SUPERFUND AMENDMENT AND REAUTHORIZATION ACT

TITLE III EMERGENCY PLANNING AND COMMUNITY
RIGHT TO KNOW ACT OF 1986

42 USC 11001
WV CODE §15-5A

HOW TO COMPLY PACKET

January 2009

INTRODUCTION

The Emergency Planning and Community Right to Know Act require covered facilities to comply with certain planning and reporting requirements.

The enclosed packet contains information sheets and forms to assist you in determining IF you are subject to any of the planning and/or reporting requirements and to provide you with the appropriate Tier II forms if you are subject to the reporting requirements.

If you need additional assistance, please contact:

1. The Local Emergency Planning Committee (LEPC) in the county where your facility is located. If you do not have the address of your LEPC, please contact the West Virginia Division of Emergency Management office for the address.

2. The West Virginia State Emergency Response Commission at 304.558.5380 or the World Wide Web at www.wvdhsem.gov.

3. The Environmental Protection Agency's federal information line:
   1-800-424-9346

42 USC 11022/WV CODE §15-5A
ANNUAL CHEMICAL INVENTORY REPORT TIER II

Due March 1:	Tier II Emergency and Hazardous Chemical Inventory Report (file SIMULTANEOUSLY with the required fee)
Submit Tier II To:	WV State Emergency Response Commission, Local Emergency Planning Committee, and Local Fire Department with jurisdiction
Submit Fee To:	WV State Emergency Response Commission
Who Must File:	The owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical as defined under the OSHA Hazard Communication Standard, 29CFR 1910.1200
Quantity:	10,000 pounds for a hazardous chemical
	500 pounds or the threshold planning quantity, whichever is lower, for Extremely Hazardous Chemicals" listed under Section 302 of EPCRA (40 CFR Part 355)
Failure to Comply:	Under federal and state statues, civil penalties may be assessed.
	Citizen suits against facility owners or operators for failure to comply are also authorized.

West Virginia requires an original signature along with the submission of the Tier II report. The state is recommending and requesting that companies use the Tier2 Submit 2008 to print the report and file electronically. This is NOT mandatory.

You must also submit a Tier II report to the LEPC's and Fire Department with jurisdiction by hard copy or disc.

Using Tier2 Submit 2008

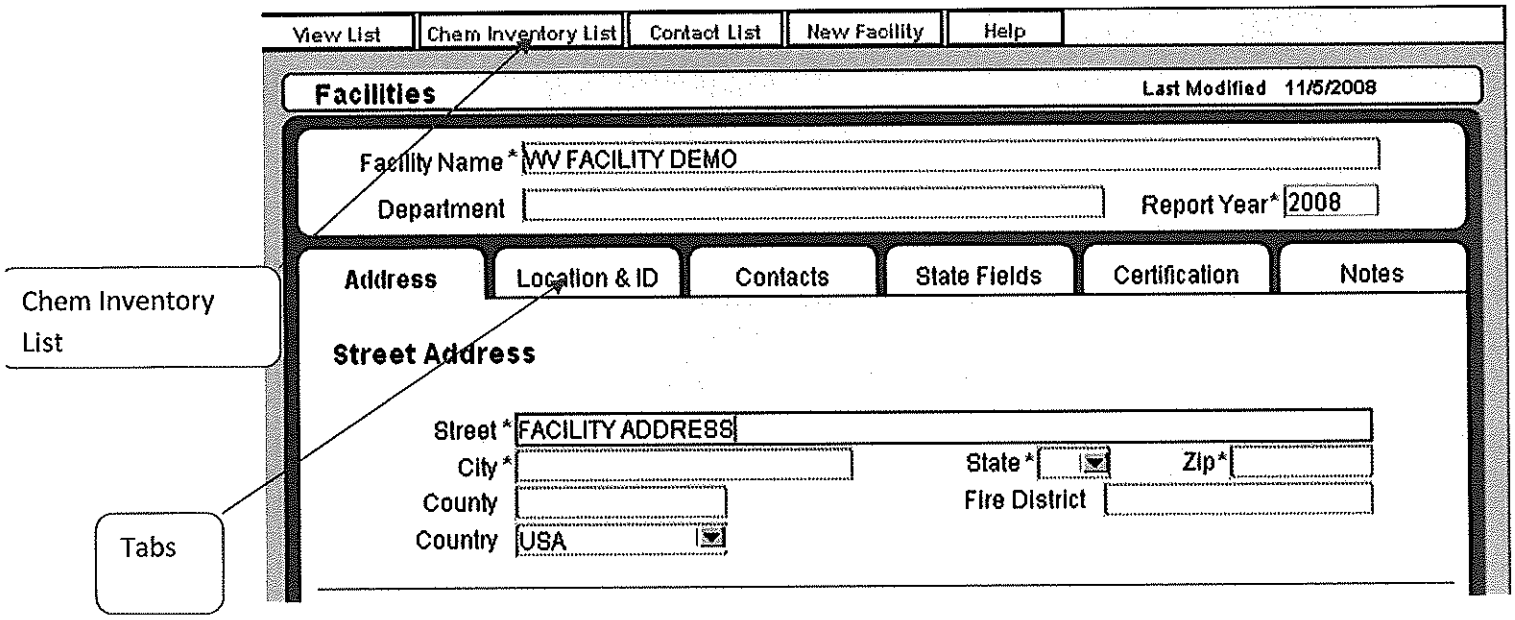
The Tier2 Submit Software can be found at:

http://www.epa.gov/emergencies/content/epcra/tierii

1. On the webpage, select Tier2 Submit Software.

2. In order to download the Tier2 Submit Software, select the appropriate choice for the type of operating system (Windows or Macintosh) you have.

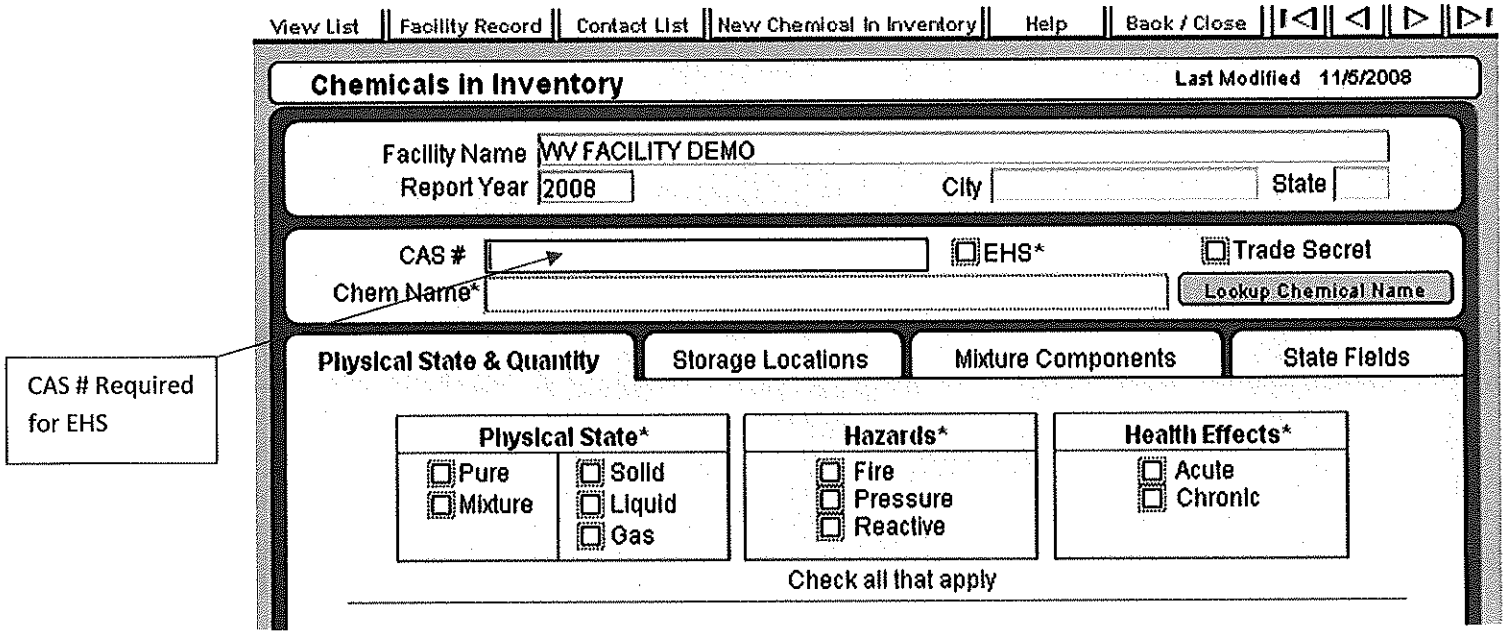
3. Select run or Save. When you run the software, you will get a start up window. After starting program, the following window will appear:



4. Enter all of the Facility Information.

5. Enter all mandatory information (indicated by a Blue Star) on the Facilities page and in each one of the tabs provided on the page.

6. Enter chemical information by selecting Chem Inventory List on the top of the Tier2 Submit form. The following window will appear:



7. Enter all mandatory information (indicated by a Blue Star) on the Chemicals in Inventory page and in each one of the tabs provided on the page. An EHS requires a CAS number.
8. On the certification page, type in the name of the individual who will be signing the Tier2 and the date of completion. The form will look like

this:

View List | Chem Inventory List | Contact List | New Facility | Help

Facilities Last Modified 11/6/2008

Facility Name *

Department Report Year* 2008

Address | Location & ID | Contacts | State Fields | **Certification** | Notes

Certification | Site Plan Files

Optional Attachments

- ☐ I have submitted a site plan.
- ☐ I have attached a description of dikes and other safeguard measures.
- ☐ I have attached a list of site coordinate abbreviations.

☐ Failed Tier2 Submit validation State / Local Fees Total $

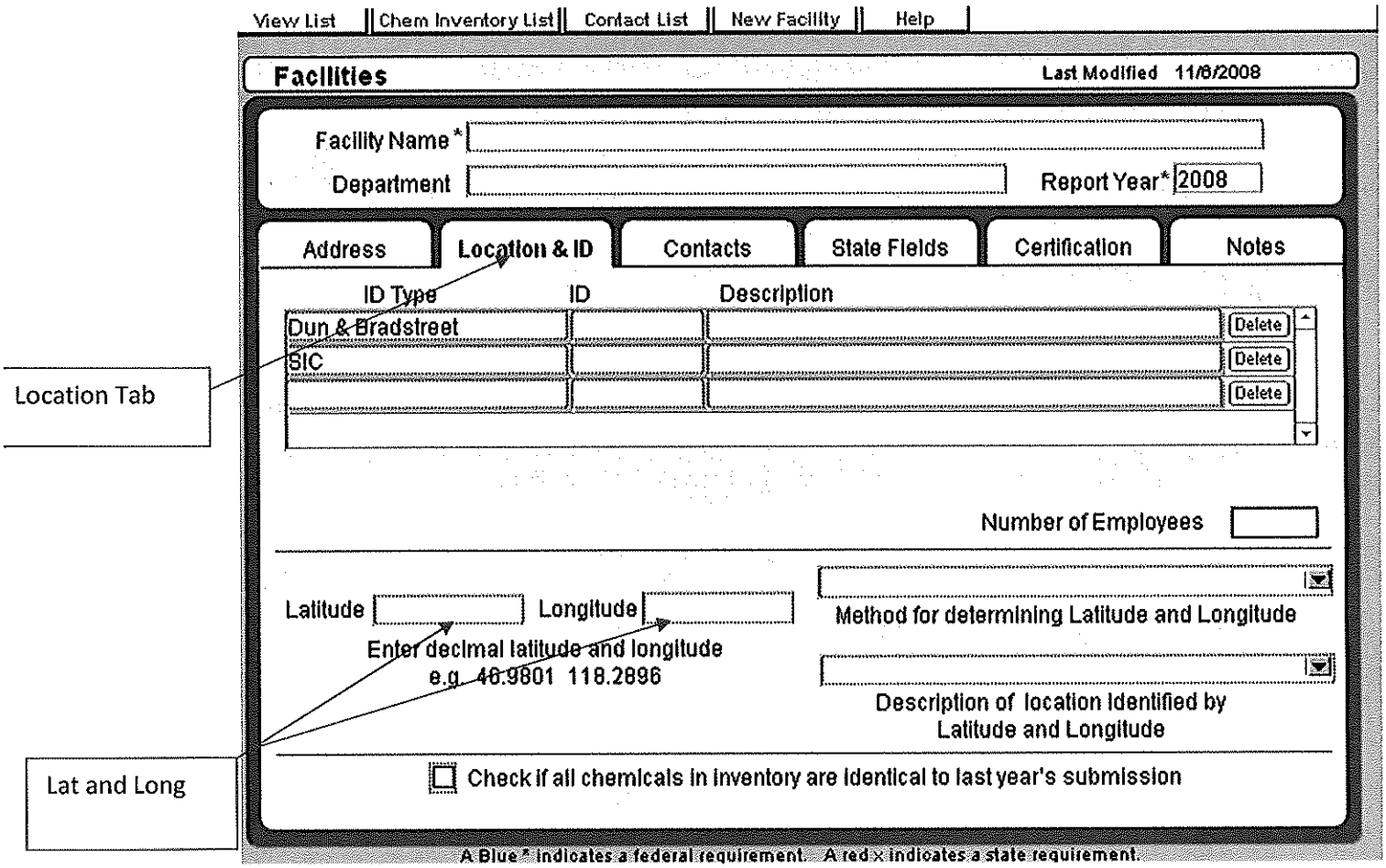
I certify under penalty of law that I have personally examined and am familiar with the information contained in this submission, and that based on my inquiry of those individuals responsible for obtaining the information, I believe the information submitted is true, accurate, and complete.

Signature* Date Signed

Name and official title of owner / operator OR owner / operator's authorized representative

A Blue * indicates a federal requirement. A red × indicates a state requirement.

****In addition to the mandatory information, other information including longitude and latitude can be entered on the form. While this is not mandatory, its inclusion would be appreciated by the state. It can be found under the location tab and will look like this:



9. After completing all mandatory and other information, select Create Submission from the file menu. If you are still in the Chem Inventory List, you will need to return to Facility Record prior to selecting the file menu.

10. The program will guide you through a verification process to determine if any mandatory information has been omitted or entered incorrectly. If the form fails the validation process, you can view or print a copy of the validation report. The report will identify what information needs to be provided or corrected for the facility to pass validation. You will need to go back to the Tier 2 form and enter or change the information shown on the validation report.

11. After passing the validation report, you will be able to prepare a hardcopy report. Select Create Submission from the file menu. You will have the option of printing a full report or an original style report for hard coy submission. Regardless of which style you

choose, the certification page must be signed, dated and accompanied by the proper payment for submission to the WV SERC.

12. To create an electronic file, select this option from the Create Submission page. You will be prompted to save the file to a directory of your choice. If you are going to submit the electronic file by email, select the .t2s extension to save the file since the state file server does not allow receipt of .zip files. If you prefer, a CD of the electronic file, along with a cover letter and an original signature, can be sent to the WV SERC. For additional information concerning electronic filing, contact Misi Savage at 304.558.5380.

A summary of the annual chemical inventory reporting requirements may be found on the next page.

SUMMARY OF ANNUAL CHEMICAL INVENTORY REQUIRMENTS

Section 312 of SARA Title III requires the annual filing of a chemical inventory reporting form known as Tier I or Tier II. The WV State Emergency Response Commission REQUIRES Tier II for all West Virginia facilities required to report.

March 1 is the due date for filing Tier II, and it covers the previous calendar year. Submission is REQUIRED on the chemical inventory form. A computer-generated form containing all of the information on the chemical information form is encouraged. Tier II and the applicable fee are REQUIRED to be filed SIMULTANEOUSLY to the WV State Emergency Response Commission.

This requirement applies to the owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous substance as defined under the OSHA Hazard Communication Standard, 29 CFR 1910.1200.

The US EPA has established a threshold of 10,000 pounds for hazardous substances present at a facility at any given time during a calendar year as the threshold for requiring the filing of Tier II reports.

The US EPA has established a much more conservative reporting threshold for "Extremely Hazardous Substances". An Extremely Hazardous Substance is subject to reporting if it is present at a facility in an amount equal to or greater than 500 pounds, or the "Threshold Planning Quantity", whichever is less. This "List of Lists" may be found on the EPA Website at www.epa.gov.

The Tier II form contains specific information about the quantities and storage conditions of specific hazardous substances at a facility. It includes information on the specific location of the substances. The specific location of the substances may be withheld from the public under section 324 of SARA Title III. A "Confidential Location Information Sheet", form SARA 312 C may be used for this purpose. You will find a set of instructions included in this packet that covers filing the Tier II, and if appropriate, will include how to file the Confidential Location Information Sheet.

Remember, if you are subject to paying a fee, the fee must be file SIMULTANEOUSLY with the appropriate report, as required.

WV State Emergency Response Commission
Fee Schedule

March 1

All fees and forms must be filed SIMULTANEOUSLY.

Make check payable to WV SERC.

Mark all checks Tier II 2008 filing.

Mail to: WV State Emergency Response Commission
Attn: Misi Savage
1900 Kanawha Boulevard E.
Building 1, Room EB 80
Charleston, WV 25305

Email Electronic Filings to:

Melyssa.H.Savage@wv.gov

Fees shall be payable in accordance with the schedule listed below. If your check covers payment for more than one facility, please use the "Multiple Facility Fee Sheet" in your packet.

1. Federal Government entities – Any facility owned or operated by the Federal Government is exempt from paying any fee. This exemption applies solely to fees and does not exempt them from reporting.

2. Local, County or State entities – Any facility owned or operated by a local, county or state entity will have an aggregated fee, regardless of the number of facilities.

3. Any facility that houses substances on site that is required to file. The fee schedule shall be:

Base Tier II filing fee: reporting one of more hazardous substance	25.00
Extremely Hazardous Substances	50.00 per
For hazardous substances in excess of 5	10.00 per

The fee for facilities housing substances shall be capped at $100.00 per facility.

4. Any oil or gas facility company, regardless of the number of wells. The fee schedule shall be:

Base Tier II filing fee:	25.00
For wells in excess of 35	10.00 per

5. If your Tier Two information and filing fee is received after March 31, you must pay a 20% late filing fee. This applies to all facilities and oil and gas sites.

6. If you do not file your Tier Two information, your company will be turned over to the Attorney General's office for pursual of fees. If you continue not to comply, you will be turned over to the US EPA for failure to file appropriate reports.

SARA TITLE III
MULTIPLE FACILITIES SHEET

_____
OWNER/OPERATOR

CHECK # _____

DATE _____

Facility Name	Street Address	City	County	Fee

MAKE CHECKS PAYABLE TO:

WV STATE EMERGENCY RESPONSE COMMISSION
1900 KANAWHA BLVD E.
BUILDING 1, ROOM EB 80
CHARLESTON, WV 25305

EMERGENCY PLANNING AND RIGHT TO KNOW ACT (SARA TITLE III)
FACILITY RESPONSIBILITIES

FEES

Fees are due March 1 each year and must be filed SIMULTANEOULSY with applicable required forms.

Subtitle A-Emergency Planning and Notification-Sec. 301, 302, 303

1. **Committee Membership – Sec. 301(c)**
   a. Facility owners and operators subject to emergency planning and notification requirements shall be members of their Local Emergency Planning Committee.

2. **Emergency Planning Notification – Sec. 302 (c), 303 (3), 303 (d)**
   a. Facility owners and operators shall notify the West Virginia State Emergency Response Commission (WV SERC), Local Emergency Planning Committee (LEPC) and Fire Department with jurisdiction that they are subject to the requirements of this section.
   b. Facilities must notify the WV SERC and LEPC of any changes.
   c. Facilities must notify the LEPC who the facility emergency coordinator is, who will participate in the emergency planning process.
   d. By March 1 each year, the facility shall comply with the annual plan review process.
   e. Upon request by the LEPC, facilities will promptly provide information.

3. **Spill Reporting – Sec. 304 (b)(c)**
   a. Immediately after the release of a substance covered by this section, the facility must notify the LEPC's designated emergency reporting number and the WV SERC. This notification is in addition to reporting requirements under other statutes.
   b. As soon as practicable after a release requiring notification, facilities shall provide a written follow-up notice.

Subtitle B-Reporting Requirements-Sec. 311,312 and 313

1. **Material Safety Data Sheets – Sec. 311**
   a. Facilities required to prepare or have available a Material Safety Data Sheet for a hazardous substance under OSHA, shall submit a Material Safety Data Sheet for each substance or a list of substances with hazards to:

i. The LEPC
ii. The WV SERC
iii. The fire department with jurisdiction over the facility

2. **Hazardous Chemical Inventory form – Tier Two – Sec. 312 due March 1**
   a. Facilities subject to Sec. 311 shall prepare and submit annually a hazardous chemical inventory form. West Virginia requires Tier Two.
   This form should be submitted to:

      i. The LEPC
      ii. The WV SERC
      iii. The Fire Department with jurisdiction over the facility

3. **Fire Department Access – Sec. 312 (f)**
   a. Upon request of the local committee, facilities shall allow inspection by the fire department with jurisdiction.

4. **Toxic Chemical Release Form R-Sec. 313**
   a. Facilities subject to these requirements shall submit Form R annually, July 1, to the US EPA, Washington DC and to:

      West Virginia State Emergency Response Commission
      1900 Kanawha Blvd. E.
      Building 1, Room EB 80
      Charleston, WV 25305

Section 304 – EMERGENCY NOTIFICATION
REPORT OF RELEASE OF SUBSTANCE

If there is a chemical accident at a facility or on a transportation route in your community, and if the accident results in the release of any one of the large number of hazardous substances, there are certain state and federal emergency reporting requirements.

Under state and federal statues, a facility must immediately notify the LEPC and the WV SERC of the release of more than a predetermined amount (RQ)* of any one of these substances. The National Response Center must be notified if the release is a CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) substance.

If the release results from a transportation accident, the transporter should dial 911 or the local operator to report it. US DOT has specific reporting requirements contained in 49 CFR 171.15 and 171.16 and 49 CFR 172.

Substances covered by these requirements include not only the "Extremely Hazardous Substances (EHS)" listed by EPA in 40 CFR Part 355 known as the EHS list, but also more than 700 hazardous substances subject to the emergency notification requirements under section 103 (a) in 40 CFR Part 302 (known as CERCLA). Some substances are on both the EHS list and the CERCLA list.

*Each EPA hazardous substance has an assigned value called a "reportable quantity" or RQ. A RQ is a quantity of a hazardous substance that, when release into the environment, triggers reporting requirements.

SPILL REPORTING NOTIFICATION

Organizations Receiving Report

CHEMICAL	LEPC	WVSERC	WV DEP	NRC	Operator or 911	FD
EHS	X	X	X	X		
CERCLA	X	X	X	X		
Hazardous Substance spilled during transportation			X			
Hazardous Gas Leak Hazardous Material Combustible Flammable Liquid		X	X		X	X
***Continuous Releases**		X				
****Federal/State Permitted Releases are EXEMPT**						

***CONTINUOUS RELEASES** (40 CFR Parts 302 and 355) are exempt from SARA Title III Section 304 reporting requirements. This rule sets less stringent requirements for reporting releases of hazardous substances IF those releases are continuous, stable in quantity and rate and incidental to manufacturing or treatment processes. Initial notification is required as well as certain follow-up procedures.

****FEDERAL/STATE PERMITTED RELEASES** are exempt from SARA Title III Section 304 reporting requirements. A Federal/State permitted release is a permitted release if it is subject to and in compliance with specific limitations established under federal or state environmental programs. The release must fall within the definition of a federal/state permitted release AND the hazardous substance released complies with the applicable permit license or control mechanism and falls within the permitted limit. REPORT THESE RELEASES IF THE AMOUNT SPILLED ABOVE THE PERMITTED AMOUNT EXCEEDS THE REPORTABLE QUANTITY.

FD-Fire Department with Jurisdiction
WVSERC- WV State Emergency Response Commission 304.558.5380
LEPC-Local Emergency Planning Committee- 24-hour warning point or 911
WV DEP- WV Department of Environmental Protection
NRC- National Response Center –(800) 424-8802

SUMMARY OF EXEMPTIONS FOR RETAIL GAS STATIONS ONLY

Reference: Emergency Planning and Community Right-to-Know Act, Sections 311 & 312

Convenience stores and truck stops that sell gasoline to the public also meet the definition of "retail gas stations". This rule *does not apply* to facilities such as school bus or public transportation gas depots.

Federal EPCRA Sections 311 and 312 inventory reporting requirements changed effective 1 February 1999. *If* your tanks hold less than 75,000 gallons of gasoline or less than 100,000 gallons of diesel fuel **and** you are in compliance with the Underground Storage Tank (UST) requirements, you are no longer required to report these inventories annually to the WV SERC, your LEPC or the local fire department with jurisdiction. This change applies only if you store your fuel entirely underground.

Retail gas stations that were not in compliance with all applicable UST requirements at any time during a calendar year **may not apply** the new thresholds for EPCRA reporting for that calendar year.

Any retail gas station that has at least 10,000 pounds of gasoline or diesel fuel stored in tanks that **are not entirely underground** must report on the total gasoline or diesel fuel at the facility, *including* any part that is stored entirely underground. Similarly, any retail gas station that has at least 75,000 gallons of gasoline or 100,000 gallons of diesel fuel **stored entirely underground** must report on the total gasoline and diesel fuel at the facility, including any that is not stored entirely underground. **In other words, whether a facility triggers the threshold for underground storage, or for aboveground storage, they report on the total gasoline of diesel fuel at the facility.**

If you have any questions about Underground Storage Tank requirements, check out EPA's UST home page at http://www.epa.gov/oust.

For more information how this affects you, call the West Virginia Division of Homeland Security and Emergency Management, at 304-558-5380 or the EPA Hotline at (800)424-9346 or EPA's homepage at:
http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/index.html.