

NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES  
STATE OFFICE OF EMERGENCY MANAGEMENT



**Homeland Security  
and Emergency Services**

**Emergency  
Management**

**Superfund Amendments and  
Reauthorization Act (SARA), Title III**

*A Guidance Document for Local Emergency Planning  
Committees*

October 2016

# Table of Contents

I. Foreword.....	2
II. Acknowledgements .....	2
III. Introduction .....	3
IV. Goal.....	3
V. Superfund Amendments and Reauthorization Act of 1986 (SARA) .....	3
VI. History and Implementation of SARA Title III in New York State .....	9
VII. LEPC Roles and Responsibilities.....	11
VIII. EPCRA Tier II Reporting Through E-Plan .....	20
Appendix A: Sample of Bylaws of a Local Emergency Planning Committee.....	23
Appendix B: Sample Letter Announcing Meeting of LEPC and Public Availability of Hazardous Materials Response Plan .....	29
Appendix C: Basic Elements of Robert’s Rules of Order .....	31
Appendix D: E-Plan Information .....	38
Laws/Regulations for References .....	61
Assistance.....	61

## **i. Foreword**

This guide is being created to equip State and local planners and Local Emergency Planning Committees with a firm understanding of the Superfund Amendments and Reauthorization Act (SARA) Title III, Emergency Planning and Community Right to Know Act (EPCRA). In doing so, this guide will include subject matter that will assist LEPCs in meeting 1986 planning standards as they apply to current thinking strategies, best practices, and planning criteria.

The State Office of Emergency Management website (<http://www.dhSES.ny.gov/oem/>) can provide the reader with additional information on this topic. Follow up questions can be directed to:

Dan Miller, Disaster Preparedness Program Representative II

Planning Section, NYS Office of Emergency Management

[Dan.Miller@dhSES.ny.gov](mailto:Dan.Miller@dhSES.ny.gov)

518-292-2862

Or

David DeMatteo, Planning Section Chief

SARA Title III Program Manager

NYS Office of Emergency Management

[david.demateo@dhSES.ny.gov](mailto:david.demateo@dhSES.ny.gov)

518-292-2366

## **ii. Acknowledgements**

Our office would like to thank and acknowledge the Monroe County LEPC for their support in the creation of this guidance. The Monroe County LEPC provided their bylaws and a letter to the media announcing an LEPC meeting/notice of plan availability, both of which can be used as a model for other LEPCs to use. These tools can be found in the appendices of this guidance document. We appreciate the allowance of the use of these documents.

## **I. Introduction**

There are a variety of emergency planning requirements that State and local planners address on a daily basis. Many of these requirements lead to the development of a plan, then go into a maintenance period, and are updated accordingly. However, the planning requirements imposed on Local Emergency Planning Committees (LEPCs) are very different. These elements, which date back to 1986, require both public and private representation, and are driven from the ever-changing chemical sites in the community. In addition, other local planning requirements often interfere or compete with the planning structure required for chemical preparedness at the local level. Further, it is recognized that the culture, mission, and scope of local planning teams is very different than that of 1986. As a result, some confusion often exists as to the mission of a LEPC, what it is required to address, the representatives that support it, and the technical basis for each plan.

## **II. Goal**

The goal of this document is to provide reference to those responsible for implementing the provisions of the Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III - Emergency Planning and Community Right to Know Act (EPCRA). This document outlines New York State's strategy for SARA Title III and serves as a guide to those coordinating and managing the planning process at the local level. It is our intent that this document will outline and provide clarity on applicable laws, identify the steps to be taken to implement SARA Title III, and provide guidance on meeting the planning requirements for this program.

## **III. Superfund Amendments and Reauthorization Act of 1986 (SARA)**

### ***(a) Overview - A Review of Laws***

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was established in 1980. CERCLA was enacted as a result of a major environmental disaster that became a significant public health issue, known as the Love Canal. CERCLA was intended to provide the means to identify responsible parties, fund the cleanup of impacted sites, and diminish the dangers of hazardous waste sites that would create significant risk to public health and the environment.

In October 1986, following the chemical incident in Bhopal, India, the Superfund Amendments and Reauthorization Act amended CERCLA by making numerous changes and expanding the scope of the "Superfund" program. Some of the major changes SARA brought to CERCLA included:

- Provided new enforcement authorities and settlement tools
- Increased State involvement in all phases of the Superfund program
- Increased focus on human health problems posed by hazardous waste sites

- Encouraged greater citizen participation in making decisions on how sites should be cleaned
- Required the EPA to revise the Hazard Ranking System (HRS) to ensure it accurately assessed the relative degree of risk to human health and the environment posed by uncontrolled hazardous waste sites

SARA also created the Emergency Planning and Community Right to Know Act (EPCRA), or SARA Title III. This is a statute (Public Law 99-499) that was designed to improve community access to information about hazardous chemicals and to facilitate the development of emergency response plans by State and local governments. The major components of EPCRA require states, local government, and industry to:

- Develop and evaluate emergency preparedness plans
- Identify facility emergency notification procedures
- Initiate community right-to-know procedures
- Establish a system for toxic chemical release reporting

***(b) Section 301: Establishment of State Commissions, Emergency Planning Districts, and Local Committees***

Section 301 of EPCRA is intended to encourage and support the integration of emergency planning efforts of both government and industry. The Governor of each State was required to designate a State Emergency Response Commission (SERC) by April, 1987. The SERC was required to designate Emergency Planning Districts and establish Local Emergency Planning Committees (LEPCs) to facilitate the planning effort from the local level no later than July, 1987. The LEPCs were required to involve representatives from a variety of backgrounds and disciplines. The LEPCs are responsible for public notification of LEPC activities, public meetings to discuss the emergency plan, public comments on the plan and responses to such comments, distribution of the emergency plan, and establishing procedures for receiving and processing requests from the public for information under section 324 (discussed further), including Tier II information under section 312 (discussed further).

***(c) Section 302: Substances and Facilities Covered and Notification***

Under section 302 of EPCRA, the industry or facility is required to:

- Notify the SERC of the presence of extremely hazardous substances on site in quantities above the threshold planning quantity (TPQ)<sup>1</sup>. Facilities subject to this notification are required to support the local emergency planning committee (LEPC).

---

<sup>1</sup> A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the SERC, LEPC, and the local fire department that such facilities are subject to emergency planning under SARA Title III.

- Provide the LEPCs with the name of their facility coordinator, who will participate in the hazardous material contingency planning process and facility notification in the event of a release of an extremely hazardous substance (EHS)<sup>2</sup>.
- Provide Material Safety Data Sheets (MSDS) and Chemical Inventory Forms (Tier II) to the SERC, LEPC, and the local fire department if chemicals are present in an amount exceeding a specific threshold.

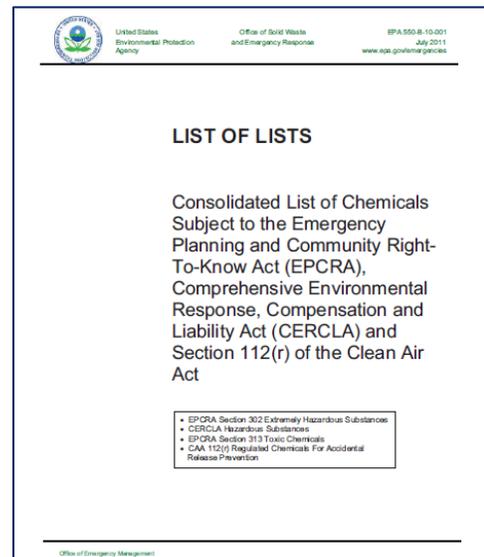
The United States Environmental Protection Agency (U.S. EPA) is the regulatory agency of SARA Title III. The Federal Government’s role also includes the establishment of regulations, preparation and dissemination of guidance information, allocation of available funds to States, training, and enforcing inventory reporting compliance.

***(d) Section 303: Comprehensive Emergency Response Plans***

Under section 303 of EPCRA, each Emergency Planning District (or LEPC) is required to have completed a *Comprehensive Emergency Response Plan*, sometimes referred to as a Hazmat Plan, Hazmat Response Plan, or SARA Title III plan. It is important to note that the Comprehensive Emergency Response Plan (CERP) is not to be confused with the local *Comprehensive Emergency Management Plan (CEMP)*. The requirements of both types of plans will be discussed further in this document on page 16. The LEPCs are the focal point for completing the Comprehensive Emergency Response Plan. Facility reporting procedures are to be included in the CERPs.

These emergency response plans must meet the nine planning requirements as follows:

- Identify facilities and transportation routes of an EHS (found on the EPA List of Lists)
- Describe emergency response procedures, on and off site
- Designate a community coordinator and facility coordinator to implement the plan
- Outline emergency notification procedures
- Describe how to determine the probable affected area and population of a release
- Describe local emergency equipment and facilities and the person(s) responsible for them
- Outline evacuation plans
- Provide a training program for emergency responders (include schedule)



**Figure 1: EPA's List of Lists which contains the list of Extremely Hazardous Substances**

<sup>2</sup> Any substance on the list of substances in Title III Regulations of the Superfund Amendments and Reauthorization Act of 1986 that could cause serious health effects following short-term exposure.

- Provide methods and schedules for exercising emergency response plans

Planning activities were initially focused on the 356 EHS's found on the EPA List of Lists. This list included the TPQs for each substance. Planning requirements for EHSs are based upon a facility having 500 pounds of a substance on site or the substance's TPQ, whichever is lower. Any facility that has any of the listed chemicals at its facility must notify the SERC and LEPC within 60 days of receiving its first shipment or producing the substance on-site.

***(e) Section 304 Emergency Notifications***

Section 304 of EPCRA includes the emergency notification requirements for the release of a hazardous substance into the environment that is equal to or exceeds the minimal reporting quantity set forth in the regulations. This requirement covers 1,000+ chemicals, including the 356 EHSs found on the EPA *List of Lists* and more than 700 chemicals under CERCLA section 103(a). Emergency notification requirements for transportation incidents are also found in this section. Release notification should be made to the LEPC, New York State Spills Hotline (800-457-7362), and the National Response Center (if criteria are met). Written follow up is required with the SERC and the LEPC.



Figure 2: MSDS Resource for the HAZ COM Standard

***(f) Section 311 Material Safety Data Sheets***

Under section 311, the owner or operator of a facility must submit a material safety data sheet (MSDS) for each hazardous chemical that is stored or used in the workplace over a certain quantity. Listed under OSHA's Hazard Communication (Haz Com) Standard (29CFR1910.1200), these MSDSs must be submitted to the SERC, LEPC, and local fire department. Unless there is a significant change in information, these MSDSs only need to be submitted one time per chemical. The thresholds for submitting MSDSs differ per substance; MSDSs for EHSs need to be submitted at 500 pounds or the TPQ, whichever is lower. MSDSs for other hazardous materials (or non-EHSs) need to be submitted at 10,000 pounds

or more. The exceptions are retail gasoline (75,000 pounds) and diesel fuel (100,000 pounds.)

***(g) Section 312 Emergency and Hazardous Chemical Inventory Forms***

Under section 312, facilities that meet the requirements of section 311, must annually submit an emergency and hazardous chemical inventory form to the SERC, LEPC, and the local fire department having jurisdiction over the facility. This is done via a federally developed Tier II chemical inventory form. Tier II reports require basic facility identification information, employee contact information for emergencies and non-emergencies, and information about the chemicals stored or used at the facility. Tier II reports contain specific information including:

- Chemical name or common name as indicated on the MSDS
- An estimate (in ranges) of the maximum amount of the chemical present at any time during the preceding calendar year and the average daily amount
- A brief description of the manner of storage of the chemical location of the chemical at the facility
- An indication of whether the owner elects to withhold location information from disclosure to the public.

This information must be submitted on or before March 1 of each year and is available to the public from LEPCs and SERCs through Freedom of Information Law requests.

The Tier II reporting requirements are the same as the requirements found in Section 311 (for MSDSs). All EHS chemicals must be reported at 500 pounds or the TPQ, whichever is lower. All non-EHS chemicals must be reported at a threshold of 10,000 pounds or more and if an MSDS is required on site for that product under 29CFR1910.1200. The exceptions are retail gasoline (75,000 pounds) and diesel fuel (100,000 pounds). The regulations pertaining to Tier II reporting can be found in 40CFR370.41 (Hazardous Chemical Reporting: Community Right-to-Know, Emergency and Hazardous Chemical Inventory Forms).

Traditionally, facilities required to report under EPCRA have used hardcopy Tier II forms or some type of electronic reporting method. The variances in reporting methods make these reports difficult to manage and not always easy to access. New York State encourages the use of E-Plan (an on-line reporting system created and maintained at the State University of Texas at Dallas) for Tier II reporting. E-Plan will be discussed at length further in this guidance document on page 20.

	<b>Section 302</b>	<b>Section 304</b>	<b>Sections 311/312</b>	<b>Section 313</b>
<b>Chemicals Covered</b>	356 extremely hazardous substances	>1,000 substances	500,000 products	650 toxic chemicals and categories
<b>Thresholds</b>	Threshold Planning Quantity 1-10,000 pounds on site at any one time	Reportable quantity, 1-5,000 pounds, released in a 24-hour period	TPQ or 500 pounds for Section 302 chemicals; 10,000 pounds on site at any one time for other chemicals	25,000 pounds per year manufactured or processed; 10,000 pounds a year used; certain persistent bioaccumulative toxics have lower thresholds

Figure 3: EPCRA Chemicals and Reporting Thresholds; Source: U.S. EPA EPCRA Fact Sheet, March 2000

**(h) Section 313 Toxic Chemical Release Forms**

Section 313 of EPCRA is commonly referred to as the Toxic Release Inventory (TRI). This section requires certain facilities (see Figure 4 below) that manufacture, use, or process toxic chemicals to report to the EPA annually on the amounts of each chemical that are

released to each type of environment (air, water, or land) or transferred off site. These reports are provided on the federally developed form “R”.

The reporting criteria for Toxic Release inventory can be found at

<https://www.epa.gov/sites/production/files/documents/ry2012rfi.pdf>

Additional information and reporting requirements can be found at

[https://www.epa.gov/sites/production/files/2014-02/documents/2011\\_epa\\_tri\\_program\\_factsheet.pdf](https://www.epa.gov/sites/production/files/2014-02/documents/2011_epa_tri_program_factsheet.pdf)

### ***(i) Section 322 Trade Secrets***

Section 322 of EPCRA addresses trade secrets as they apply to EPCRA Sections 303, 311, 312, and 313. A facility cannot claim trade secrets under section 304. When a facility claims specific chemical identities as trade secret, they still must provide a generic classification of hazard for that chemical.

If chemical identity can be legally withheld from the public, EPCRA Section 323 allows the information to be disclosed to health professionals who need the information for diagnostic and treatment purposes or local health officials who need the information for prevention and treatment activities.

In non-emergency cases, health professionals must sign a confidentiality agreement with the facility and sign a written statement of need. In emergent cases, health professionals provide these documents to the facility as soon as circumstances permit.

### ***(j) Section 324 Public Availability of Plans, Data Sheets, Forms, and Follow-Up Notices***

Section 324 of EPCRA requires that each comprehensive emergency response plan, material safety data sheet, chemical inventory form, toxic chemical release form, and follow up emergency notice be available to the general public during normal working hours at the location, or locations, designated by the Governor, SERC, or LEPC as appropriate. Upon request of the facility owner/operator, the exact physical location of a specific chemical may be withheld from the general public for security purposes.

Each LEPC shall publish a notice in local news media that the emergency response plan, MSDSs, and inventory forms have been submitted under this section. The notice shall state that follow up emergency notices may subsequently be reissued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or follow up notice may do so at a location to be determined by the LEPC.

#### **Who's Covered by TRI?**

The TRI reporting requirement applies to facilities that have 10 or more full-time employees, that manufacture (including importing), process, or otherwise use a listed toxic chemical above threshold quantities, and that are in one of the following sectors:

- Manufacturing (Standard Industrial Classification (SIC) codes 20 through 39)
- Metal mining (SIC code 10, except for SIC codes 1011, 1081, and 1094)
- Coal mining (SIC code 12, except for 1241 and extraction activities)
- Electrical utilities that combust coal and/or oil (SIC codes 4911, 4931, and 4939)
- Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste treatment and disposal facilities (SIC code 4953)
- Chemicals and allied products wholesale distributors (SIC code 5169)
- Petroleum bulk plants and terminals (SIC code 5171)
- Solvent recovery services (SIC code 7389)

Figure 4: EPA Requirements for TRI; Source: U.S. EPA EPCRA Fact Sheet, March 2000

A sample copy of these notices can be found in **Appendix B** of this document.

#### **IV. History and Implementation of SARA Title III in New York State**

Subtitle A of EPCRA is entitled “Emergency Planning and Notification” and sets forth a procedure for the development of State and local emergency plans to deal with the threat of chemical accidents. Each State was required to appoint a State Emergency Response Commission (SERC). In New York State, by Executive Order #95 of 1987, Governor Mario Cuomo appointed the State Disaster Preparedness Commission (DPC) to act as the SERC. The DPC is comprised of representatives of 29 State agencies and one volunteer organization. The New York State Office of Emergency Management (NYSOEM) acts as the operational arm of the Commission.

A SERC working group was established to act as an advisory board to the SERC/DPC on emergency planning and training, reporting, and community awareness. The mission of the SERC working group is to facilitate the implementation of hazardous materials preparedness efforts as required by EPCRA. The working group is comprised of business, industry, State, and local representatives with a range of expertise in the hazardous materials response field. The SERC working group is currently comprised of the following agencies:

- NYS Office of Emergency Management (chair)
- NYS Office of Fire Prevention and Control
- NYS Office of Counter-Terrorism
- NYS Department of Health
- NYS Chemical Alliance
- NYS Department of Labor
- NYS Emergency Management Association
- NYS Division of State Police
- NYS Department of Environmental Conservation
- NYS Department of Transportation
- American Chemistry Council
- United States Environmental Protection Agency
- Business Council of the State of New York

Under EPCRA Section 301, the primary responsibility of each SERC was to establish emergency planning districts within the State. In New York, the SERC used the existing emergency management offices and identified each county as an emergency planning district, with the five counties of New York City designated as one district. One LEPC was appointed for each emergency planning district. The LEPC is responsible for preparing each county’s comprehensive emergency response plan. EPCRA requires that each LEPC include representatives from:

- Elected State and local officials
- Law Enforcement

- Fire Fighting
- First Aid or EMS
- Public Health
- Hospital
- Local Environmental Group
- Transportation
- Broadcast and Print Media Groups
- Community Group(s)
- Owner(s) and Operator(s) of Facilities

Other responsibilities of the SERC include:

- Provide planning and exercise guidance to the LEPCs
- Maintain, organize, and provide public access, in compliance with New York State Freedom of Information Law and policy, to:
  - Extremely Hazardous Substances (EHS)
  - Inventory reports
  - Release reports
  - Planning documents
- If collected, management of filing fees and distribution to LEPCs. The State of New York does not assess a fee to submit a Tier II form or MSDS.
- Provide general guidance and assistance to LEPCs
- Provide a point of contact for LEPCs, State and local government agencies, County Commissioners Association, U.S. EPA, and U.S. DOT
- Educate industry regarding reporting requirements

***(a) Funding***

Funding assistance for LEPCs comes in the form of the Hazardous Materials Emergency Preparedness (HMEP) Planning Grant. This grant is provided by the U.S. Department of Transportation and is administered by NYSOEM. The HMEP grant program is intended to provide financial and technical assistance as well as national direction and guidance to enhance State and local hazardous materials planning and training. The purpose of this grant is to increase State and local effectiveness in safely and efficiently handling hazardous materials accidents and incidents, enhance implementation of EPCRA, and encourage a comprehensive approach to emergency training and planning.

The grant award to New York State is based upon two deliverables, training and planning. The training portion of the grant is provided directly to the State Office of Fire Prevention and Control (OFPC) for the delivery of hazardous materials training curriculum. This training is provided free of charge to local and state first responders. The planning portion of the grant is provided to NYSOEM, with at least 75% of the planning grant award being passed through to the LEPCs for their use.

Each LEPC in New York State is encouraged to apply for the grant, which provides a minimum award each year. The grant award may increase based upon the total number of LEPCs that apply for and receive grant funds. As part of the HMEP Grant review process, LEPC meeting minutes, revised bylaws, and plan updates and/or amendments must all be submitted to NYSOEM.

The grant follows the federal fiscal year, running from October 1<sup>st</sup> through September 30<sup>th</sup>. New York State distributes the local HMEP grant applications to the LEPCs on or around April 1<sup>st</sup> of each year. For more information, please contact NYSOEM staff at 518-292-2302.

## **V. LEPC Roles and Responsibilities**

Pursuant to SARA Title III (Section 301), the members of the LEPC shall be appointed by the SERC. LEPC members are part of a broad-based collaborative effort to prepare its planning district to respond to incidents and emergencies involving hazardous materials. The LEPC should organize its membership to handle the various responsibilities, mandates, and deadlines by utilizing individual efforts, subcommittees, or contracted assistance.

By law, the LEPC is mandated to do the following:

- Appoint a chairperson
- Establish rules by which it shall function
  - Bylaws should be written and approved by the LEPC (**See Appendix A**)
  - Meetings conducted following Robert's Rules of Order (**See Appendix C**)
- Designate a Coordinator of Information to handle Freedom of Information Law requests (EPCRA Section 324)
  - Establish procedures for Freedom of Information Law (FOIL) Requests
  - Establish procedures for withholding disclosure when appropriate
- Evaluate resources necessary to develop, exercise, and implement the comprehensive emergency response plan (EPCRA Section 303)
- Establish procedures for requesting and obtaining MSDS and Tier II information from the regulated community (EPCRA Section 311 & 312)

The LEPC is presented with an opportunity to consolidate public and private safety efforts, meet the needs of the residents of the community, and design a simple and easy to use emergency response plan that can be rapidly and efficiently implemented by public safety agencies.

### ***(a) Establishment of Rules and Meeting Conduct***

The LEPC will need to structure their activities before they actually begin to work on planning tasks. This structure should include the management structure and a set of bylaws for the Committee. A sample set of bylaws has been provided for review in **Appendix A** of this document.

Within the bylaws for the LEPC, the following includes the minimum that should be addressed:

- Name of Committees
  - In New York State, each county was designated as an emergency planning district, with one LEPC designated per county. Each LEPC will be designated by county name.
- Powers and Duties
  - The LEPC has been established pursuant to EPCRA section 301(c). The LEPC shall have all the powers and duties conferred upon it by said law and as it may from time to time be amended. The principal duty of the LEPC shall be to develop an emergency response plan for the county and its included municipalities, and to review such plan annually. This plan shall contain, at a minimum, all the elements set forth in SARA Title III for such plans (i.e. 9 planning standards).
- Membership
  - Members of the LEPC shall be appointed by the SERC as mandated by law. The members of the LEPC represent various organizations, agencies, departments and facilities within the district. Each member is responsible for coordinating information and activities from the LEPC to their organization and for providing accurate feedback to their organization from the LEPC. Changes in membership must be submitted, in writing, to the SERC for approval. The SERC is required to respond back to the LEPC in writing within 30 days.
- Officers
  - At the first meeting, the LEPC shall elect, by majority vote, a Chairperson and Vice-Chairperson. These officers shall serve a term of one year with elections being held annually thereafter.
  - Ideally, the position of Chairperson would be fulfilled by the county emergency manager but this is not necessary. It is important to encourage term limits to reduce the opportunities for the LEPC to become stagnant and to not overburden LEPC members.
  - The powers of the Chairperson shall be to preside over meetings of the LEPC, appoint subcommittees as needed to conduct the business of the LEPC, act as the coordinating official with the SERC, and have other powers and duties as are customary for the presiding officer of similar committees.
  - The duties of the Vice-Chairperson shall be to preside over meetings of the LEPC in the absence of the Chairperson and to carry out other duties as directed by the Chairperson.
- Conduct of Meetings
  - The LEPC shall meet as often as necessary to conduct its business and in no event less often than once annually.
  - Unless otherwise provided for in the bylaws, the LEPC shall conduct its business in accordance with Robert's Rules of Order. (The basic elements of Robert's Rule of Order can be found in **Appendix C**)
- Public Participation and Access to Information
  - The public shall be encouraged to participate in the work of the LEPC by attendance at meetings.

- The public shall be notified of meetings of the LEPC in accordance with applicable provisions of the New York Open Meetings Law, specifically by advance notice through the public media. This is typically accomplished by publishing an article in a newspaper of general circulation. An example of this notice can be found in **Appendix B**.
- The LEPC shall develop an emergency response plan in accordance with SARA Title III (Section 303).
- The plan shall be made available for public examination and comment for a minimum of 30 days. Following the 30 days, the LEPC must give public notice and conduct at least one meeting in which members of the public are invited to discuss the plan prepared by the LEPC. Additionally, the public will have the opportunity to provide written comments to the LEPC (Section 324).
- After the opportunity for public discussion and comment on the proposed plan, the LEPC shall respond to comments, develop a final plan, and distribute it.

***(b) Scope of the LEPC Meeting***

The mission and intent of the LEPC is hazardous materials preparedness and planning as it relates to EPCRA. We recognize that more and more, LEPCs are becoming involved in all-hazards planning. However, the primacy for the planning effort should be to address the requirements in EPCRA. For the purpose and intent of the LEPC meetings, all non-EPCRA topics of discussion are secondary.

It's important to note that some of the details and discussion points for all-hazards planning may or may not be information that can be openly and readily disclosed to the media or the general public. This is especially true when discussing threat or vulnerability assessments, capabilities, capacities, and other sensitive information that does not belong in the public domain. Therefore, if the LEPC is addressing such topics, an effective control mechanism needs to be established to ensure that the appropriate audience is in attendance.

LEPCs should also consider limiting non-EPCRA discussion for competitive reasons as well. It's recognized that the private sector (industry) is required to support the LEPCs in meeting EPCRA compliance. However, when information regarding disaster assistance, emergency access, or risk assessment data is discussed with industry representatives present, it may put those industry representatives at an unfair advantage over other businesses, namely their competitors that are not in attendance. It is certainly vital to share such information with all business and industry. However, to make it fair and impartial, counties should make such information available to all businesses in their jurisdiction, not just those that are *required* to support the LEPC.

***(c) Emergency Plan Development***

EPCRA Section 303 requires the development and maintenance of a Comprehensive Emergency Response Plan. This section offers a suggested concept for developing a

comprehensive emergency response plan, possible plan format, and elements that should be included in the plan. This guidance can be used for a new plan being written or a revision of a currently established plan. A sample Table of Contents for a Comprehensive Emergency Response Plan has been provided on the following page.

## SAMPLE

### Comprehensive Emergency Response Plan

#### Table of Contents

#### Section I. General Considerations and Planning Guidance

- A. Introduction
- B. Purpose
- C. Scope
- D. Situation
  - a. Identify facilities and routes\*\*
  - b. Identify vulnerability zones\*\*
- E. Assumptions
- F. Concept of Operations (general sequence of events in the county)
- G. Plan Maintenance

#### Section II. Preparedness

- A. Available equipment and emergency facilities\*\* (contact information)
- B. Training\*\* (Programs and schedule)
- C. Exercises\*\* (Methods and schedule)

#### Section III. Response\*\* (All EHS facilities must each have a site-specific response plan.)

- A. Alert and Notification\*\*
- B. Activation (agencies follow agency specific plans)
  - a. Site Specifics
    - i. Industry\*\*
    - ii. Local/County Response Activities\*\* (including incident management)
- C. Evacuation\*\*/Sheltering
- D. Other Protective Actions
  - a. Decontamination
  - b. Triage, Treatment, Transport
- E. Requesting State Assistance (contact information for appropriate agencies)

#### Section IV. Recovery

- A. Containment and Cleanup
  - a. Owner/Spiller Responsibilities
  - b. County Responsibilities
  - c. State Responsibilities
- B. Requesting State Assistance (contact information for appropriate agencies)

**\*\* denotes items that address the nine planning requirements under EPCRA that are discussed further in the document.**

There has been great confusion expressed as to how the LEPC plan is integrated into the hierarchy of other locally developed plans. Figure 5 below illustrates the purpose, basis, and scope of the different plans State and local planners typically manage.

Plan	Purpose	Basis	Scope
County CEMP	Overarching policy, Authority, Command and Control	NYS Executive Law, Article 2B, Section 23	All-Hazards, general functions, roles, responsibilities
CERP aka Hazmat Plan aka SARA Title III Plan	County Level Hazmat Response Plan	SARA Title III (EPCRA)	Address 9 planning standards (see page 17)
Hazmat Plan	Fire Service <b>ONLY</b> Response to hazmat incidents	General Municipal Law (GMU) 204(f)	Address 6 planning standards (OFPC)
Agency-Specific Plans	The plan for an agency or organization	NIMS	Agency-Specific support

Figure 5: Overview of plan types, their associated purpose, basis and scope

***(d) Planning Taxonomy Application – Plans and Planning***

The County CEMP: Each county possesses an all-hazards comprehensive emergency management plan, or CEMP. This plan is the overarching plan in a jurisdiction that identifies the preparedness, response, and recovery mechanisms for all emergency situations. The development of this plan is authorized in Section 23 of NYS Executive Law, Article 2B. In local plan hierarchy, the CEMP is a “high-level” document of which all annexes and appendices align to or under. The scope of this plan cannot be confused with the plan required under SARA Title III.

EPCRA Plan Requirement: The plan required under SARA Title III is formally called the *comprehensive emergency response plan*, or CERP. This plan may also be known as the county hazardous materials plan, or SARA Title III Plan. Regardless of what the colloquial name of the plan is, the document should serve as a hazard-specific annex to the county CEMP. This annex narrows the scope of the CEMP to fixed-site hazardous material preparedness as required under EPCRA. This is a multi-agency plan that addresses nine planning standards (as discussed on page 5 and on page 17) and can be supplemented by agency-specific plans.

Hazardous Materials Plan: This planning requirement is applicable **ONLY** to the local fire service response to hazardous materials incidents. It does not address any of the requirements of the CERP, nor does it address any element of the county CEMP. It addresses six specific elements of how local fire service personnel will respond to a hazardous materials incident. This plan cannot be confused with the CERP or the CEMP. Rather, this plan should serve as an agency-specific plan to the CERP for how fire service resources will respond to a hazardous materials incident.

Agency-Specific Plans: As multi-agency plans (such as the CERP) are developed, many agencies agree to a specific responsibility or function within that plan. Examples may include managing traffic/access control points, facilitating or directing evacuations, or providing public warning. These functions are required elements in the CERP. However, the CERP is only as good as the mechanisms used to actually implement it. Therefore, upon

the concurrence of an agency's assignment of responsibility in the CERP, each agency should go back to the drawing board and write their own agency-specific plan or procedure for how they intend to support the activities that they agreed upon in the CERP. Far too often, this type of agency-specific plan is rarely completed.

### ***(e) Comprehensive Emergency Response Plan Requirements***

As noted, the comprehensive emergency response plan is an annex to the comprehensive emergency management plan (CEMP). It is required to address the following:

- **Areas of Vulnerability:** Identification of facilities subject to EPCRA emergency planning requirements, identification of routes likely to be used for the transportation of substances on the list of EHSs, and identification of additional facilities “contributing or subjected to additional risks due to their proximity to facilities” subject to EPCRA.

*Application:* Local plans should include the identification of transportation routes of materials and identify the chemical storage sites that meet the threshold for plan development. These sites can be found through local dialogue or “windshield” observations, but can also be found in the submission of Tier II forms. The proper management of Tier II information is vital to the success of the LEPC as such information directly drives the basis for each planning effort.

- **Methods and procedures for facilities, local emergency responders, and medical personnel to respond to any release of an EHS.**

*Application:* On-site emergency response procedures are addressed in 29CFR1910.120, the Hazardous Waste Operations and Emergency Response (HAZWOPER) standard. These regulations require facilities to have an on-site response plan for site emergency personnel, and are an ideal integration point for off-site (local) response agencies. Notification to the off-site emergency response agencies should be made through county E911 systems. Protocols and procedures for response to facilities in which chemicals are stored should be established prior to an incident in order to allow for the safest and most efficient response possible. Once the first response agencies (police, fire, hazmat, and EMS) are dispatched, agency specific plans and standard operating procedures/guidelines must be enacted to ensure safe response activities.

- **Designation of a community emergency coordinator and facility emergency coordinator who shall make determinations necessary to implement the plan.**

*Application:* As New York State is a home-rule state, it is assumed that the county emergency manager will fulfill the role of the community emergency coordinator at the county level. As such, the plan should pre-identify the community emergency coordinator at the municipal/local level to ensure an effective, cohesive and unified response.

- Procedures outlining the emergency notification procedures in the event that a release does occur or is likely to occur.

*Application:* Describe the process and procedures to utilize systems such as NY-Alert, Emergency Alert System (EAS), or reverse-911. Individuals who have the authority to implement the use of these systems should be recognized prior to their use. Information on how these systems are maintained and managed should be documented as well. Ideally, messages should be pre-scripted, standardized, and tested to avoid confusion and panic in the event that they need to be transmitted.

- Methods for determining the occurrence of a release and the area or population likely to be affected should also be identified.

*Application:* Computer programs such as CAMEO<sup>3</sup> and Wiser<sup>4</sup> (as shown in Figure 6) are typically utilized during the operational phase of an incident but may be utilized during pre-incident planning for the purposes of determining areas of risk and vulnerability.

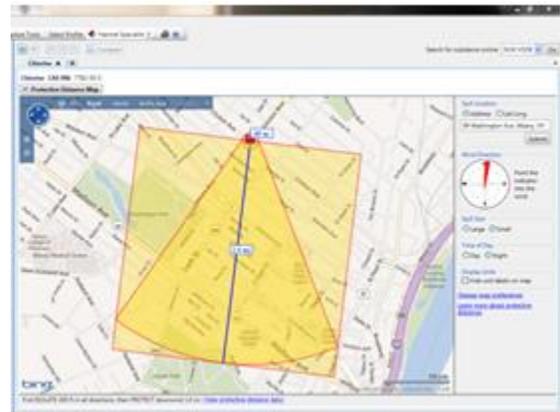


Figure 6: Plume Model as depicted by the Wiser program

- A description of community emergency equipment and facilities, and contact information for the person(s) responsible for said equipment and facilities.

*Application:* A comprehensive list of all specialized equipment (such as air monitoring equipment, firefighting foam, or decontamination shelters) should be maintained and readily accessible.

- Evacuation plans, including provisions for precautionary evacuation and alternate traffic routes.

*Application:* Mass evacuation plans are not an acceptable application of an evacuation plan for a specific facility. Evacuation plans should be risk-based to each specific facility and the potential at-risk area.

<sup>3</sup> Computer Aided Management of Emergency Operations: software suite developed by the EPA's Office of Emergency Management and the National Oceanic and Atmospheric Administration Office of Response & Restoration to assist front-line chemical emergency planners and responders.

<sup>4</sup> Wireless Information System for Emergency Responders: software designed by the National Library of Medicine to assist first responders in hazardous materials.

- Training programs, including schedules, for local emergency response and medical personnel.

*Application:* Mandatory training programs should be identified, as well as annual training sponsored by local agencies. The State Office of Fire Prevention and Control offers free hazardous materials training, both mandatory and optional advanced training, for local and State first response agencies. More information regarding training opportunities can be obtained by contacting (518)474-6746 or by visiting <http://www.dhSES.ny.gov/ofpc/>.

- Methods and schedules for exercising the emergency plan.

*Application:* Hazardous materials capabilities can be trained and tested solely or in conjunction with other training mechanisms. This can be accomplished through table top exercises, functional exercises, or full scale exercises. With these training scenarios, it is important to document strengths and weaknesses observed so that improvements can be made in the future.

#### ***(f) Resources, Review, and Adoption of the Plan***

Each LEPC must evaluate the need for resources to develop, implement and exercise the emergency plan and make recommendations with respect to additional resources that may be needed to execute the plan. The LEPC must also make recommendations for providing these additional resources. This may be done through the adoption of mutual aid agreements, memoranda of understanding/agreement (MOU/MOA), or contracts signed with private entities. This will ensure that appropriate resources are available to first responders in the event of an incident.

At least 30 days prior to the adoption of an emergency plan or any revision to that plan, the LEPC shall publish a summary of the provisions of the plan or changes to the current plan. The LEPC should hold at least one meeting/hearing to receive comments from the public regarding changes to the plan. In some cases, in-person or online (website) review of the plan may be feasible. Documentation of the public comments should be made and the LEPC shall take note of the public comments prior to adopting the emergency response plan or its revision. The LEPC shall respond to public comments prior to the adoption of the emergency response plan. Again, this may be easily facilitated by using online capabilities.

Each LEPC's emergency plan must be submitted to the SERC for review. The SERC may make recommendations for revisions to the plan. Copies of the emergency response plan, with adopted amendments and revisions, shall be distributed to applicable state and Federal authorities, all members of the LEPC, the county Legislature, each municipality within the emergency planning district, all police, fire, and EMS agencies within the emergency planning district, all facilities that are covered under EPCRA within the emergency planning district, all public libraries within the emergency planning district, and the local media. LEPCs should *use their discretion* when providing the plan in an open, uncontrolled forum.

### ***(g) Security Concerns***

In a post 9/11 era, there are numerous security concerns in regards to distributing or making available sensitive material or information as to the storage of chemicals at facilities. Provisions for these concerns have been addressed in a number of laws, acts, and statutes and it is imperative to establish a local “best practice” for addressing these concerns.

Counties may choose to redact security sensitive information in the publicly available plans as to not compromise the integrity of the facility or the information available. Counties certainly possess the right to redact other plan information, such as response capability, hospital surge limitations, personal contact information, and any authenticator codes necessary to implement a public warning system.

The following laws may be cited by industry if their facility meets the appropriate criteria for withholding information from the public. Not all facilities will meet the established criteria and it is important to determine if any facilities within the jurisdiction do prior to citing these laws in Freedom of Information Law requests.

- New York State Anti-Terrorism Act of 2004
  - More information can be found at:  
<http://codes.lp.findlaw.com/nycode/EXC/26/711>
- Critical Infrastructure Information Act of 2002 (addresses Protected Critical Infrastructure Information (PCII))
  - More information can be found at:  
<https://www.dhs.gov/publication/cii-act-2002>
- Chemical Terrorism Vulnerability Information
  - More information can be found at: <http://www.gpo.gov/fdsys/pkg/PLAW-109publ295/pdf/PLAW-109publ295.pdf>



## **VI. EPCRA Tier II Reporting Through E-Plan**

In 2007, the SERC conducted an in-depth review of the Tier II submission process and methods. In doing so, they identified that a standardized, internet-based, statewide system would benefit both the users and filers of Tier II-related information. As a result, New York State has decided to accept and encourage the use of an electronic Tier II submission program as the primary means for companies operating in the State to comply with Federal chemical inventory reporting requirements. The submission of Tier II data via the internet has been effective in improving compliance and reducing cost to the regulated community

in several New York counties where electronic reporting is currently used. This electronic process also has the added benefit of providing an effective data management tool for the regulated facilities, emergency management officials, and first responders as they plan for and respond to incidents involving hazardous materials.

The SERC is **encouraging**, not requiring, the use of E-Plan for facilities to report Tier II information. E-Plan is an electronic database managed by the State University of Texas at Dallas (UTD). E-Plan is a secure, web-based system that includes the necessary and required elements to receive chemical inventory information from facilities that are required to report via Tier II. E-Plan is provided free of charge to all companies, the State and local planning committees, and fire service officials who have authorized access to review the information for response, planning, and compliance purposes. E-Plan offers several benefits to users including ease of use and accessibility, the ability to import maps and floor plans of facilities, and the ability to convert reports to several formats, including PDF and the EPA's Tier2 Submit program.

The decision to allow E-Plan for compliance purposes applies only to satisfying notification of the SERC. The decision to accept this electronic submission for compliance purposes at the local level rests with the county LEPCs and local fire departments. E-Plan does allow a facility the ability to print all necessary information to utilize as a hard copy for LEPC and fire department submission, if necessary.

The information submitted by facilities is stored on a secure server managed by UTD and is only accessible with permissions granted by appropriate authorities. Facilities can create an account and will be allowed only to submit and retrieve information as it pertains to their facility. If there are no changes, or minimal changes, from the previous year, E-Plan greatly reduces the time required for annual submissions. Requests to access the system, either from facilities or from emergency planning personnel, will go to the UTD. The UTD staff will contact an authorizing authority in the jurisdiction where the request originates to verify that the request is appropriate. Counties that choose to participate in using this system will decide who in the county will serve as the authorizing authority. The authorizing authority will either allow or deny access to the individual making the request based on a need-to-know basis. A table of Suggested Dissemination E-Plan Users and Authorizers can be found in **Appendix D**.

For emergency responders, there is the ability for emergency planners to submit site maps, view facility locations, and to have visibility on possible areas of vulnerability prior to an incident occurring. This allows emergency response personnel to have on-site, up-to-date hazardous chemical information for facilities within their jurisdictions. Additionally, E-Plan's database contains a chemical search capability that can be used in transportation incidents or incidents that are not specific to a facility. If a response agency does not have internet access at incident locations, E-Plan allows for all reports to be printed as PDF documents and stored in response vehicles as necessary. E911 dispatchers could have access as well and simply relay the information over the radio, by cell phone, or mobile data terminal (MDT) if necessary.

E-Plan is very user friendly and requires little preparation or training to accurately and effectively utilize. Webinars for training purposes, for both industry and government, can be found at <http://www.dhSES.ny.gov/oem/disaster-prep/>. The E-Plan home page is located at <https://erplan.net>. For more information, additional reference sources have been included in **Appendix D** of this document.

## **Appendix A: Sample of Bylaws of a Local Emergency Planning Committee**

Courtesy of the Monroe County, NY LEPC

**BYLAWS  
of the  
MONROE COUNTY, NEW YORK  
LOCAL EMERGENCY PLANNING COMMITTEE**

**I. NAME OF THE COMMITTEE**

The name of this committee shall be the *MONROE COUNTY LOCAL EMERGENCY PLANNING COMMITTEE*, hereinafter known as **LEPC**.

**II. POWERS AND DUTIES**

The LEPC has been established pursuant to Section 301(c) of Public Law 99-499, *THE EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT of 1986*, (100 Stat 1738-58, October 17, 1986). The LEPC shall have all the powers and duties conferred upon it by said Law, and as it may from time to time be amended. The principal duty of the LEPC shall be to develop an emergency response plan for the County of Monroe and its included municipalities, and to review such plans annually. This plan shall contain, as a minimum, all the elements set forth in PL 99-499 for such plans.

**III. MEMBERSHIP**

The members of the LEPC shall be recommended by the LEPC Nominating Committee, approved by majority vote of the LEPC membership and appointed by the New York State Emergency Response Commission (SERC) pursuant to PL 99-499. The membership shall include the following:

- A. Elected local official: Monroe County Executive,
- B. Elected State official: a member of the New York State Legislature representing a district lying wholly or partially within Monroe County, and who is a resident of Monroe County,
- C. Civil Defense representative: the Emergency Management Program Technician of the Monroe County Office of Emergency Management,
- D. Community Emergency Coordinator: the Associate Emergency Manager of the Monroe County Office of Emergency Management
- E. Law enforcement representatives: the Monroe County Sheriff, the Chief of the Rochester Police Department, and one Town or Village police chief nominated by the Monroe County Law Enforcement Council,
- F. Firefighting/HAZMAT representatives: the Chief of the Rochester Fire Department, the Monroe County Fire Bureau Coordinator, and a municipal HAZMAT Team representative,
- G. First aid representative: a Monroe-Livingston Emergency Medical Services Council representative, who is a resident of Monroe County,

- H. Health representative: the Director of the Monroe County Department of Public Health,
- I. A representative of an environmental group,
- J. Hospital representative: a practicing physician affiliated with a local hospital and experienced in emergency medicine,
- K. Transportation and Transportation Safety representatives: a representative of a firm engaged in the transportation of hazardous materials, and a New York State Police HAZMAT representative,
- L. Broadcast media representative: a representative of the principal Emergency Alert System (EAS) radio station in Monroe County,
- M. Print media representative: a representative of a general circulation newspaper in Monroe County,
- N. Community group representative,
- O. Facility owners and operators representatives: a minimum of three (3) representatives recommended by the Rochester Business Alliance,
- P. Other representatives: the Monroe County Director of Public Safety, the City of Rochester - Deputy Mayor, the Director of the Emergency Communications Department, a maximum of three 'at large' members chosen from the community with expertise and/or interest in the LEPC, SARA Title III or emergency preparedness and response, a representative of small business nominated by the Rochester Business Alliance, an attorney, a representative of the Public Safety Training Facility; a representative of the Greater Rochester Chapter of the American Red Cross, and a representative of OSHA.
- Q. Military representatives: one local representative of the New York National Guard (under control of the Governor, unless Federalized), and one local representative of the Federal Military Reserve Component.

#### **IV. ALTERNATE MEMBERS**

- A. Each member may nominate an alternate to assume his or her duties and position on the LEPC in his or her absence. The alternate may vote only in the absence of the member.
- B. Nominations for representatives and alternate members can be made in writing or by verbal motion from the floor to the LEPC Chair and approved by the majority of the votes cast.

#### **V. OFFICERS**

- A. The LEPC shall at its first meeting elect by a majority vote a Chairperson and a Vice-Chairperson. Said Officers shall serve a term of one year. Elections for these two officer ships shall thereafter be held annually.
- B. The power and duties of the Chairperson shall be to preside at meetings of the LEPC, appoint such standing and special subcommittees as shall be needed to conduct the business of the LEPC, serve as the non-exclusive

spokesperson for the LEPC, and such other powers and duties as are customary for the presiding Officer of similar committees and boards.

- C. The powers and duties of the Vice-Chairperson shall be to preside over meetings of the LEPC and to carry out such other duties as may be directed by the Chairperson.

## **VI. CONDUCT OF MEETINGS**

- A. The LEPC shall meet as often as is necessary to conduct its business, and in no event less often than once annually.
- B. The LEPC shall conduct no business in the absence of a quorum of its members, a quorum being a majority of the membership as set forth in Article III of these Bylaws. In the event that a quorum is not present, informational sessions may be conducted.
- C. The LEPC shall conduct its business by means of resolutions duly adopted by a majority of the membership. No motion, resolution, or other parliamentary instrument shall prevail unless it receives a majority of the votes cast.
- D. The LEPC shall be deemed to be a PUBLIC BODY of the County of Monroe within the meaning of the New York State Open Meetings and Freedom of Information statutes, except as those statutes may be superseded by applicable Federal Law.
- E. Except as otherwise provided in these Bylaws, the LEPC shall conduct its business in accordance with Robert's Rules of Order.

## **VII. PUBLIC PARTICIPATION AND ACCESS TO INFORMATION**

- A. The public is encouraged to participate in the work of the LEPC by attendance at meetings and, when in order, by addressing the LEPC.
- B. The public shall be notified of meetings of the LEPC in accordance with applicable provisions of the New York Open Meetings Law, specifically by advance notice given to the local public media by the Monroe County Office of Communications and Special Events.
- C. At least annually, the LEPC shall advertise and conduct at least one meeting in which members of the public shall be invited to address the LEPC on matters which they believe should be considered in the emergency response plan.
- D. At least thirty days before the adoption of the emergency response plan or any revision to that plan, the LEPC shall publish a summary of the provisions of the proposed plan or any revision to that plan, and shall hold at least one hearing to receive the comments from the public thereon. Minutes of the public comments shall be made, and the LEPC shall take due note of the public comments in its deliberations prior to adoption of the emergency response plan or its revision. The LEPC shall further adopt by resolution a response to the public comments, including action taken by the LEPC with

respect to the comments, prior to adoption of the emergency plan or any revision.

- E. Copies of the emergency response plan with adopted amendments and revisions shall be distributed (may be accomplished through County website) to:
  - 1. Cognizant State and Federal authorities;
  - 2. Each municipality within Monroe County;
  - 3. All police, fire, and EMS agencies within Monroe County;
  - 4. All 'covered facilities' within Monroe County (within the meaning of PL 99-499);
  - 5. All public libraries within Monroe County;
  - 6. The local media;
  - 7. The Monroe County Legislature; and, the members of the LEPC.

### **VIII. PUBLIC ACCESS TO INFORMATION**

- A. The Monroe County Office of Emergency Management is hereby designated as the secretariat of the LEPC.
- B. The Associate Emergency Manager of the Monroe County Office of Emergency Management is hereby designated as the Coordinator of Information pursuant to Section 301 (c) of PL 99-499.
- C. The emergency response plan, material safety data sheets (MSDS), lists described in Section 311 (a)(2) of PL 99-499, inventory forms, toxic chemical release forms, and follow up emergency notices shall be made available to the general public, consistent with the trade secret exceptions in Section 322 of PL 99-499, during normal working hours at the Monroe County Office of Emergency Management. On request by an owner or operator of a facility subject to the requirements of Section 312 of PL 99-499, the LEPC shall withhold from disclosures under this Section the location of any specific chemical required by Section 312 (d)(2) of PL 99-499 to be contained in an inventory form as Tier II information.
- D. The LEPC shall annually publish a notice in the local newspapers that the emergency response plan, material safety data sheets (MSDS), and inventory forms have been submitted under this Article. Such notice shall announce that members of the public who wish to review any such plan, sheet, form or follow up notice may do so at the Monroe County Office of Emergency Management.
- E. Subject to the approval of the LEPC, the Coordinator of Information shall develop and promulgate procedures for processing requests from the public for information under Section C of the Article. Such procedures shall parallel as closely as possible the existing Monroe County procedures under the New York State Freedom of Information Act, provided they are consistent with the requirements of PL 99-499 and these Bylaws.
- F. As recommended by the New York State Emergency Response Commission (SERC), and in addition to hardcopy (paper) Tier II submissions, the Monroe

County LEPC will accept the same electronic Tier II submission per the NYS E-Plan Implementation Guide, October 2007, p. 2, to satisfy reporting notification to the LEPC, which the SERC accepts to satisfy reporting notification to the State. As further recommended by the SERC in the NYS E-Plan Implementation Guide, October 2007, p. 3, the Monroe County LEPC designates the individuals occupying the following positions as “Authorizing Authority,” and “Authored User,” for so long as those individuals occupy those positions:

1. Authorizing Authority – County OEM Associate Emergency Manager
2. Authorized Users:
  - a. LEPC Chair
  - b. County Public Safety Director
  - c. OEM Emergency Management Program Technician
  - d. OEM Emergency Services Planning Technician, P.T.
  - e. County Fire Coordinator
  - f. County Assistant Fire Coordinator
  - g. City Fire Department, “A representative of the Special Operations Unit”
  - h. Municipal Fire Chiefs
  - i. Municipal Fire Marshals

#### **IX. SUBCOMMITTEES**

The Chairperson shall appoint such standing and special subcommittees as the LEPC shall deem necessary to conduct its business.

#### **X. LEGAL COUNSEL**

The Monroe County Attorney or his/her designee shall serve as legal counsel to the LEPC.

#### **XI. AMENDMENTS TO THE BYLAWS OF THE LEPC**

These Bylaws may be amended at any time by an affirmative vote of two-thirds of the membership present at a business meeting, as defined in Article VI, Section B.

## **Appendix B: Sample Letter Announcing Meeting of LEPC and Public Availability of Hazardous Materials Response Plan**

Courtesy of the Monroe County, NY LEPC



**Local Emergency Planning Committee**  
*Office of Emergency Management*  
Monroe County, New York

**Maggie Brooks**  
*County Executive*

**Thomas Walsh**  
*Chair*

**Frederick J. Rion, Jr., MSW, MPA**  
*Community Emergency Coordinator*

March 26, 2012

Democrat & Chronicle  
55 Exchange Street  
Rochester, NY 14614

Dear Sir/Madam:

Thank you for supporting our efforts to comply with Title III of the Superfund Amendment and Reauthorization Act of 1986, Section 324(b). We appreciate you posting our meeting announcement on the D&C's website calendar, and printing our announcement, as space permits, in the newspaper. If you have space during the week preceding our scheduled meeting of **April 11, 2012**, can you publish:

The next meeting of the Monroe County Local Emergency Planning Committee will be **April 11, 2012** at 8:30 a.m., in Suite 200, 1190 Scottsville Road, Rochester, New York. The public is welcome. Comments on issues about hazardous materials in our community may be addressed to the LEPC. Individual presentations will be limited to ten minutes.

The January 2012 edition of the "Monroe County Local Emergency Planning Committee's Hazardous Material Response Plan" is available at Suite 200, 1190 Scottsville Road, during business hours (8:30 a.m. to 4:30 p.m.). Companies in Monroe County that meet reporting thresholds in the plan are required to report to the LEPC. These reports are available to the public during business hours through the Monroe County Office of Emergency Management, at the above address.

Thank you for your continuing support.

Very truly yours,

*Fred*

Frederick J. Rion, Jr.  
Secretariat

FJR/da

cc: N. Lebowitz, W. Taylor, S. Kuhr, D. DeMatteo

## **Appendix C: Basic Elements of Robert's Rules of Order**

## Parliamentary Procedure for Meetings<sup>5</sup>

**Robert's Rules of Order** is the standard for facilitating discussions and group decision-making. Copies of the rules are available at most bookstores. Although they may seem long and involved, having an agreed upon set of rules makes meetings run easier. **Robert's Rules** will help your group have better meetings, not make them more difficult. Your group is free to modify them or find another suitable process that encourages fairness and participation, unless your bylaws state otherwise.

Here are the basic elements of **Robert's Rules**, used by most organizations:

1. **Motion:** To introduce a new piece of business or propose a decision or action, a motion must be made by a group member ("I move that.....") A second motion must then also be made (raise your hand and say, "I second it.") After limited discussion the group then votes on the motion. A majority vote is required for the motion to pass (or quorum as specified in your bylaws.)
2. **Postpone Indefinitely:** This tactic is used to kill a motion. When passed, the motion cannot be reintroduced at that meeting. It may be brought up again at a later date. This is made as a motion ("I move to postpone indefinitely..."). A second is required. A majority vote is required to postpone the motion under consideration.
3. **Amend:** This is the process used to change a motion under consideration. Perhaps you like the idea proposed but not exactly as offered. Raise your hand and make the following motion: "I move to amend the motion on the floor." This also requires a second. After the motion to amend is seconded, a majority vote is needed to decide whether the amendment is accepted. Then a vote is taken on the amended motion. In some organizations, a "friendly amendment" is made. If the person who made the original motion agrees with the suggested changes, the amended motion may be voted on without a separate vote to approve the amendment.
4. **Commit:** This is used to place a motion in committee. It requires a second. A majority vote must rule to carry it. At the next meeting the committee is required to prepare a report on the motion committed. If an appropriate committee exists, the motion goes to that committee. If not, a new committee is established.
5. **Question:** To end a debate immediately, the question is called (say "I call the question") and needs a second. A vote is held immediately (no further discussion is allowed). A two-thirds vote is required for passage. If it is passed, the motion on the floor is voted on immediately.
6. **Table:** To table a discussion is to lay aside the business at hand in such a manner that it will be considered later in the meeting or at another time ("I make a motion to table this discussion until the next meeting. In the meantime, we will get more information so we can better discuss the issue.") A second is needed and a majority vote required to table the item being discussed.
7. **Adjourn:** A motion is made to end the meeting. A second motion is required. A majority vote is then required for the meeting to be adjourned (ended).

---

<sup>5</sup> <http://www.portlandonline.com/oni/index.cfm?a=22969&c=29020>

**Note:** If more than one motion is proposed, the most recent takes precedence over the ones preceding it.

For example if #6, a motion to table the discussion, is proposed, it must be voted on before #3, a motion to amend, can be decided.

In a smaller meeting, like a committee or board meeting, often only four motions are used:

- To introduce (motion.)
- To change a motion (amend.)
- To adopt (accept a report without discussion.)
- To adjourn (end the meeting.)

Remember, these processes are designed to ensure that everyone has a chance to participate and to share ideas in an orderly manner. Parliamentary procedure should not be used to prevent discussion of important issues.

Board and committee chairpersons and other leaders may want to get some training in meeting facilitation and in using parliamentary procedure. Additional information on meeting processes, dealing with difficult people, and using *Robert's Rules* is available from district office staff and community resources such as the League of Women Voters, United Way and other technical assistance providers. *Parliamentary Procedure at a Glance*, by O. Garfield Jones, is an excellent and useful guide for neighborhood association chairs.

## **Tips in Parliamentary Procedure**

The following summary will help you determine when to use the actions described in *Robert's Rules*.

- A main motion must be moved, seconded, and stated by the chair before it can be discussed.
- If you want to move, second, or speak to a motion, *stand and address the chair*.
- If you approve the motion as is, *vote for it*.
- If you disapprove the motion, *vote against it*.
- If you approve the idea of the motion but want to change it, *amend it or submit a substitute for it*.
- If you want advice or information to help you make your decision, *move to refer the motion to an appropriate quorum or committee with instructions to report back*.
- If you feel they can handle it better than the assembly, *move to refer the motion to a quorum or committee with power to act*.
- If you feel that there the pending question(s) should be delayed so more urgent business can be considered, *move to lay the motion on the table*.
- If you want time to think the motion over, *move that consideration be deferred to a certain time*.
- If you think that further discussion is unnecessary, *move the previous question*.

- If you think that the assembly should give further consideration to a motion referred to a quorum or committee, *move the motion be recalled*.
- If you think that the assembly should give further consideration to a matter already voted upon, *move that it be reconsidered*.
- If you do not agree with a decision rendered by the chair, *appeal the decision to the assembly*.
- If you think that a matter introduced is not germane to the matter at hand, *a point of order may be raised*.
- If you think that too much time is being consumed by speakers, *you can move a time limit on such speeches*.
- If a motion has several parts, and you wish to vote differently on these parts, *move to divide the motion*.

## **IN THE MEETING**

### **TO INTRODUCE A MOTION:**

Stand when no one else has the floor.

Address the Chair by the proper title.

Wait until the chair recognizes you.

- Now that you have the floor and can proceed with your motion say "I move that..." state your motion clearly and sit down.
- Another member may second your motion. A second merely implies that the seconder agrees that the motion should come before the assembly and not that he/she is in favor of the motion.
- If there is no second, the Chair says, "The motion is not before you at this time." The motion is not lost, as there has been no vote taken.
- If there is a second, the Chair states the question by saying "It has been moved and seconded that (state the motion). . . , is there any discussion?"

### **DEBATE OR DISCUSSING THE MOTION:**

- The member who made the motion is entitled to speak first.
- Every member has the right to speak in debate.
- The Chair should alternate between those "for" the motion and those "against" the motion.
- The discussion should be related to the pending motion.
- Avoid using a person's name in debate.
- All questions should be directed to the Chair.
- Unless there is a special rule providing otherwise, a member is limited to speak once to a motion.
- Asking a question or a brief suggestion is not counted in debate.
- A person may speak a second time in debate with the assembly's permission.

### **VOTING ON A MOTION:**

- Before a vote is taken, the Chair puts the question by saying "Those in favor of the motion that ... (repeat the motion)... say "Aye." Those opposed say "No." Wait, and then say "The motion is carried," or "The motion is lost."
- Some motions require a 2/3 vote. A 2/3 vote is obtained by standing
- If a member is in doubt about the vote, he may call out "division." A division is a demand for a standing vote.
- A majority vote is more than half of the votes cast by persons legally entitled to vote.
- A 2/3 vote means at least 2/3 of the votes cast by persons legally entitled to vote.
- A tie vote is a lost vote, since it is not a majority.

## Parliamentary Procedure at a Glance

TO DO THIS	YOU SAY THIS	MAY YOU INTERRUPT THE SPEAKER	MUST YOU BE SECONDED	IN MOTION DEBATABLE	WHAT VOTE REQUIRED
Adjourn Meeting	I move that we Adjourn	No	Yes	N	Majority
Recess Meeting	I move that we recess until...	No	Yes	No	Majority
Complain about noise, room temperature, etc.	Point of Privilege	Yes	No	No	No vote
Suspend further consideration of something	I move we table it	No	Yes	No	Majority
End Debate	I move the previous question	No	Yes	No	2/3 vote
Postpone consideration of something	I move we postpone this matter until...	No	Yes	Yes	Majority
Have something studied further	I move we refer matter to Committee	No	Yes	Yes	Majority
Amend a motion	I move this motion Be amended by...	No	Yes	Yes	Majority
Introduce business (a primary motion)	I move that....	No	Yes	Yes	Majority
Object to procedure or personal affront	Point of Order	Yes	No	No	No vote, Chair decides
Request information	Point of Information	Yes	No	No	No vote
Ask for actual count to verify voice count	I call for a division of the house	No	No	No	No vote
Object consideration of undiplomatic vote	I object to consideration of this question	Yes	No	No	2/3 vote
Take up a matter previously tabled	I move to take from the table	No	Yes	No	Majority
Reconsider something already disposed of	I move we reconsider our action relative to..	Yes	Yes	Yes	Majority
Consider something already out of its schedule	I move we suspend our rules and consider....	No	Yes	No	2/3 vote
Vote on a ruling by the Chair	I appeal the Chair's decision	Yes	Yes	Yes	Majority

## Parliamentary Procedure at a Glance

		Debatable	Amenable	Can be Reconsidered	Requires 2/3 Vote
<b>Privileged Motions</b>	Fix time at Which to Adjourn	No	Yes	No	No
	Adjourn	No	No	Yes	No
	Question of Privilege	No	Yes	Yes	No
	Call for Order of Day	No	No	Yes	No
<b>Incidental Motions</b>	Appeal	Yes	No	Yes	No
	Object to Consideration of a Question	No	No	Yes	Yes
	Point of Information	No	No	No	No
	Point of Order	No	No	No	No
	Read Papers	No	No	Yes	No
	Suspend the Rules	No	No	No	Yes
	Withdraw a Motion	No	No	Yes	No
<b>Subsidiary Motions</b>	Lay on the Table	No	No	Yes	No
	The Previous Question (close debate)	No	No	Yes	Yes
	Limit or Extend debate	No	Yes	Yes	Yes
	Postpone to a Definite time	Yes	Yes	Yes	No
	Refer to Committees	Yes	Yes	Yes	No
	Amend the Amendment	Yes	No	No	No
	Amendment	Yes	Yes	Yes	No
	Postpone Indefinitely	Yes	No	Yes	No
<b>Main Motion</b>	Main or Procedural Motion	Yes	Yes	Yes	Yes

This table presents the motions in order of precedence. Each motion takes precedence over the motions listed below it. No motion can supersede any of the motions listed above it.

**Please note:** Many organizations use only the Main Motion and Subsidiary Motions, handling other matters on an informal basis.

## **Appendix D: E-Plan Information**

- E-Plan Fact Sheet (for industry): Pages 39-41
- Local Government Primer for Electronic Tier II Filing (For LEPCs): Pages 42-44
- NYS E-Plan Implementation Guide for LEPCs: Pages 45-55
- E-Plan FAQs: Pages 56-60

# **The State of New York Chooses to Implement an Electronic Submission of Tier II Chemical Inventory Information**

(Initial release 2007, updated 2012)

The State of New York has decided to accept and encourage the use of an electronic Tier II submission program as the primary means for companies operating in New York State to comply with federal chemical inventory reporting requirements. The information below will provide you with key points in using electronic filing as well as the background of chemical inventory reporting and what this means to you and the local governmental agencies that serve your facility.

## **What is Tier II reporting and who must submit these reports?**

In 1986, President Reagan signed into law the Superfund Amendment and Reauthorization Act (SARA) as a revision to federal legislation dealing with hazardous substances and toxic wastes. SARA Title III, known as the Emergency Planning and Community Right to Know Act (EPCRA), required the development of a State Emergency Response Commission (SERC) as well as Local Emergency Planning Committees (LEPCs) to manage hazardous materials preparedness at the State and county level. In addition to State and local planning requirements, EPCRA Section 312 requires facilities that use or store a hazardous chemical above a threshold quantity to annually submit their chemical inventory information to off-site officials on or before March 1st of each year. The inventory information must be submitted to the fire department having jurisdiction over the facility, the respective county LEPC, and the SERC.

The primary means of chemical inventory notification and submission is via a federally-developed form, known as a Tier II Chemical Inventory form. Tier II forms require basic facility identification information, employee contact information for both emergencies and non-emergencies, and information about the chemicals stored or used at the facility. Traditionally, facilities required to report under EPCRA have used the hardcopy Tier II form or some electronic variation as a means of complying with the notification requirements. This variance in reporting methodology makes it difficult to manage and use and is not always readily available or easily accessed at the State and local levels.

## **What are the benefits of using electronic submission?**

The State Emergency Response Commission has conducted an in-depth review of the submission process and methods and has identified that a standardized, internet-based statewide system would benefit both the users and filers of Tier II-related information. The submission of Tier II data via the internet has been effective in improving compliance and reducing cost to the regulated community in other states and in several New York counties where electronic reporting is currently used. This electronic process also has the added benefit of providing an effective data management tool for the regulated facilities, Emergency Management officials and the first-responder community as they plan for and respond to incidents involving hazardous materials. Regulatory compliance staff can be supported by this service as well because facilities can update their information, such as chemical lists, material safety data sheets (MSDSs) and contact information, on-line as circumstances within the facility change without waiting until the next required report. This will make the next year's report easier and help the response community if an incident occurs.

### **What is the name of the electronic filing system?**

The SERC is encouraging, not requiring, facilities to report Tier II information using an application called E-Plan. E-Plan is maintained by the University of Texas at Dallas (UTD) in cooperation with the Department of Homeland Security (DHS). E-Plan is provided free of charge to all companies, State and local planning committees, and fire service officials who have authorized access to review the information for response, planning and compliance purposes. The information submitted by facilities is stored on a secure server managed by the UTD and is only accessible with permissions granted by appropriate authorities. More than 37,000 chemical sites across all fifty states and territories currently utilize this free web-based application.

### **Who will have access to the information that will be submitted?**

The information that each reporting entity provides will be accessible to the same audience that is currently allowed under EPCRA. Facilities can log on and will be allowed only to submit and retrieve information as it pertains to their facility. Persons requesting access to review the information submitted by industry will do so on-line on the E-Plan web site. However, upon receipt of a request to access the system, UTD staff will contact an “authorizing authority” in the jurisdiction where the request originates to verify the appropriateness of the request to view industry submissions. This authorizing authority will either allow or deny access to individuals based on a need-to-know basis. Counties that participate in using the system will decide who in the county will serve as that authorizing authority.

### **Who is accepting electronic filing as the formal reporting process?**

The decision to allow the use of this web-based application for compliance purposes applies only to satisfying notification of the SERC. County LEPCs and fire departments will need to decide if electronic submission is a process that they are willing to accept for compliance with Section 312. In addition, E-Plan allows a facility the ability to print the necessary information from the on-line application if a printed copy is required by the LEPC or the local fire department. Facilities that are required to report should contact their respective LEPC and fire department in which their reportable facility resides.

### **How do I use this system? Is there training for this?**

The E-Plan system is very user-friendly and requires little preparation time on behalf of industry to accurately and effectively submit inventory information. The E-Plan home page can be found at <https://erplan.net>, with the “E-Plan Online Filing” on the left side of the page. After clicking on filing Tier II information, you’ll be able to create your submission under the “Welcome to Tier 2 Submit Online” dialog box. Once here, you can create and enter your own user identification profile. Also, in the upper right corner of the webpage, you can choose a list of options from the domain entitled “Select a Tour.” This is an excellent on-line automated tutorial that will assist you in using the system to report your inventory information. Please contact NYSOEM if you would like additional information or training on the E-Plan system.

### **Resources**

To learn more about E-Plan and link to other resources, please go to the website: <https://erplan.net>. For additional information on the use of E-Plan in New York State, Tier II reporting, thresholds, training announcements, the SERC and hazardous materials program support, please see the State Office of Emergency Management (NYSOEM) website at <http://www.dhSES.ny.gov/oem/disaster-prep/>.

For reporting requirements, please see the EPA fact sheet on EPCRA and summary of reporting requirements at: <http://www.epa.gov/oem/docs/chem/epcra.pdf>. For a listing of chemicals and threshold planning and reporting requirements see the EPA list: <https://www.epa.gov/epcra/consolidated-list-lists>

# Local Government Primer on the State's usage of an Electronic Tier II Reporting System

(Initial release 2007, updated 2012)

This information is being provided to Local Emergency Planning Committees (LEPCs), emergency management offices and fire coordinators to serve as program guidance in the State's decision to accept and encourage the use of an electronic Tier II submission program for companies operating in New York State to comply with federal chemical inventory reporting requirements. The information below will identify key points in the State's decision to use this system and what this means to county LEPCs and response agencies.

## Fact Sheet for Industry

The State Emergency Response Commission (SERC) has created a fact sheet for industry to identify the State's decision to use an electronic reporting system of Tier II information. The fact sheet is attached in this guide for your reference and should be reviewed in conjunction with this program guidance.

## A refresher on Tier II reporting and submission requirements

In 1986, President Reagan signed into law the Superfund Amendment and Reauthorization Act (SARA) as a revision to federal legislation dealing with hazardous substances and toxic wastes. In addition to State and local planning requirements, the Emergency Planning and Community Right to Know Act (EPCRA) Section 312 requires facilities that use or store a hazardous chemical above a threshold quantity to annually submit their chemical inventory information to off-site officials on or before March 1<sup>st</sup> of each year. The inventory information must be submitted to the fire department having jurisdiction over the facility, the respective county LEPC, and the SERC. Traditionally, facilities required to report under EPCRA have used the hardcopy Tier II form or some electronic variation (i.e., Tier II Submit) as a means of complying with the notification requirements. This variance in reporting methodology often makes it difficult to utilize the information for State and local planning purposes.

## What are the benefits of using electronic submission? Are there other benefits?

The submission of Tier II data via the internet has been effective in improving compliance and reducing cost to the regulated community in other states and in several New York counties where electronic reporting is currently used. This electronic process also has the added benefit of providing an effective data management tool for emergency management officials and the first-responder community as they plan for and respond to incidents involving hazardous materials. Further, facilities can update their information, such as chemical lists, material safety data sheets (MSDSs) and contact information, on-line as circumstances within the facility change which allows responders access to real-time, up-to-date information.

## Who is accepting electronic filing as the formal reporting process?

It is important to note that the SERC has decided to accept electronic reporting for compliance purposes in satisfying the notification to the State. The SERC is encouraging, not requiring, counties to use the program. Each county LEPC and fire department should decide if electronic submission is a process that they are willing to accept for compliance with Section 312.

## **Local government use of the System**

Counties need to fully understand the system and address several issues if they choose to accept online submissions of Tier II information. Key concerns are as follows:

**For Industry:** Facilities can log on to the web site, create their facility profile and password, and will be allowed only to submit and retrieve Tier II information as it pertains to their facility.

**For Government:** Persons requesting access to review the information submitted by industry will do so on-line and will need to identify the contact information and email of a county “authorizing authority.” Upon receipt of an online request to access the system, online program management staff will contact the authorizing authority to verify the appropriateness of the request to view industry submissions. The contact to the authorizing authority will be done by email. Upon receipt of the email from the online program management staff, the authorizing authority will either allow or deny access to individuals based on a need-to-know basis.

Each county will need to identify an authorizing authority to approve or deny access to individuals that are requesting access to review the information submitted by industry. It is recommended that only a few persons within a county be identified as the authorizing authority for their jurisdiction. One recommendation would be to allow that authority to be the LEPC coordinator, county emergency manager, the fire coordinator and a county law enforcement representative. This will help ensure that access to secured information is maintained and allow for each response discipline (i.e., fire, EMS, police) to have an authorizer to confirm access for their respective discipline. In response to requests of inventory information under the Freedom of Information Law (FOIL), LEPCs should only provide the information that is being requested, if deemed appropriate, and not provide the requestor access to the system.

## **Variations in using the system**

It is recognized that a limited number of fire service personnel in the State may not have internet access to acquire the information or may elect to not accept electronic reporting. This is of key concern as the fire service is typically the first line of defense in response to a chemical emergency. County LEPCs should discuss this issue with their county fire coordinator. If such cases exist, counties can still require facilities to provide hardcopy submissions of their Tier II forms, MSDSs and site maps to the fire department having jurisdiction over the facility.

## **What is the name of the electronic filing system and is there a cost involved?**

The Tier II reporting system is called E-Plan. E-Plan is maintained by the University of Texas at Dallas (UTD) in cooperation with the Department of Homeland Security (DHS). The information submitted by facilities is stored on a secure server managed by the UTD and is only accessible with permissions granted by the appropriate authorities. E-Plan is provided free of charge to all companies and jurisdictions who have authorized access to review the information for response, planning and compliance purposes.

## **How do I use this system? Is there training for this?**

The E-Plan system is very user-friendly and requires little preparation time to accurately and effectively review inventory information. The E-Plan home page can be found at <https://erplan.net>, with the “E-Plan Training and Registration” link on the left side of the page. After clicking on training, you can create your user profile and get an on-line tutorial that will assist you in using the system.

### **Questions on this Program**

To learn more about E-Plan and link to other resources, please go to the NYSOEM website at <http://www.dhSES.ny.gov/oem/disaster-prep/> or visit the E-Plan website at <https://erplan.net>. For programmatic questions and the implementation of this in the State, county LEPCs and emergency management offices should contact NYSOEM.

# **New York State E-Plan Implementation Guide for County Local Emergency Planning Committees**

(Initial release 2007, updated 2012)

## **I. Introduction**

This information is being provided to county Local Emergency Planning Committees (LEPCs) to serve as guidance in determining whether or not the use of a web-based Tier II reporting system is something they want to pursue. Further, this document includes background information on Tier II inventory reporting, as well as the necessary steps to consider in properly implementing such a program in their jurisdiction.

## **II. Regulatory Background on Tier II Inventory Reporting**

In 1986, President Reagan signed into law the Superfund Amendment and Reauthorization Act (SARA) as a revision to federal legislation dealing with hazardous substances and toxic wastes. SARA Title III, known as the Emergency Planning and Community Right to Know Act (EPCRA), required the Governor of each state to designate a State Emergency Response Commission (SERC) to direct and manage the hazardous materials contingency planning effort required of industry and communities. In addition to State and local planning requirements, EPCRA included Section 312, which requires facilities that use or store a hazardous chemical above a threshold quantity to annually submit their chemical inventory information to off-site officials on or before March 1<sup>st</sup>. The inventory information must be submitted to the fire department having jurisdiction over the facility, the respective county LEPC, and the SERC. Traditionally, facilities required to report under EPCRA have used the hardcopy Tier II form or some electronic variation (i.e., Tier II Submit) as a means of complying with the notification requirements. This variance in reporting methodology often makes it difficult to utilize the information for local and State planning purposes.

## **III. The Case for a Statewide Tier II Reporting Methodology**

The SERC conducted an in-depth review of the submission process and methods and has identified that a standardized, internet-based statewide system would benefit both the users and filers of Tier II-related information. The submission of Tier II data via the internet has been effective in improving compliance and reducing cost to the regulated community in other states and in several New York counties where electronic reporting is currently being used. This electronic process also has the added benefit of providing an effective data management tool for emergency management officials and the first-responder community as they plan for and respond to incidents involving hazardous materials. Further, facilities can update their information, such as chemical lists, material safety data sheets (MSDSs) and contact information, on-line as circumstances within the facility change. This allows responders access to real-time, up-to-date information.

#### **IV. The Decision to Make E-Plan for Use in New York State**

The SERC Working Group has reviewed the capabilities of a Tier II methodology known as E-Plan. E-Plan is an electronic database managed by The University of Texas at Dallas (UT Dallas) and is funded by the U.S. Department of Homeland Security. E-Plan is a secure, web-based system that includes the necessary and required elements to receive chemical inventory information from facilities that are required to report. The system includes information on the chemical(s) properties, basic plume-modeling, and includes the capability to be exported to other forms of data and systems.

#### **V. Basic Points in Considering Using E-Plan**

It is important to note that the SERC has decided to accept electronic reporting for compliance purposes in satisfying the notification to the State. The SERC is encouraging, **not requiring**, counties to use the program. Each county LEPC and fire department should decide if electronic submission is a process that they are willing to accept for compliance with Section 312.

The E-Plan system is being provided at no cost to all users, including local fire departments, county officials, the State and industries that are required to report. For reference, SERC discussions with chemical industry representatives have identified that the chemical industry is highly receptive to the use of electronic reporting.

LEPCs should recognize that there are two types of users of the E-Plan system:

1. Those that submit information (i.e., industry).
2. Those that view the information submitted by industry for planning and response purposes (i.e., LEPCs, response agencies). This includes local government “authorizing authorities” and “users” of the E-Plan system.

For Industry: Facilities can log on to the E-Plan web site, create their facility profile and password, and will be allowed only to submit and retrieve Tier II information as it pertains to their facility.

For Government: Local government personnel (users) requesting access to review the information submitted by industry will do so on-line. The request will be sent from E-Plan to an “authorizing authority” in that jurisdiction to confirm the legitimacy of the user request. Therefore, each LEPC will need to identify “authorizing authorities” in their jurisdiction that will approve or deny a user’s access to the information submitted by industry.

#### **VI. Steps for LEPCs to Implement E-Plan in Their Jurisdiction Appointing LEPC Authorizers**

Once an LEPC has determined that they want to use E-Plan as their reporting system, they should first identify the authorizing authorities for their jurisdiction. The decision to identify county-level authorizers ultimately rests with the agencies that comprise the LEPC. It is

recommended that only a limited number of persons within a county be identified as the authorizing authority for their jurisdiction. These persons should be program management or senior officers that represent their agency on the LEPC and are the lead in decision making on behalf of their respective agency. Each of those agencies should have at least two authorizers who can serve as the focal point for that agency to respond to agency-specific requests (users) to access E-Plan. This will help ensure that access to secure information is maintained and allow for each response discipline (i.e., fire, EMS, police) to have an authorizer to confirm access for their respective discipline. As an example, the following is list of County-level authorizers:

- County Administrator, County Supervisor or Designee
- LEPC Chair; LEPC Coordinator
- County Emergency Management Office – Director, Administrator, Coordinator
- County Homeland Security Representative – Director, Administrator, Coordinator
- County Fire Marshall/Fire Coordinator
- County HazMat Team Coordinator; Deputy Coordinator
- County Sheriff
- County EMS Coordinator

## **VII. Amendments to LEPC Bylaws**

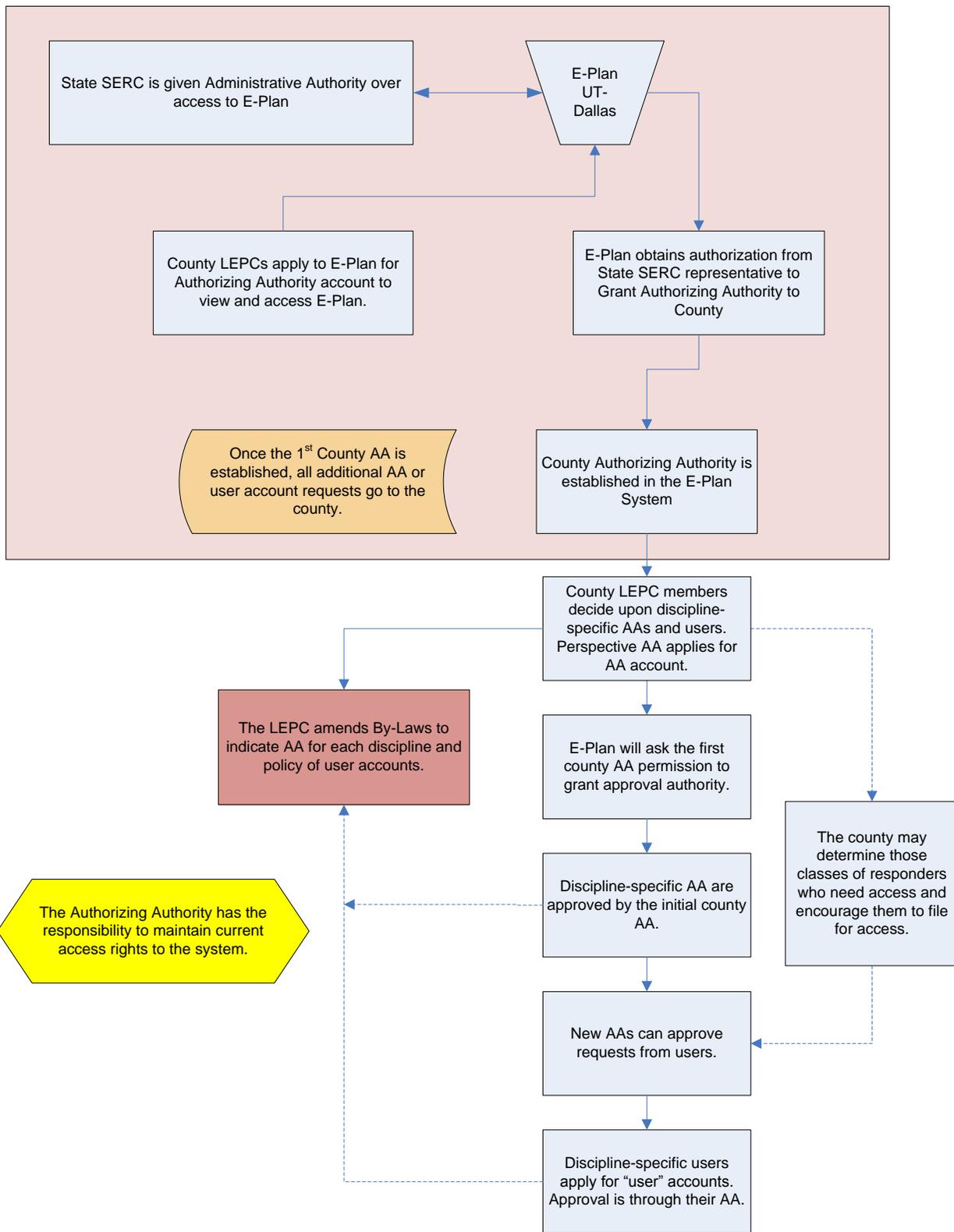
Section 301(c) of SARA Title III requires each LEPC to develop rules (bylaws) by which each committee shall function. LEPCs should formally amend their rules and identify the specific agency, and individuals, that will serve as authorizers for their jurisdiction.

It is important to note that an E-Plan authorizer can only authorize users to access E-Plan and view Tier II inventory submissions for their jurisdiction, not in other jurisdictions. Authorizers should not approve E-Plan access to individuals in neighboring jurisdictions unless the authorizers of both jurisdictions are in concurrence in allowing such access to the system. This limitation should be reflected in the LEPC's bylaws.

See Figure 7 on the next page for a flow chart of E-Plan access for authorizers and users. The red section on this chart depicts the process for establishing an authorizer at the county level. The boxes below depict the process for members within the county to become authorized users.

See Table 1 on page 49 for a suggested dissemination of E-Plan users and authorizers.

**Figure 7: Flow Chart of Authorizing Authorities**



**Table 1: Suggested Dissemination of E-Plan Users & Authorizers**

Agency / Discipline	Discipline Specific Authorizer	Suggested Users	Review Schedule	Comments
LEPC	LEPC Chairperson	Other members of LEPC may be designated as users	At least annually and every time a new Chairperson is appointed.	Primary E-Plan Point of Contact and Authorizer for County. Only person in County able to approve other authorizers within County
Fire Service	County Fire Coordinator	Deputy Fire Coordinators and Chief Officers of Fire Departments within jurisdiction	Annual	Authorizer for appropriate Fire Department personnel only
Law Enforcement	Sheriff	Supervisory Staff and Local Police Chiefs or their designee	Annual	Authorizer for appropriate Law Enforcement personnel only and E911 Center staff
EMS	EMS Coordinator	Deputy EMS Coordinators and EMS Agency Administrators	Annual	Authorizer for appropriate EMS personnel only
Emergency Management	Emergency Manager	Deputy Emergency Managers	Annual	Authorizer for appropriate EMO personnel only
DPW	Superintendent	Supervisory staff	Annual	Authorizer for appropriate Highway and Public Works personnel only
County Health	Director	Supervisory Staff for Environmental and Public Health. May include representatives from hospitals within jurisdiction	Annual	Authorizer for appropriate Public and Environmental Health personnel. May include hospital users
State Agencies	Contact NYS OEM	Statewide	N/A	NYS Agencies have pre-designated Authorizers

**VIII. Requests under the Freedom of Information Law (FOIL)**

Members of the media and the general public should not be allowed access to the system as either an authorizer or a user. In response to FOIL requests, authorizers should only provide the information that is being requested, if appropriate, and not provide open access to the system.

## IX. Establishing County Authorizing Authorities

Once the LEPC has determined who will serve as their authorizing authorities, a potential “Authorizing Authority” must:

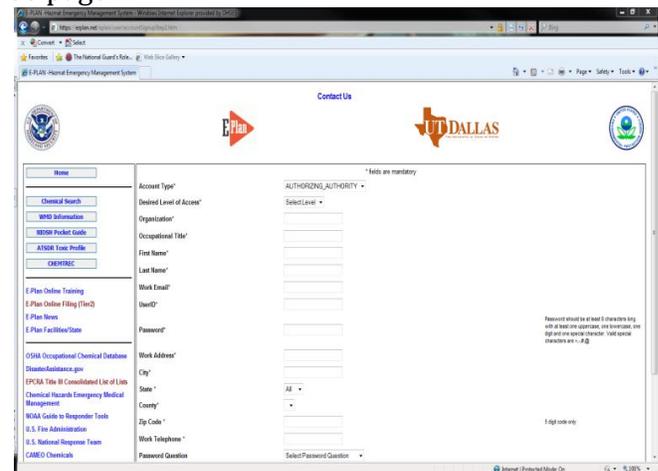
Complete the on line “Authorizing Authority Account Request” form on the E-Plan website. Begin by logging on to the following link: <https://erplan.net>. Once there, select “Login Page” for First Responders. Click on the “Create New Account” link on the middle of the web page.

After clicking on the “Create New Account” link, you will be directed to the web page at right. From this page, select the “Authorizing Authority” account type. Fill in the required fields to identify yourself, your jurisdiction and your own specific UserID and password. After completing the account request form, click the “Save and Continue” button at the bottom of the web page to submit your request.

At the completion of the account request:

- The E-Plan Team at UT Dallas will contact the person who filled out the form by phone or e-mail to verify their identity and desire to be an “Authorizing Authority”.
- Once approved, the E-Plan Team will set up the new “Authorizing Authority” account for the person (or persons) who now will approve all future E-Plan “users” in that jurisdiction.
- The E-Plan Team will send an e-mail message with the account information to the new E-Plan “Authorizing Authority”.
- All future requests from individuals to become authorized E-Plan users will be forwarded to the appropriate “Authorizing Authority” in that jurisdiction for approval either by fax or by e-mail.
- After approval by the “Authorizing Authority” **for that jurisdiction**, the UT Dallas E-Plan Team will send an e-mail message with the account information to the new E-Plan registered user.

## X. Addressing County Users of E-Plan Information



**From:** eplan@utdallas.edu [mailto:eplan@utdallas.edu]  
**Sent:** Friday, August 24, 2007 11:17 AM  
**To:** Requestor  
**Subject:** Account Created on E-Plan System

THIS IS AN AUTOMATED RESPONSE. PLEASE DO NOT REPLY TO THIS MESSAGE.

Dear Requestor,

This Email is to notify you that an account has been created/updated for you in the E-Plan System. Attached with this email is the information about your account.

Use the following url to login into the E-Plan System.

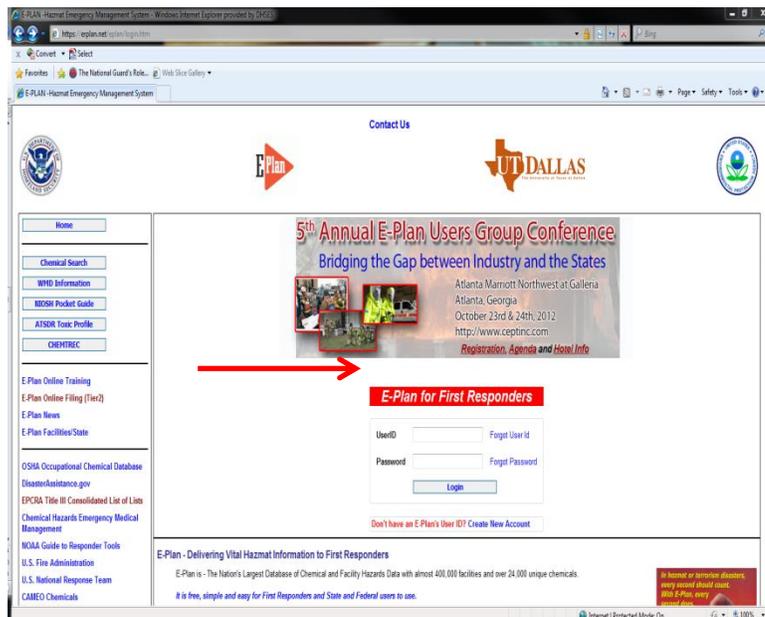
<https://erplan.net/eplan/login.htm>

If you have not requested an account, please contact the E-Plan administrator at [eplan@utdallas.edu](mailto:eplan@utdallas.edu).

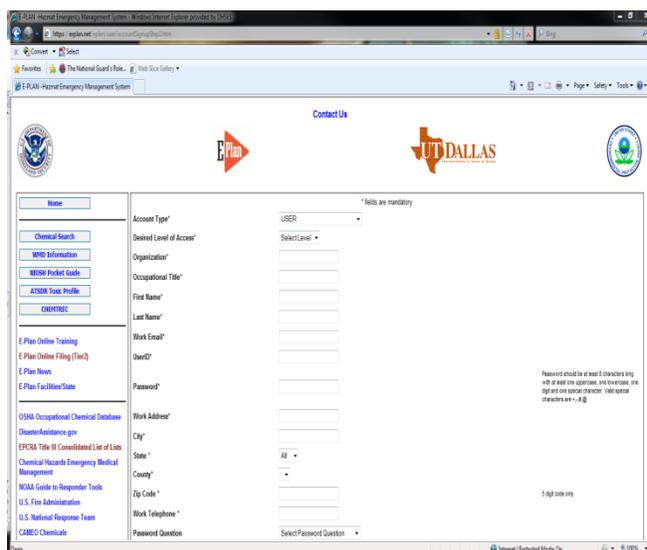
To change your password in the system, login into the system, click on "My Account" button on the left hand side of the screen, type in a new password in the password field and click on "Update User" button at the bottom of the screen to update the password.

As mentioned above, all future requests from individuals to become authorized E-Plan users to view the information on E-Plan will be forwarded to the appropriate “Authorizing Authority” for approval in that jurisdiction either by fax or by e-mail. The steps to becoming a user are similar to the steps in becoming an authorizer.

Prospective users should go to the website at: <https://erplan.net>. From there, the requestor should click on the “Create New Account” link on the middle of the web page, noted by the red arrow.

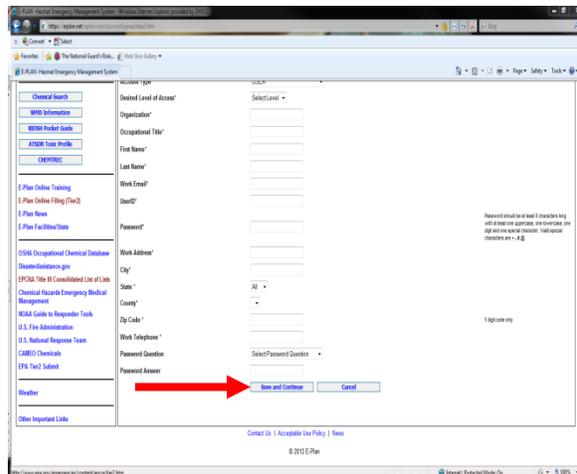


After clicking on the “Create New Account” link, the prospective user will be directed to the web page at right. From this page, select the “User” account type. This will take applicants to a page with numerous required fields (boxes) to establish a user account. Fill in the required fields to identify yourself, your jurisdiction, your own specific UserID and password, and your supervisor’s name and his/her e-mail address. In filling out the form, prospective users will be prompted to read, understand, and fill in the “Acceptable Use Policy” form.



After completing the Acceptable Use Policy form, click the “Save and Continue” button as noted by the red arrow at right to submit your request.

Upon receipt of the online application, E-Plan will send the request for system access to the authorizing authority **in that jurisdiction**. After approval by the authorizing authority for that jurisdiction, the UT Dallas E-Plan Team will setup the new “user” account and send an e-mail message with the account information to the new “E-Plan registered user”.



## XI. Specifics on Fire Department Access to the Information

Typically, each county LEPC includes a representative from the fire coordinator’s office. This individual should be the lead in approving or denying access to the system by fire service personnel. Fire coordinators should use their discretion in determining the number of individuals from each fire department requesting access to the system and may consider limiting access to chief officers and line officers.

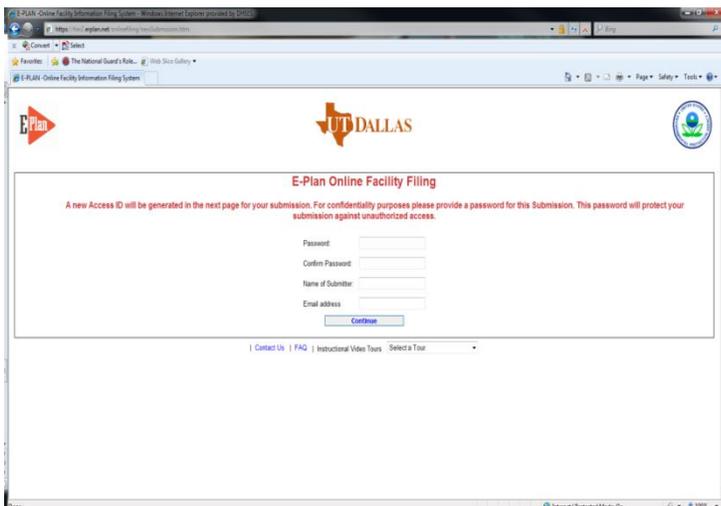
It is recognized that a limited number of fire service personnel in the State may not have internet access to obtain the information on E-Plan or may elect to not accept electronic reporting from the facility. This is of key concern as the fire service is typically the first line of defense in response to a chemical emergency. County LEPCs should discuss this issue with their county fire coordinator. If such cases exist, counties can still require facilities to provide hardcopy submissions of their Tier II forms, MSDSs and site maps to the fire department having jurisdiction over the facility. LEPCs need to ensure that their industry partners know what departments should continue to receive hardcopy submittals of Tier II information.

## XII. Industry Usage

Industry representatives should first go to the main web page at: <https://erplan.net/>. Once there, Tier II filers should click on the Online Tier2 eSubmit Login Page link. This is noted by the arrow at right.



After clicking on Online Tier II eSubmit, the page at right will appear. From here, Tier II filers can create their own access ID and user password. Doing so will generate the facility's initial profile that can be edited only by facility personnel with proper access. To generate the user ID and password, click on the "Register Now" link noted by the arrow at right.



After clicking on the red arrow noted above, Tier II filers will be directed to this web page. From here, Tier II filers can generate user-specific (and facility-specific) information.

After completing the required fields (boxes), click on "Continue" to complete the online submission of inventory information.

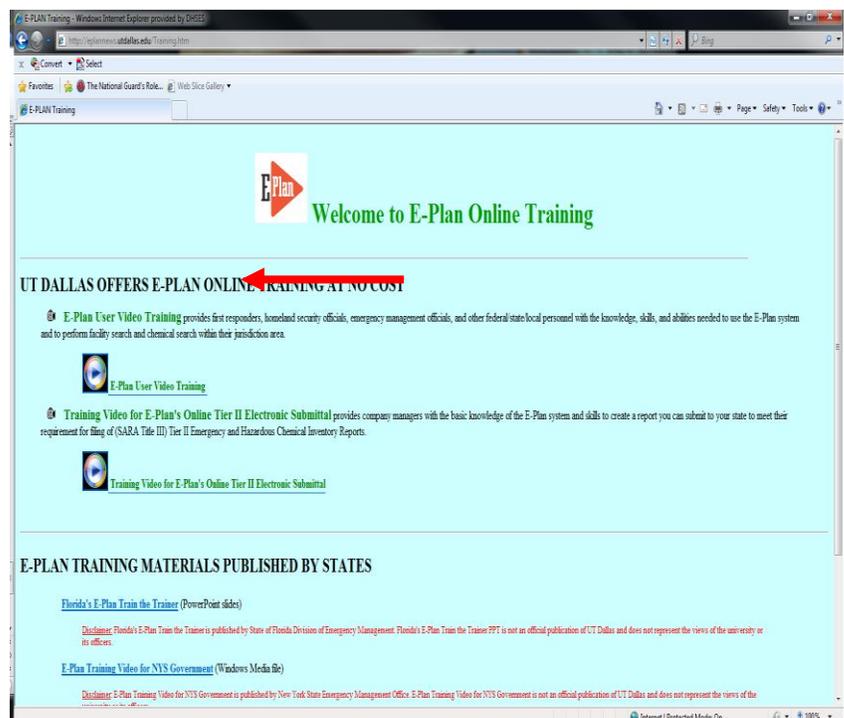
The remaining submission information is relatively simple to use and follow. For those that need assistance, the program also includes an online tutorial. To access the tutorial, click on the domain (drop-down box) in the middle of the page. This is noted by the arrow at right. This will link to another web page and give the user an online tutorial, step by step, on how to file their information. In addition, by selecting this domain, users can also receive the information on how to import *Tier2 Submit* information into the E-Plan system.

### XIII. Special Note for Facilities

E-Plan includes thousands of MSDSs that are available to incorporate along with the facility's submission. However, 40 CFR 370.21(MSDS Reporting) requires facilities to report facility-specific MSDSs. This is crucial as first responders may rely upon facility-specific MSDSs as a reference in making the decision as to the appropriate type/level of protective clothing to wear in an emergency. Industries that are required to provide MSDSs along with their Tier II report should not be relying upon the generic MSDSs contained within E-Plan and should post their specific MSDS on the E-Plan site. For reference, the MSDSs in question are those that are required to be on hand for employee review and regulatory inspection under the 29 CFR 1910.1200 *Hazard Communication Standard*. Chemical suppliers, distributors and manufacturers are required to provide these MSDSs to industry upon request.

### XIV. Program Usage and Training

It is beyond the scope of this document to include a user guide to navigate from point to point in the program. However, from the Training and Registration web page, local government personnel can go through an on-line tutorial that guides them on how to use the system, search the chemical databases, and use the system in response to an event. This link is noted by the red arrow in the slide to the right.



Training workshops for all potential users, including industry and government, are available from State OEM. The training can be conducted in a train-the-

trainer format and should meet the needs of two audiences: government and industry. If you are interested in hosting a session in your jurisdiction, please consider the following:

- The training sessions may be delivered in two hours or less.
- A facility should comfortably seat 35-50 individuals with available desk space.
- A facility is required to have at least one source of web access for usage by E-Plan training staff. Multiple web access points or wireless is desirable to allow participants practical usage of the system during training.

If you are interested in obtaining more information about the program, please contact NYSOEM or visit the E-Plan website.

## E-Plan Reporting Frequently Asked Questions (FAQs)

### Do I have to report a Tier II under Section 312?

You need to report if you meet the following requirements:

**Reportable Quantities:** Facilities must report if any of the following (1 or 2) are met:

1. Facilities that use and/or store 500 pounds of an extremely hazardous substance (EHS), or the threshold planning quantity (TPQ), whichever is lower. EHSs are listed in the document known as the “List of Lists”, published by the EPA.
2. Facilities that use and/or store non-EHS products that are in excess of 10,000 pounds and are required to have a material safety data sheet (MSDS) on site. Facilities can determine if they are required to have an MSDS on site by reviewing federal code of regulations 29CFR1910.1200.
  - Exemptions to reporting:  
There are exemptions to reporting (limited). These can be found in 40CFR370.41. The exemptions include hospitals that store liquid oxygen. Also, limited exemptions are provided for trade secrets, which can be found in 40CFR350.

### Who do I submit my report to?

Tier II reports are to be filed with the State Emergency Response Commission (SERC), the county Local Emergency Planning Committee (LEPC) and the fire department having jurisdiction over the facility.

### How do I submit my information?

The State (SERC) is accepting submission on a web-based application known as E-Plan. Industry and county LEPCs are not mandated to use the system, but are encouraged to do so. It is up to each county to decide for themselves and many counties are accepting reports on the E-Plan system. Industry should contact the county in which the facility resides in to determine if the county is accepting submission on E-Plan. The website is <https://erplan.net/eplan/login.htm>. You will need to create a user ID and password and remember it for future use. The State will also accept hardcopy Tier II forms as well. However, if avoidable, please do not send the submission in the Tier2 Submit format.

There is no charge to submit via E-Plan and there are no charges for the secure access to that data by first response agencies. E-Plan is currently being funded by the U.S. Department of Homeland Security.

### When I file my Tier II reports, for what year am I submitting?

On the third page of the submission form, the date of submission will be the reportable quantities for the *previous* year. So when making a submission in 2009, you are reporting quantities for 2008. Similar to reporting income taxes, you are reporting for the year that just ended.

E-Plan makes it possible to go on line and update reportable quantities at any time. Those updates should be listed as the year they were entered.

### **How do I upload documents (for example: contingency plans, maps, floor plans, or MSDs) onto the E-Plan system?**

To upload additional documents the procedure is as follows:

- Log into the E-Plan's Online Tier II Reporting System at <http://tier2.erplan.net> using your Access ID and password.
- On the Submission Home page, go to the 'Enter new Data/ Retrieve old Data' box and select the 'Select a year to file/retrieve Tier II data'. Click on Continue.
- The Filing Management page will appear. Click on the Edit button beside the facility. The selected Facility Information page will appear.
- Select the Documents link on the menu bar. Click on Browse and choose the file on your computer that you want to upload.
- Fill in a Description for the file (such as Contingency Plan).
- Click the Upload button to load the selected file. This procedure is for uploading documents for a facility in general:
- If you want to upload a document under a particular contact, use the Edit link and the Documents tab.
- If you want to upload a document under a particular chemical, use the Edit link and the Additional Documents tab.
- There is no difference between uploading a document under a Facility, a Chemical, or a Contact, at least from a first responder's perspective. When a first responder looks at facility information on E-Plan, all the documents under Facility, Chemical, and Contact appear as a single menu.

### **How can I import an existing submission from EPA's *Tier2 Submit* software into E-Plan's Online Tier II Reporting System?**

- Once the Tier2 Submit zip or t2s file is created, it can be imported into the E-Plan's Online Tier II Reporting System by uploading the file through the web interface. The functionality to perform this operation (i.e. Tier2 '.zip', Tier2 '.t2s', or CAMEO '.zip' file) is present under the Submission Home screen upon logging into the E-Plan's Online Tier II Reporting System.
- Log into the E-Plan's Online Tier II Reporting System at <http://tier2.erplan.net> using your Access ID and password.
- On the Submission Home page, go to the 'Upload Tier2 '.zip', Tier2 '.t2s', or CAMEO '.zip' file' box and click on Continue.
- The Import Tier2 or CAMEO Data Files page will appear. Click on
- Browse and choose the appropriate zip or t2s file on your computer that you want to upload.
- Click on the Upload button to load the selected zip or t2s file. The Importing Uploaded File screen will appear. Please wait while the uploaded file is processed. This process may take several minutes depending on the size of the uploaded file.

- Once the process is completed, the File Successfully Uploaded screen will appear. You can verify the result and then scroll down to the bottom of the page and click on the Continue button to save.

**Note:** The Tier2 or CAMEO data files will be imported as they are into the E-Plan's Online Tier II Reporting System. For example, if the Tier2 or CAMEO data files are for year 2007, they will be imported as year 2007 submission. You will have to convert the data from year 2007 to the filing year using the Copy Data from Previous Year function on the Submission page.

#### **Can a zip file made from CAMEO be loaded into E-Plan?**

- Log into the E-Plan's Online Tier II Reporting System at <http://tier2.erplan.net> using your Access ID and password.
- On the Submission Home page, go to the 'Upload Tier2 '.zip', Tier2 '.t2s', or CAMEO '.zip' file' box and click on the Continue button.
- The Import Tier2 or CAMEO Data Files page will appear. Click on Browse and choose the appropriate zip file on your computer that you want to upload.
- Click on the Upload button to load the selected zip file. The Importing Uploaded File screen will appear. Please wait while the uploaded file is processed. This process may take several minutes depending on the size of the uploaded file.
- Once the process is completed, the File Successfully Uploaded screen will appear. You can verify the result and then scroll down to the bottom of the page and click on Continue to save.

#### **How do I export data out of E-Plan into a .t2s file or .zipfile?**

- Log into the E-Plan's Online Tier II Reporting System at <http://tier2.erplan.net> using your Access ID and password.
- On the Submission Home page, go to the 'Enter new Data/ Retrieve old Data' box and select the 'Select a year to file/retrieve Tier II data'. Click on Continue.
- The Filing Management page will appear. At the bottom of the Filing Management page, click on Validate Record. The Submission Validation Report for your submission will appear. Click either Export to Tier2 Zip File or Export to .t2s File to get either a zip file or a .t2s file. Before you click on Export, it is a good idea to click on Validate Record to see if your submission has any errors. If the report shows errors, correct them before you export to a .t2s or .zip file.

**Note:** that the E-Plan's Online Tier II Reporting System will not allow you to submit your Tier II data until the "Submission Validation Report" indicates all required fields are correct and the "Upload Data to E-Plan" has been pressed. Once your Tier II data is submitted, the system will send an email message to you stating your submittal was received. Attached with the email is a copy of the facility's Tier2 Online Submission Report (PDF format). You can forward the email message to your local and state agencies.

Once you click on “Export”, a new page is displayed with check boxes beside each facility. Check the appropriate boxes for the facilities you want included in the file. Note that once you click on the “Create File” button, the system will ask you whether you want to Save the file or Open the file. Always choose the Save option and save it to your computer.

### **How do I make data available to emergency responders or how do I submit data to E-Plan?**

Once the "Submission Validation Report" indicates all required fields are correct, please do the following steps to complete your submission to E-Plan.

- Log into the E-Plan's Online Tier II Reporting System at <http://tier2.erplan.net> using your Access ID and password.
- On the Submission Home page, go to the 'Enter new Data/ Retrieve old Data' box and select the 'Select a year to file/retrieve Tier II data'. Click on Continue.
- The Filing Management page will appear. At the bottom of the Filing page, click on Validate Record. The Submission Validation Report for your submission will appear.
- At the bottom of the Submission Validation Report page, click on Upload Data to E-Plan button. This should bring up a list of facilities for that particular year filed by you. Besides each facility, you will find a Check Box and at the right of the facility name you will see a Status indicating whether it has been filed or not. If a facility has not been filed, then select the check box and click on Update to submit your data to E-Plan.
- If you have properly submitted you data via E-plan, you will receive an e-mail from E-Plan confirming your data submission.

**Note:** All facilities that show the status as Filed are available to first responders.

### **If I represent industry and have to submit my Tier II information, do I need authorization from anyone to access the E-Plan system?**

No, industry is *required* by SARA Title III to report materials above the threshold quantities within their facility under the Community-Right-to-Know Act, E-Plan is a means to that requirement.

- Industry has a number of filing format options including hardcopy Tier II form, CD, or the EPA Tier2 Submit program, as well as E-Plan.

### **If Tier 2 reports go first to the County LEPCs and then to the local fire departments how should that process work?**

- If the county accepts one form of submission to all the recipients in the county, then the county/local fire departments need to have access to E-Plan via the internet.
- If a county LEPC chooses to provide the data from the E-Plan system to the fire departments, then a formal process (in writing) should be in effect to identify the route and frequency of providing that information.

- In both of the circumstance above, county LEPCs should provide some documentation (in writing) to industry that confirms that the county LEPC and fire department have received the submission via E-Plan and that the industry has satisfied the reporting requirements to the fire department and the LEPC.

**If I am an industry representative and serve on the county LEPC, do I need a separate log in?**

**Yes**, you will need two separate log-ins: one account as an authorized County User to view information and one account log-in representing that the industry that you're submitting on behalf of.

**Do construction contractors need to report fuel via Tier 2?**

**No**, as long as the fuel is stored on a job site and is considered to be "transient" storage. This would not apply to fuel storage at their shop or permanent location from where they conduct their business.

**Do facilities in the City of New York have additional reporting requirements?**

**Yes**, facilities in the City of New York must report to the Department of Environmental Protection (DEP) who also assesses fees. DEP has an online reporting requirement which is accessible from their web site at <http://www.nyc.gov/html/dep/html/businesses/tier2.shtml>

## **Laws/Regulations for References**

### **State:**

General Municipal Law 204(f): Fire services response plan requirements.

NYS Executive Law, Article 2B, Section 23: Requirements for a comprehensive emergency management plan, or CEMP.

### **Federal:**

Federal Laws: 42USC §11001-11050, Emergency Planning & Community Right to Know Superfund Amendments and Reauthorization Act (SARA) Title III (Public Law 99-499), Emergency Planning and Community Right to Know (EPCRA)

Chemical Inventory Reporting regulations: 40CFR350 to 40CFR373

Hazardous Communications Standard: 29CFR1910.1200 defines hazardous chemicals that are required to have an MSDS on site.

Hazardous Waste Operations and Emergency Response (HAZWOPER) standard: 29CFR1910.120 defines levels of training and on-site response plan requirements for industry.

EHS or Non-EHS: EPA's Document the *List of Lists*

## **Assistance**

For further planning assistance, please contact the New York State Office of Emergency Management Planning Section at 518-292-2302 or [serc@dhses.ny.gov](mailto:serc@dhses.ny.gov).

You may also directly contact the following:

Dan Miller, 518-292-2862 [Dan.miller@dhses.ny.gov](mailto:Dan.miller@dhses.ny.gov) or

David DeMatteo, 518-292-2366 [david.dematteo@dhses.ny.gov](mailto:david.dematteo@dhses.ny.gov).

**This page intentionally left blank.**