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

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 1st. 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 <u>in satisfying the notification to the State.</u> 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 first responder users, including local fire departments, county officials, the State. Industries that are required to report would pay a $25 per facility fee. 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.

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

<u>For Government:</u> Local government personnel (users) requesting access to <u>review</u> 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 <u>first</u> 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 By-Laws

Section 301(c) of SARA Title III requires each LEPC to develop rules (by-laws) 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 by-laws.

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.
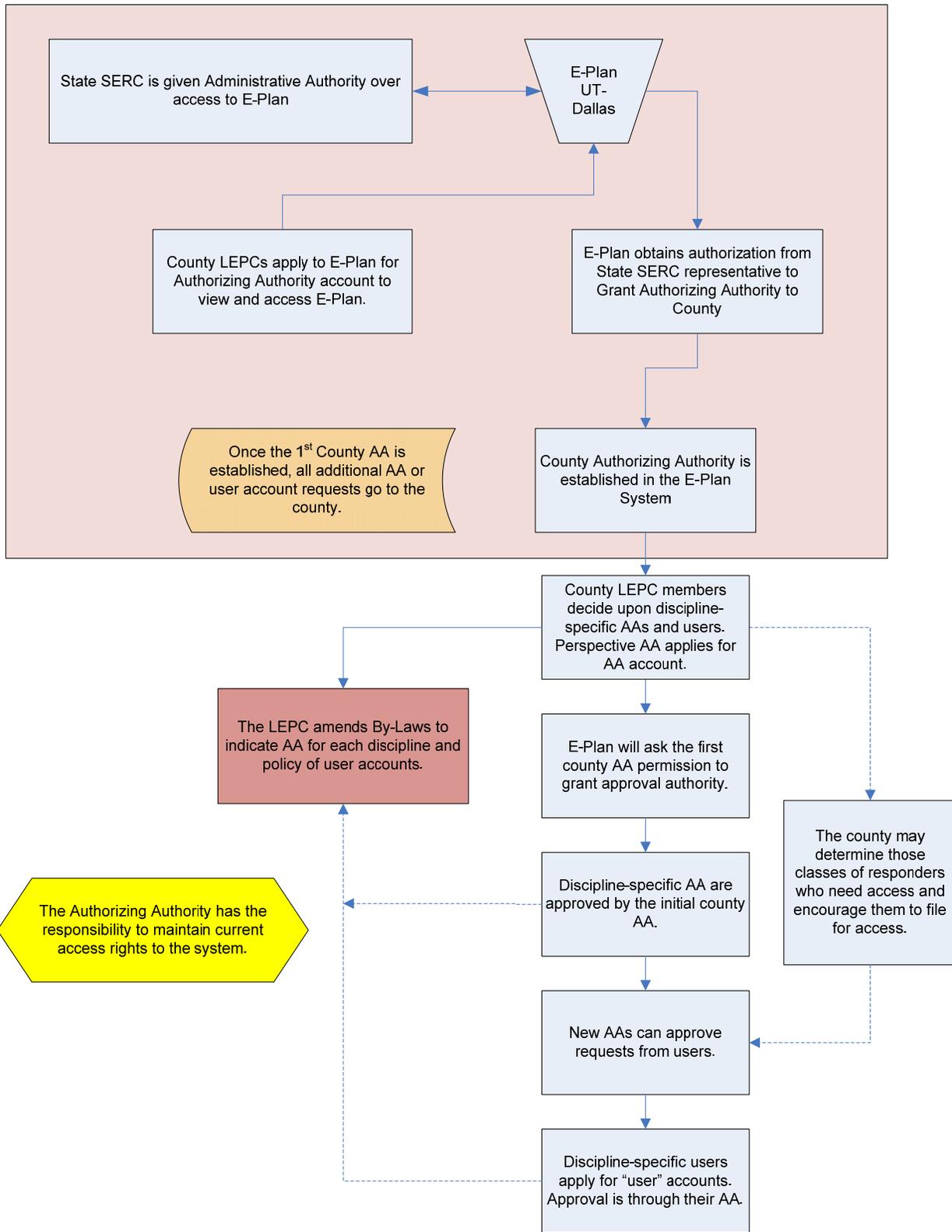
Figure 1: Flow Chart of Authorizing Authorities

State SERC is given Administrative Authority over access to E-Plan

E-Plan UT-Dallas

County LEPCs apply to E-Plan for Authorizing Authority account to view and access E-Plan.

E-Plan obtains authorization from State SERC representative to Grant Authorizing Authority to County

Once the 1st County AA is established, all additional AA or user account requests go to the county.

County Authorizing Authority is established in the E-Plan System

County LEPC members decide upon discipline-specific AAs and users. Perspective AA applies for AA account.

The LEPC amends By-Laws to indicate AA for each discipline and policy of user accounts.

E-Plan will ask the first county AA permission to grant approval authority.

The county may determine those classes of responders who need access and encourage them to file for access.

The Authorizing Authority has the responsibility to maintain current access rights to the system.

Discipline-specific AA are approved by the initial county AA.

New AAs can approve requests from users.

Discipline-specific users apply for "user" accounts. Approval is through their AA.

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 <u>not</u> 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 <u>not</u> 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.
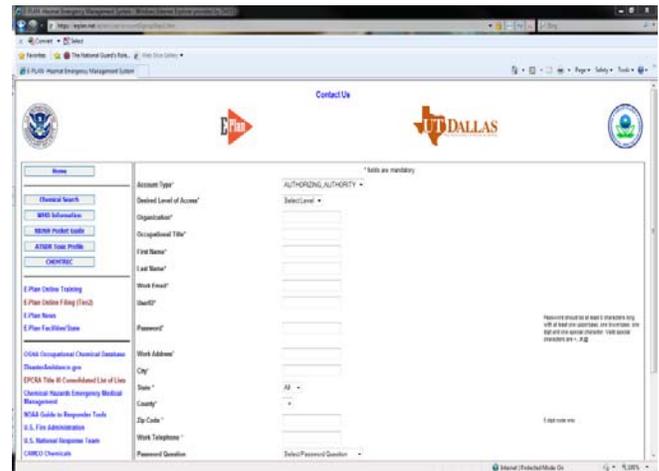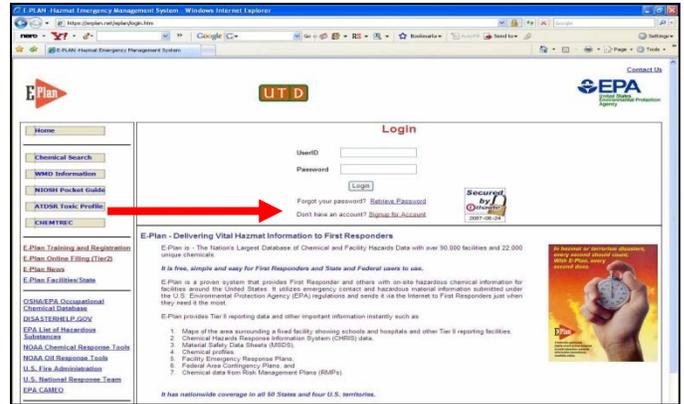
At the completion of the account request:
- The E-Plan Team at UT Dallas will contact the person who filled out the form by phone or e-mail to verify their identity and desire to be an "Authorizing Authority".
- Once approved, the E-Plan Team will set up the new "Authorizing Authority" account for the 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.

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.

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.
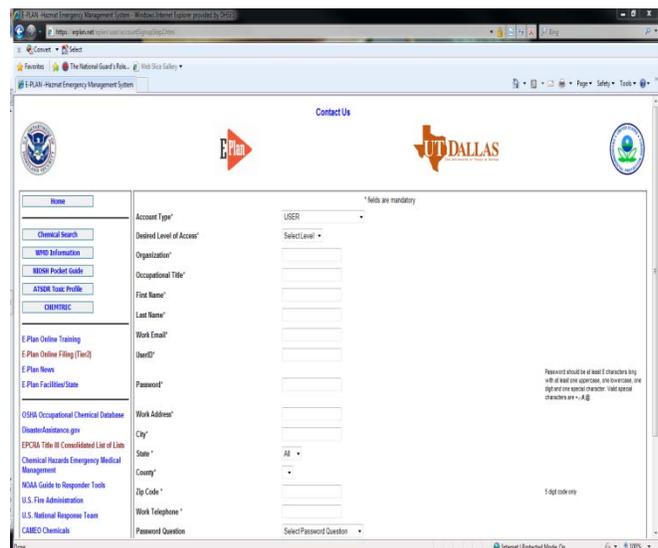
X. Addressing County Users of E-Plan Information

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.
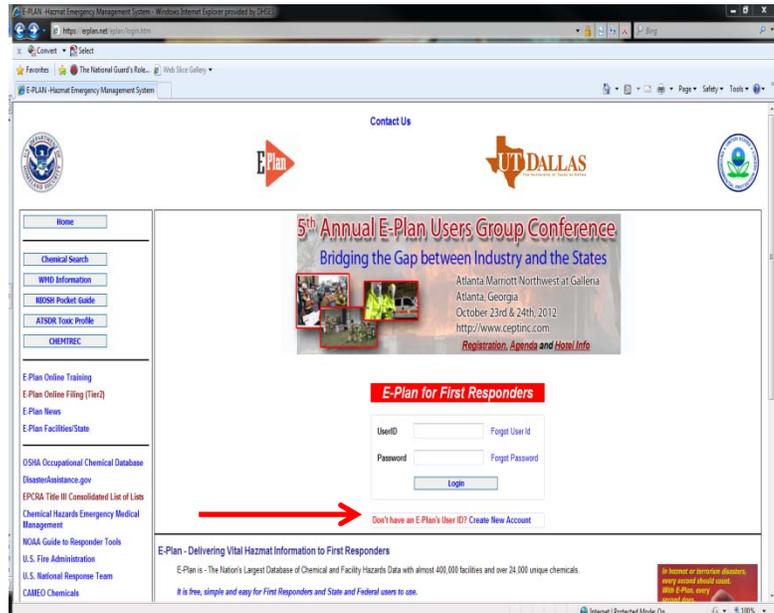
After clicking on the "Create New Account" link, the prospective user will be directed to the web page at right. From this page, select the "User" account type. This will take applicants to a page with numerous required fields (boxes) to establish a user account. Fill in the required fields to identify 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.
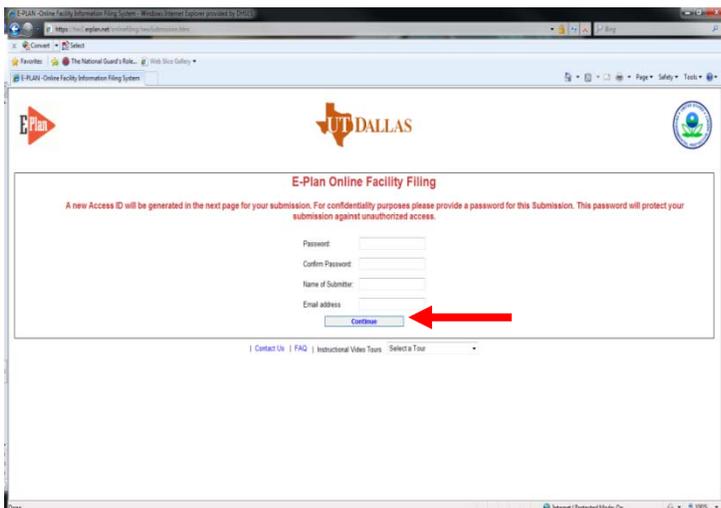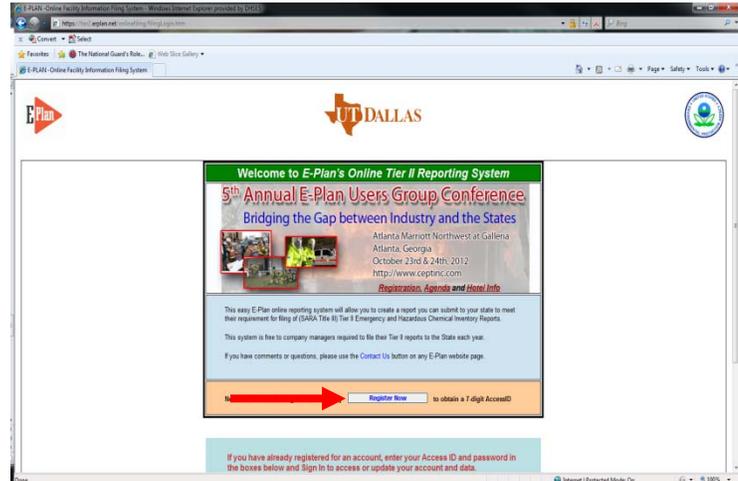
After clicking on the red arrow noted above, Tier II filers will be directed to this web page. From here, Tier II filers can generate user-specific (and facility-specific) information.

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 <u>not</u> 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.
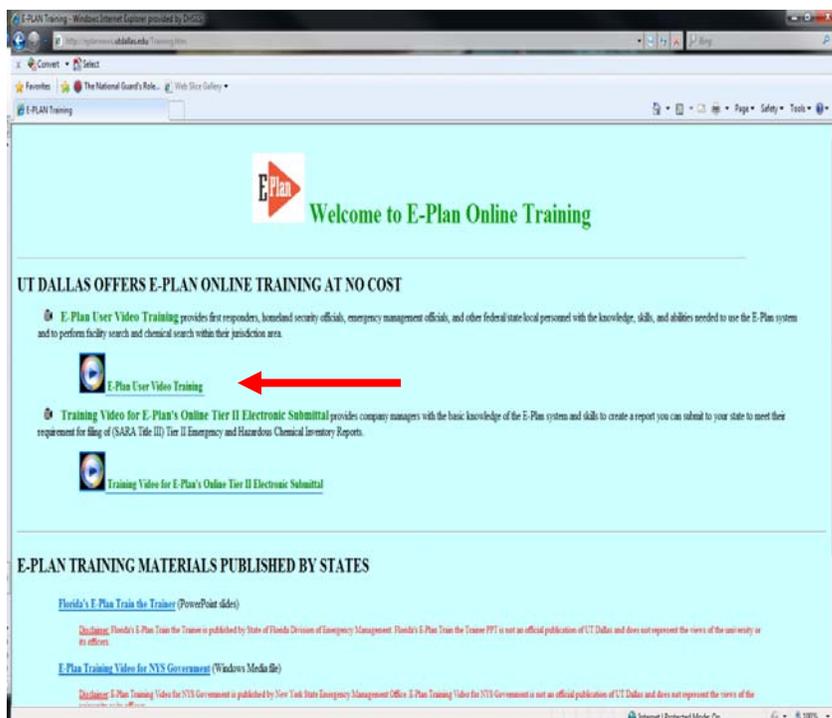
Training workshops for all potential users, including industry and government, are available from State OEM.   The training can be conducted in a train-the-trainer format and should meet the needs of two audiences: government and industry. If you are interested in hosting a session in your jurisdiction, 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.