emergency planning notification occurred approximately seven months after the law was passed for facilities that existed at that time. Any facilities that became subject to the notification requirement after that date are required to comply as provided in 40 CFR part 355. Facilities that are currently covered by these regulations

are required to report only changes occurring at the facility that may be relevant to emergency planning. LEPCs use the information obtained from facilities to develop emergency response plans required under section 303 of EPCRA. Section 303 of EPCRA also requires LEPCs to review these plans annually and to adjust them accordingly, for changes that have occurred in their community.

Reporting requirements under the community right-to-know provisions, sections 311 and 312 of EPCRA are ongoing obligations. Sections 311 and 312 of EPCRA apply to owners and operators of facilities that are required to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical defined under the Occupational Safety and Health Act (OSHA) Hazard Communication Standard (HCS). If the hazardous chemical is present at or above the reporting thresholds specified in 40 CFR part 370, the facility owner or operator is required to submit a MSDS or a list that contains the hazardous chemical under section 311 of EPCRA. Under section 312 of EPCRA, if a hazardous chemical is present at or above the reporting threshold specified in 40 CFR part 370, the facility owner or operator is required to submit an emergency and hazardous chemical inventory form (Tier I or Tier II) to the SERC, LEPC and the local fire department annually by March 1.

As required by section 312(g) of EPCRA, EPA published two emergency and hazardous chemical inventory reporting forms, Tier I and Tier II. The Tier I inventory form requires facilities to report minimum information on the general types and locations of hazardous chemicals present at the facility. The Tier II inventory form requires facilities to report specific information on the amounts and locations of hazardous chemicals present at the facility. The information required under Tier I and Tier II can be found in §§ 370.41 and 370.42 of the regulations.

Section 312(a)(2) of EPCRA states that the owner or operator of a facility shall submit the Tier I inventory form annually by March 1 to the SERC, LEPC and the local fire department. However, section 312(e) states that the owner or operator of a facility shall submit the Tier II inventory form upon request by their SERC, LEPC or the fire department with jurisdiction over the facility. Currently, all states require facilities to submit the federal Tier II inventory form or the state developed inventory reporting form.

In addition to the information obtained under the emergency planning

provisions of EPCRA, LEPCs use the information provided on the facility's annual emergency and hazardous chemical inventory form to update the emergency response plan for their communities. States were always given the flexibility to implement the EPCRA program as appropriate for their State to meet the goals of EPCRA, which is to prepare for and respond to releases of EHSs and to provide the public with information on potential chemical risks in their communities. This flexibility includes adding more chemicals, setting lower reporting thresholds and creating a reporting form or format that includes more information than is required by the federal reporting requirements. Some States developed their own inventory reporting form, including electronic reporting format. Other States use the federal inventory reporting form or the federal electronic reporting format, Tier2 Submit.

Over the years, stakeholders requested that EPA add new data elements to the forms that would be useful to improve their community emergency response plans. In this action, EPA is proposing new data elements to make the forms more useful for State and local agencies and to better inform the public on chemical hazards in their communities. We are also proposing to revise some existing data elements to make reporting easier for facilities. The elements proposed herein are intended to meet the purpose of EPCRA (Title III of SARA) which is “\* \* \* to encourage and support State and local planning for emergencies caused by the release of hazardous chemicals and to provide citizens and governments with information concerning potential chemical hazards present in their communities.” See 55 FR 30632, *Community Right-to-Know Reporting Requirements, Final Rule, July 26, 1990*.

## II. What are the revisions that EPA is proposing on the Tier I and Tier II forms?

The Tier I and Tier II forms were first published in 1987 and were amended in 1990. Recently, State and local agencies requested that EPA modify these forms to include new data elements and revise existing data elements to make it more useful for emergency planning and response. EPA requests public comment on each of the new and revised data elements proposed by EPA in this notice for the Tier I and Tier II forms. These elements are described below.

Information requirements for the Tier I and Tier II forms can be found in 40 CFR 370.41 and 370.42, respectively. Current Tier I and II forms are available on the Agency's Web site at <http://www.epa.gov/emergencies>.

www.epa.gov/emergencies. Additionally, the current Tier I and Tier II inventory forms and the proposed Tier I and II inventory forms with the additional elements and changes highlighted are in the docket for today's rulemaking under the docket number EPA-HQ-SFUND-2010-0763.

### A. Facility Identification

In addition to the information currently required on the Tier I and Tier II forms under facility identification, we are proposing to add new data elements for facility phone number, latitude and longitude, and number of full-time employees.

Section 312 covers a broad range of chemicals and facilities. Some of the facilities covered under section 312 also may be subject to the Chemical Accident Prevention under section 112 (r) of the Clean Air Act (CAA), also known as the Risk Management Program or the Toxic Release Inventory (TRI) Program under section 313 of EPCRA. For those facilities that are subject to these programs, EPA is also proposing to add data elements for facility identification numbers that are assigned under these two programs. These data elements should be readily available to facilities that are covered by these two programs. Stakeholders have requested that EPA add these data elements in order to provide more complete information on the facilities to the public and to the State and local agencies responsible for emergency planning and response.

In addition to reporting the number of full-time employees, local emergency responders requested that EPA require facilities such as hotels, colleges, universities, and convention centers to report the total number of people that may occupy a building at any given time, to assist them in emergency planning and response. While EPA is not including this additional element in today's proposal, EPA requests comments if number of occupants should also be added as a data element to the Tier I and II inventory forms.

### B. Name of the Facility's Parent Company and Owner or Operator of the Facility

States and LEPCs informed EPA that some facilities have sites in remote locations and do not have operators present at all times. Thus, if there is a need to contact someone in an emergency, emergency response officials and State and local agencies need the contact information of the facility's parent company or the owner or operator of the facility. Therefore, under the facility identification section,

EPA is also proposing to require facilities to provide information on the facility's parent company and the owner or operator of the facility, such as name, address and phone number, as well as the Dun and Bradstreet number of the facility's parent company. EPA is also proposing that the facility owner or operator provide their e-mail address.

### C. Facility Emergency Coordinator

Under EPCRA section 303(d)(1), a facility is required to provide the LEPC with the name and contact information of a facility representative who will participate in the emergency planning process as a facility emergency coordinator. The regulations in § 355.20 (c) require facilities to notify LEPCs of any changes relevant to the emergency planning within 30 days after the changes have occurred. However, EPA also believes that this information should be provided on the facility's annual inventory form since LEPCs and other emergency response coordinators may need this information during an emergency. Therefore, EPA is proposing to add this data element to the Tier I and Tier II forms.

### D. Tier I and Tier II Information Contacts

Since the information reported under EPCRA section 312 is used by LEPCs to improve emergency response plans, these entities may need to contact the facility regarding information that is reported on the Tier I and Tier II reporting forms. The information filed under section 312 is also used by emergency response officials during an emergency situation. As requested by these entities, the Agency is proposing to require the name, title, phone number and e-mail address of the person knowledgeable or responsible for completing the information on the Tier I and Tier II forms.

### E. Subject to Emergency Planning Under Section 302 of EPCRA

EPCRA section 302(c) requires facilities to notify their SERC and LEPC that they are subject to emergency planning if there is an EHS present at the facility at or above its threshold planning quantity (TPQ). For facilities in existence when EPCRA was enacted, this was a one-time notification that occurred approximately seven months after enactment (in May 1987). Facilities that became subject to the emergency planning notification requirement after this date are required to provide notification to their SERC and LEPC within sixty days of becoming subject to the requirements.

EPCRA section 303(a) requires each LEPC to develop an emergency response plan for their communities. Such plans were to be developed in two years after the enactment of EPCRA (October 1988). EPCRA section 303(a) also requires LEPCs to review the emergency response plan once a year. LEPCs use the information reported by facilities under section 302(c) to develop or update the emergency response plans in their community. The Agency believes that some of the facilities which complied with the requirements under section 302(c) may no longer be subject to emergency planning, for a number of reasons, including using a chemical that is safer than an EHS, having an EHS below the TPQ, etc. The Agency also believes that facilities that may become subject to the annual inventory reporting under EPCRA section 312 may not be aware of the requirements under EPCRA section 302. The EPCRA section 312 reporting requirement covers a broad range of chemicals, including EHSs that are subject to emergency planning.

The reporting thresholds and requirements for EHSs are different under sections 302 and 312. The reporting requirement for EHSs under section 302 is to provide notification to the SERC and LEPC if the facility has any EHS at or above the TPQ in order to complete emergency planning requirements for the community. The reporting requirement for EHSs under section 312 is to submit an inventory form annually by March 1 to the SERC, LEPC and the local fire department if the EHS is present at a facility at any one time in an amount equal to or greater than 500 pounds or the TPQ, whichever is less in order to inform the public of chemical hazards in their community.

Since the notification under section 302(c) is a one-time notification which occurred in 1987 for most facilities, and since section 303(a) requires LEPCs to update the emergency plan annually, it would be useful for LEPCs to get an update from facilities clarifying whether they are still subject to emergency planning. This will help ensure that local emergency plans are up-to-date and include all appropriate facilities.

To better account for facilities subject to emergency planning and for LEPCs to use this information to improve the emergency response plans in their community, LEPCs requested that EPA require facilities to report if they are subject to emergency planning notification under EPCRA section 302. As a result, the Agency is proposing to add a new data element to indicate if facilities are subject to the emergency

planning notification under EPCRA section 302.

*F. Subject to Chemical Accident Prevention Under Section 112(r) of the Clean Air Act (40 CFR Part 68, Risk Management Program)*

Section 112(r) of the Clean Air Act (CAA) amendments of 1990 requires certain facilities to develop and implement a risk management program to prevent accidental releases of regulated chemicals. Facilities subject to section 112(r) of the CAA are required to implement an accident prevention program and an emergency response program, conduct hazard assessment and summarize and submit to EPA information about these programs and hazards in a risk management plan (RMP). The implementing regulations are codified in 40 CFR part 68, Chemical Accident Prevention, also known as the Risk Management Program.

In addition to the information reported under EPCRA section 312, LEPCs and States use the information reported in RMPs to improve the emergency response plans in each community. In order to better serve this purpose, EPA is proposing to add a new data element to both the Tier I and Tier II forms to indicate whether the facility is subject to chemical accident prevention under section 112(r) of the CAA.

*G. Range Codes and Ranges for Reporting Maximum Amount and Average Daily Amount*

As stated in EPCRA section 312(d), the information requirements in 40 CFR 370.41 and 370.42 for the Tier I and Tier II forms currently list range codes for reporting the maximum amount and average daily amounts of hazardous chemicals present at the site in the preceding calendar year. The range codes currently listed in the regulations are very broad. Such information is not as useful as specific quantity information for effective emergency response planning. Since the statute specifically states that an estimate in ranges for the maximum amount and average daily amount should be reported on the Tier I and II inventory forms, the regulations would still require facilities to report in ranges. However, in order for the States, local agencies and emergency response officials to have information on the maximum amount and average daily amount that are closer to the actual amounts present at the facility, EPA is proposing to narrow the ranges that are in the existing regulations. EPA specifically seeks comments if the range codes and the ranges proposed below

would be more useful to LEPCs for effective emergency response planning or for responding to emergencies, and if not, what ranges would be more useful to the LEPCs for effective emergency response planning or for responding to emergencies.

| Range codes | Weight range in pounds |                          |
|-------------|------------------------|--------------------------|
|             | From                   | To                       |
| 01 .....    | 0                      | 99.                      |
| 02 .....    | 100                    | 499.                     |
| 03 .....    | 500                    | 999.                     |
| 04 .....    | 1,000                  | 4,999.                   |
| 05 .....    | 5,000                  | 9,999.                   |
| 06 .....    | 10,000                 | 24,999.                  |
| 07 .....    | 25,000                 | 49,999.                  |
| 08 .....    | 50,000                 | 74,999.                  |
| 09 .....    | 75,000                 | 99,999.                  |
| 10 .....    | 100,000                | 499,999.                 |
| 11 .....    | 500,000                | 999,999.                 |
| 12 .....    | 1,000,000              | 9,999,999.               |
| 13 .....    | 10,000,000             | Greater than 10 million. |

**III. What are the revisions specific to the Tier II form proposed by EPA in this rule?**

Facilities are required to report specific information about hazardous chemicals on the Tier II inventory form. Some states may require additional information than that which is required under the federal reporting requirements. In addition to the new data elements proposed in the previous section of this document, EPA is proposing to revise some existing data elements on the Tier II federal inventory form.

*A. Chemical Information*

In the final rule published on November 3, 2008 (73 FR 65452), EPA clarified how to report a hazardous chemical mixture after determining if the mixture or its hazardous components meet or exceed the reporting thresholds specified in 40 CFR part 370. In that notice, the Agency clarified that if a hazardous chemical in the mixture is an EHS, the facility has to aggregate any and all amounts of that EHS present throughout the facility in mixtures and in pure form to determine if the reporting threshold for EHS has been met or exceeded. If the reporting threshold for that EHS is exceeded, then the facility would have an option to report the mixture or the EHS component.

To determine if the reporting threshold has been met or exceeded for a mixture that contains a non-EHS hazardous chemical component, a facility has the option to either add up

all the amounts of that non-EHS hazardous chemical present as a component in all mixtures and all other quantities of that non-EHS hazardous chemical present throughout the facility or consider the total quantity of that mixture present throughout the facility. Once it is determined that the reporting threshold is met or exceeded for either the non-EHS hazardous chemical component or the mixture, the facility has the option to report the non-EHS hazardous chemical component or the mixture itself. See § 370.14 for requirements on reporting mixtures. As stated in § 370.14(b), EPA encourages facilities to be consistent with their reporting under EPCRA section 311 when reporting mixtures.

In this notice, EPA is proposing to modify the chemical information reporting section of the Tier II inventory form to make it more user-friendly for States and local agencies, as well as the emergency response officials. This revision will also benefit facilities by clarifying how to report mixtures on the Tier II form. Specifically, the current form requires facilities to report the name of the mixture, indicate whether the mixture contains an EHS, indicate the physical and health hazards of the mixture, and report the amount present on-site, as well as the type of storage and storage locations. The regulated community and the state and local agencies, however, are unsure if the amount present on-site refers to the mixture or the non-EHS hazardous chemical or the EHS in the mixture. In order to clarify the reporting of pure chemicals vs. mixtures, the proposed Tier II form has separate entries for mixtures and pure chemicals. The entry for mixtures includes a separate line for mixture name, amount of mixture present (*i.e.* maximum and average daily amount), the EHS(s) name, and the amount of EHS(s) present (*i.e.* maximum and average daily amount). Facilities still have the option to report the mixture or the hazardous chemical component as stated in § 370.14.

#### B. Storage Types and Conditions

The Tier II form currently requires facilities to report the codes for types of storage (*i.e.* above ground tank, steel drum) and storage conditions (*i.e.* temperature, pressure). A code is currently listed for each type of storage and storage conditions in § 370.43. In order to make the form more user-friendly and also to have information readily available to emergency response officials in an emergency, EPA proposes that facilities list the types of storage (*i.e.* above ground tank, steel drum) and storage conditions (*i.e.* ambient

temperature, ambient pressure) on the Tier II form rather than noting the reporting codes.

EPA seeks public comment on all the proposed new data elements and revisions of the existing data elements described in this proposed rule. The Agency also requests that commenters, including State and local agencies suggest any additional information that should be added to the Tier I and Tier II forms in order to make them more useful for emergency planning and response.

Finally, we would note that the Agency is not proposing to revise the introductory paragraph to §§ 370.41 and 370.42. However, since we are proposing to add some new data elements and proposing to revise some existing data elements, we re-arranged and re-numbered all the paragraphs to be consistent with how each data element appears on the Tier I and Tier II inventory forms.

#### IV. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). We believe this action is administrative and non-controversial. The proposed data elements are readily available to the facility. Stakeholders requested that EPA add these new data elements because the additional information would improve community emergency response planning. In addition, revising the existing data elements will make the forms more user-friendly.

The proposed regulation will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

##### B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 1352.13. This

action may impose only minimal reporting burden on facilities since the data elements proposed are readily available to the facility. Revising the existing data elements will make the forms more user-friendly and ease reporting requirements for facilities. Stakeholders requested that EPA add the new data elements since the additional information would be useful to develop or modify their community emergency response plans. New data elements, such as facility emergency coordinator needs to be updated annually for LEPCs to coordinate the emergency plans and response to emergencies in their community.

The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in regulations at 40 CFR part 370 which includes information requirements for the Tier I and Tier II inventory forms, under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050-0072, EPA ICR number 1352.11. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. Burden is defined at 5 CFR 1320.3(b). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA-HQ-SFUND-2010-0763. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 8, 2011, a comment to OMB is best assured of having its full effect if OMB receives it by September 7, 2011. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment

rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any "not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The new data elements that we are proposing to add have been requested by stakeholders in an effort to develop or modify their community emergency response plans. In addition, revising the existing data elements will make the forms more user-friendly, and thus, will make reporting easier for facilities and will make the forms more user-friendly for state and local officials.

#### *D. Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1532–1538 for State, local, or tribal governments or the private sector. This proposed rule does not impose any new requirements on State, local or tribal governments. The data elements we are proposing to add to the Tier I and Tier II inventory forms will be useful to state,

local and tribal governments to develop or modify their community emergency response plans. In addition, the proposed revision to the existing data elements will make the forms more user-friendly.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

#### *E. Executive Order 13132 (Federalism)*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The data elements we are proposing to add to the Tier I and Tier II inventory forms will be useful to state, local and tribal governments to develop or modify their community emergency response plan. In addition, the proposed revision to the existing data elements will make the forms more user-friendly.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

#### *F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This action does not have tribal implications, as specified in Executive Order 13175, (65 FR 67249, November 9, 2000). The data elements we are proposing to add to the Tier I and Tier II inventory forms will be useful to the tribal governments to develop or modify their community emergency response plans. In addition, the proposed revision to the existing data elements will make the forms more user-friendly. This action does not impose any new requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action.

#### *G. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)*

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866 and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The additional information that we are

proposing to add to the Tier I and Tier II inventory forms will be useful to State and local officials to assist them in preparing the community in an emergency situation.

#### *H. Executive Order 13211 (Energy Effects)*

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *I. National Technology Transfer and Advancement Act ("NTTAA")*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or would otherwise be impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations of when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve technical standards. Therefore, EPA does not consider the use of any voluntary consensus standards.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629 (February 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule does not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The new data elements that the Agency is proposing

would be useful to develop or modify the community's emergency response plan. In addition, revising the existing data elements will make the forms more user-friendly.

#### List of Subjects in 40 CFR Part 370

Emergency Planning and Community Right-to-Know Act (EPCRA), Hazardous chemicals, Emergency and hazardous chemical inventory forms, Hazardous substances, Intergovernmental relations, Reporting requirements, Superfund, Tier I and Tier II inventory forms.

Dated: August 1, 2011.

**Lisa P. Jackson,**  
*Administrator.*

For the reasons discussed in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

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

1. The authority citation for part 370 continues to read as follows:

**Authority:** 42 U.S.C. 11021 and 11022.

2. Section 370.41 is revised to read as follows:

##### **§ 370.41 What is Tier I inventory information?**

Tier I information provides State and local officials and the public with information on the general types and locations of hazardous chemicals present at your facility during the previous calendar year. The Tier I information is the minimum information that you must provide to be in compliance with the inventory reporting requirements of this part. If you are reporting Tier I information, you must report aggregate information on hazardous chemicals by hazard categories. There are two health hazard categories and three physical hazard categories for purposes of reporting under this part. These five hazard categories are defined in 40 CFR 370.66. Tier I information includes all of the following:

(a) The calendar year for the reporting period.

(b) The complete name and address of the location of your facility (include the full street address or state road, city, county, State and zip code), phone number, latitude, longitude, and the number of full time employees (FTE).

(c) The North American Industry Classification System (NAICS) code for your facility.

(d) Toxic Release Inventory (TRI) and Risk Management Plan (RMP) identification numbers, if available.

(e) The Dun & Bradstreet number of your facility.

(f) The name, mailing address, phone number and email address of the owner or operator of the facility.

(g) The name, mailing address, phone number, Dun & Bradstreet number and email address of the facility's parent company.

(h) The name, title, phone number(s) and email address of at least one local individual that can act as a referral if emergency responders need assistance in responding to a chemical accident at your facility. You must also provide an emergency phone number which will be available 24 hours a day, every day.

(i) An indication whether your facility is subject to the emergency planning notification requirement under section 302 of EPCRA, codified in 40 CFR part 355.

(j) The name, title, phone number, 24-hour phone number, and email address of the facility emergency coordinator.

**Note to paragraph (j):** Section 303(d)(1) of EPCRA requires facilities subject to the emergency planning notification requirement to designate a facility representative who will participate in the local emergency planning process as a facility emergency coordinator. EPA encourages facilities that are not subject to the emergency planning notification requirement also to provide this information, if available, for effective emergency planning in your community.

(k) An indication whether your facility is subject to the chemical accident prevention requirements under Section 112(r) of the Clean Air Act, codified in 40 CFR part 68, Chemical Accident Prevention Provisions, also known as the Risk Management Program regulations.

(l) The name, title, phone number, and email address of the person to contact for the information contained in the Tier I form.

(m) Certification. The owner or operator or the officially designated representative of the owner or operator must certify that all information included in the Tier I submission is true, accurate, and complete as follows: "I certify under penalty of law that I have personally examined and am familiar with the information 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." This certification shall be accompanied by your full name, official title, signature, date signed, and total number of pages in the submission including all attachments.

**Note to paragraph (m):** Some states require electronic reporting (on-line or via diskettes) and electronic certification. Contact your

state for the specific requirements in that state.

(n) An indication whether you are including any attachments (optional).

(o) An indication whether the information being reported is identical to that submitted the previous year.

(p) An estimate (in ranges) of the maximum amount of hazardous chemicals in each hazard category present at your facility at any time during the preceding calendar year. You must use codes that correspond to different ranges. The range codes are provided in § 370.43.

(q) An estimate (in ranges) of the average daily amount of hazardous chemicals in each hazard category present at your facility during the preceding calendar year. You must use codes that correspond to different ranges. The range codes are provided in § 370.43.

(r) The maximum number of days that any single hazardous chemical within each hazard category was present at your facility during the reporting period.

(s) The general locations of all applicable chemicals for each hazard type. General locations should include the names or identification of buildings, tank fields, lots, sheds or other such areas. You may also attach one of the following with your Tier I inventory form.

(A) *A site plan* with site indicated for buildings, lots, areas, etc. throughout your facility.

(B) *A list of site coordinate abbreviations* that correspond to buildings, lots, areas, etc., throughout your facility.

(C) *A description of dikes and other safeguard measures* for storage locations throughout your facility.

3. Section 370.42 is revised to read as follows:

##### **§ 370.42 What is Tier II inventory information?**

Tier II information provides State and local officials and the public with specific information on amounts and locations of hazardous chemicals present at your facility during the previous calendar year. Some states may require you to use a state reporting format including electronic reporting and certification for submitting your hazardous chemical inventory. Contact your state for the specific requirements in that state.

If you are reporting Tier II information, you must include all of the following:

(a) The calendar year of the reporting period.

(b) The complete name and address of the location of your facility (include the full street address or state road, city, county, State and zip code), phone number, latitude, longitude, and the number of full-time employees (FTE).

(c) The North American Industry Classification System (NAICS) code for your facility.

(d) Toxic Release Inventory (TRI) and Risk Management Plan (RMP) identification numbers, if available.

(e) The Dun & Bradstreet number of your facility.

(f) The name, mailing address, phone number, Dun & Bradstreet number and email address of the facility's parent company.

(g) The name, mailing address, phone number and email address of the owner or operator of the facility.

(h) The name, title, phone number(s) and email address of at least one local individual that can act as a referral if emergency responders need assistance in responding to a chemical accident at your facility. You must also provide an emergency phone number which will be available 24 hours a day, every day.

(i) The name, title, phone number and email address of the person to contact regarding information contained in the Tier II report.

(j) An indication if your facility is subject to the emergency planning notification requirement under section 302 of EPCRA, codified in 40 CFR part 355.

(k) The name, title, phone number, 24-hour phone number and email address of the facility emergency coordinator.

**Note to paragraph (k):** Section 303(d)(1) of EPCRA requires facilities subject to the emergency planning notification requirement to designate a facility representative who will participate in the local emergency planning process as a facility emergency coordinator. EPA encourages facilities not subject to the emergency planning notification requirement also to provide this information, if available, for effective emergency planning in your community.

(l) An indication whether your facility is subject to the chemical accident prevention requirements under section 112(r) of the Clean Air Act (CAA), codified in 40 CFR part 68, Chemical Accident Prevention Provisions, also known as the Risk Management Program regulations.

(m) Certification. The owner or operator or the officially designated representative of the owner or operator must certify that all information included in the Tier II submission is true, accurate, and complete as follows: "I certify under penalty of law that I have personally examined and am

familiar with the information 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." This certification must be accompanied by your full name, official title, signature, date signed, and total number of pages in the submission including all Confidential and Non-Confidential Information Sheets and all attachments.

**Note to paragraph (m):** Some states require electronic reporting (on-line or via diskettes) and electronic certification. Contact your state for the specific requirements in that state.

(n) An indication whether you are including any attachments (optional).

(o) An indication whether the information being reported is identical to that submitted the previous year.

(p) For each hazardous chemical that you are required to report, you must:

(1) Provide the chemical name (or the common name of the chemical) or the name of the mixture as provided on the Material Safety Data Sheet (MSDS) and provide the Chemical Abstract Service (CAS) registry number of the chemical(s) provided on the MSDS. If you are withholding the name in accordance with trade secret criteria, you must provide the generic class or category that is structurally descriptive of the chemical and indicate that the name is withheld because of trade secrecy. Trade secret criteria are addressed in § 370.64(a). Two separate entries are provided to make reporting easier for your facility.

**Note to paragraph (p)(1):** As provided in § 370.14(a), if you have a mixture that is a hazardous chemical on site you have an option to report the hazardous component or the mixture itself. See § 370.14 for more information on how to determine if a reporting threshold is met for a mixture containing a hazardous chemical and how to report that mixture.

(2) Indicate whether the chemical is a solid, liquid, or gas; and whether the chemical is an EHS. If reporting a hazardous chemical component in the mixture, indicate that it is part of a mixture.

**Note to paragraph (p)(2):** As provided in § 370.14(b), for each specific mixture, EPA encourages facilities to be consistent with their reporting under EPCRA section 311.

(3) Provide the name of each EHS in the mixture if you are reporting a mixture that contains an EHS. As provided in § 370.14(a), you also have an option to report the non-EHS hazardous components in the mixture.

(4) Indicate which hazard categories apply to the chemical. The five hazard categories are defined in § 370.66.

(5) Provide an estimate (in ranges) of the maximum amount of the hazardous chemical present at your facility on any single day during the preceding calendar year. If the hazardous chemical is a mixture, provide an estimate of the total amount of the mixture. If the mixture contains any EHS, provide the total amount of each EHS in that mixture. You must use codes that correspond to different ranges. The range codes are in § 370.43.

(6) Provide an estimate (in ranges) of the average daily amount of the hazardous chemical present at your facility during the preceding calendar year. If the hazardous chemical is a mixture, provide an estimate of the average daily amount of the mixture. If the mixture contains any EHS, provide the average daily amount of each EHS in the mixture. You must use codes that correspond to different ranges. The range codes are in § 370.43.

(7) Provide the maximum number of days that the hazardous chemical was present at your facility during the preceding calendar year.

(8) Provide the type of storage for the hazardous chemical or the mixture containing the hazardous chemical at your facility. Examples for type of storage: Above-ground tank, plastic or non-metallic drum, steel drum, cylinder, rail car, etc.

(9) Provide the storage conditions for the hazardous chemical or the mixture containing the hazardous chemical at your facility. Examples for type of storage conditions: Ambient pressure, less than ambient temperature/pressure, cryogenic conditions, etc.

(10)(i) Provide a brief description of the precise location(s) of the hazardous chemical or the mixture at your facility. You may also attach one of the following with your Tier II inventory form.

(A) A *site plan* with site indicated for buildings, lots, areas, etc. throughout your facility.

(B) A *list of site coordinate abbreviations* that correspond to buildings, lots, areas, etc., throughout your facility.

(C) A *description of dikes and other safeguard measures* for storage locations throughout your facility.

(ii) Under EPCRA section 324, you may choose to withhold from disclosure to the public the location information for a specific chemical. If you choose to withhold the location information from disclosure to the public, you must clearly indicate that the information is "confidential." You must provide the



confidential location information on a separate sheet from the other Tier II information (which will be disclosed to the public), and attach the Confidential Location Information Sheet to the other Tier II information. Indicate any attachments you are including.

4. Section 370.43 is revised as follows:

**§ 370.43 What codes are used to report Tier I and Tier II inventory information?**

(a) Except as provided in paragraph (d) of this section, you must use the following codes to report the maximum amount and average daily amount when reporting Tier I or Tier II inventory information:

| Range codes | Weight range in pounds |                          |
|-------------|------------------------|--------------------------|
|             | From                   | To                       |
| 01 .....    | 0                      | 99.                      |
| 02 .....    | 100                    | 499.                     |
| 03 .....    | 500                    | 999.                     |
| 04 .....    | 1,000                  | 4,999.                   |
| 05 .....    | 5,000                  | 9,999.                   |
| 06 .....    | 10,000                 | 24,999.                  |
| 07 .....    | 25,000                 | 49,999.                  |
| 08 .....    | 50,000                 | 74,999.                  |
| 09 .....    | 75,000                 | 99,999.                  |
| 10 .....    | 100,000                | 499,999.                 |
| 11 .....    | 500,000                | 999,999.                 |
| 12 .....    | 1,000,000              | 9,999,999.               |
| 13 .....    | 10,000,000             | Greater than 10 million. |

**Note to paragraph (a):** To convert gas or liquid volume to weight in pounds, multiply by an appropriate density factor.

(b) Your SERC or LEPC may provide other range codes for reporting maximum amount and average daily amount, or may require reporting of specific amounts. You may use your SERC's or LEPC's range codes (or specific amounts) provided the ranges are not broader than the ranges in paragraph (a) of this section.

[FR Doc. 2011-19900 Filed 8-5-11; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 1, 10, 11, 12, 13, 14**

[Docket No. USCG-2004-17914]

RIN 1625-AA16

**Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of public meetings; request for comments; Correction.

**SUMMARY:** On August 2, 2011 (76 FR 46217), the Coast Guard published a notice of public meetings and request for comments on a supplemental notice of proposed rulemaking (SNPRM) entitled "Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements." The incorrect publication date of the SNPRM was cited. This notice corrects that error.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rogers Henderson, Maritime Personnel Qualification Division, U.S. Coast Guard, telephone 202-372-1408, e-mail *Rogers.W.Henderson@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** On August 2, 2011 (76 FR 46217), the Coast Guard published a notice of public meetings and request for comments on a supplemental notice of proposed rulemaking (SNPRM) entitled "Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements." Subsequent to the publication of that notice, the Coast Guard discovered that the publication date of the SNPRM on page 46217 was incorrect.

**Correction**

In the notice (FR Doc. 2011-19459) published on August 2, 2011 (76 FR 46217) make the following correction. On page 46217, in the first sentence of the second paragraph in the third column, the date should read "August 1, 2011" instead of "August 1, 2001."

Dated: August 2, 2011.

**Erin Ledford,**

*LCDR, Deputy, Office of Regulations and Administrative Law.*

[FR Doc. 2011-19985 Filed 8-5-11; 8:45 am]

BILLING CODE 9110-04-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 580**

[Docket No. NHTSA-2011-0109; Notice 1]

**Petition for Approval of Alternate; Odometer Disclosure Requirements**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of initial determination.

**SUMMARY:** The State of Florida has petitioned for approval of alternate odometer requirements to certain requirements under Federal odometer law. NHTSA preliminarily grants Florida's petition regarding proposed alternate disclosure requirements for vehicle transfers involving casual or private sales. NHTSA preliminarily denies Florida's petition regarding proposed alternate disclosure requirements for sales involving licensed dealers. NHTSA preliminarily denies Florida's petition regarding proposed alternate disclosure requirements for sales of leased vehicles.

**DATES:** Comments are due no later than September 7, 2011.

**ADDRESSES:** You may submit comments [identified by DOT Docket ID Number NHTSA-2010-####] by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted