

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

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. 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.

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