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# EXECUTIVE ORDER 13650



On August 1, 2013, the President issued Executive Order 13650 - *Improving Chemical Facility Safety and Security* (EO). The EO directs the Department of Homeland Security (DHS), the Environmental Protection Agency (EPA), the Department of Labor (DOL), the Department of Justice (DOJ), the Department of Agriculture (USDA), and the Department of Transportation (DOT) to establish a Chemical Facility Safety and Security Working Group to improve chemical facility safety and security in coordination with State regulators; State, local, and tribal emergency responders; chemical facility owners and operators; and local and tribal communities (here after referred to as stakeholders). This fact sheet provides an update to the December 20, 2013, Progress Fact Sheet on progress to address improvements in chemical facility safety and security, specifically stakeholder input, operational coordination with State, local, and Tribal partners, and efforts to modernize policies, programs, and requirements. Through this Progress Fact Sheet the Working Group is specifically inviting public input on actions described herein to improve stakeholder coordination.



## Stakeholder Input

At stakeholder meetings and listening sessions organized by the Working Group, agencies have continued to solicit feedback, best practices, and suggestions from interested stakeholders. The Working Group recently completed its twelfth listening session. The Working Group web page, [www.osha.gov/chemicalexecutiveorder](http://www.osha.gov/chemicalexecutiveorder), is a one-stop location that provides information and accepts comments from interested parties. Stakeholders also can submit written comments through email at [eo.chemical@hq.dhs.gov](mailto:eo.chemical@hq.dhs.gov) or via the [regulations.gov](http://www.regulations.gov) website (<http://www.regulations.gov/#!docketDetail;D=DHS-2013-0075>).

## Operational Coordination with State, Local, and Tribal Partners

Hazardous chemicals are located in many types of facilities and areas. Communities need to know where hazardous chemicals are used and stored; how to assess the risks associated with those chemicals; and how to ensure community preparedness for accidents or incidents that may occur. Many facility owners and operators rely on local resources for emergency preparedness and response, including first responders, emergency medical services, and hazardous materials response teams. It is important for facility owners and operators and their communities to foster strong relationships with one another and maintain a robust, open dialogue to help ensure chemical safety and security. Therefore, the EO directed the Working Group to develop a plan to support and further enable efforts by Federal regulators and stakeholders to work together to improve chemical safety and security.

Based on issues, limitations, and needs identified in public listening sessions, meetings with stakeholder groups, webinars, and feedback submitted to the Federal agencies, the Working Group has developed a set of actions to improve stakeholder coordination in six key categories:

- Expand engagement of the chemical regulated community in the local emergency planning process.
- Improve training and protection for first responders, including a comprehensive implementation and compliance strategy for Hazardous Waste Operations and Emergency Response regulations.
- Provide further technical assistance to State Emergency Response Commissions (SERCs), Tribal Emergency Response Commission (TERCs), Local Emergency Planning Committees (LEPCs), and Tribal Emergency Planning Committees (TEPCs) preparedness activities<sup>1</sup>.
- Identify and coordinate funding sources for LEPCs//TEPCs to sustain planning activities.
- Increase use of electronic reporting and data management.
- Improve public participation in LEPC/TEPCs emergency response planning and access to information about chemical facility risks.

The Working Group will further evaluate and refine the recommended actions as it obtains feedback and additional information from stakeholder groups, assesses resources, and prioritizes activities. We invite the public to submit comments on the proposed actions listed below. The public may submit comments to the public docket (<http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=OSHA-2013-0026;fp=true;ns=true>, docket number OSHA-2013-0026) or by emailing [EO.chemical@hq.dhs.gov](mailto:EO.chemical@hq.dhs.gov).

#### **Expand Engagement of the Regulated Community in the Local Emergency Planning Process.**

While representatives from chemical facilities are involved in emergency-planning activities of some LEPCs, LEPCs noted that industry participation is not a consistent practice across the country and broader involvement across industry in this regard is needed. To improve participation in the local emergency planning process, the Working Group is working on the following short term action items: <sup>2</sup>

##### Short Term

- During authorization and compliance inspections of Chemical Facility Anti-Terrorism Standards (CFATS) covered facilities, verify that emergency plans for security incidents are developed and coordinated with local law enforcement and first responders as required. As appropriate, expand Regional Response Teams (RRT) to include industry members to support and enhance communication during the emergency planning process.

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<sup>1</sup> The Superfund Amendments and Reauthorization Act (SARA) of 1986 created the Emergency Planning and Community Right-To-Know Act (EPCRA). EPCRA required the establishment of state/tribe emergency response commissions (SERCs/TERCs), responsible for coordinating certain emergency response activities and for appointing local emergency planning committees (LEPCs/TEPCs).

<sup>2</sup> Short term actions are those anticipated to be completed by 2014.

- Develop and disseminate additional information for industry members, explaining roles and responsibilities in community emergency response planning and facility safety and security. In addition, establish a national electronic newsletter to improve education and information outreach to the regulated community.
- Assess the feasibility of reviving the Federal Integrated Contingency Plan (ICP), or “One Plan” facility reporting form to decrease duplication and streamline information collection. The “One-Plan” is an integrated contingency plan that allows a facility to comply with multiple Federal planning requirements by consolidating them into one functional emergency response plan.
- Develop guidance for LEPCs/TEPCs to engage facility owners and operators in the community emergency planning process and explain LEPC/TEPC authority under the Emergency Planning and Community Right-To-Know Act (EPCRA), including LEPC/TEPC authority to conduct on-site inspections and collect specific information on the location of hazardous chemicals.
- Working through the RRTs and with industry, identify opportunities to schedule chemical response exercises with federally regulated facilities and local first responders.

To improve participation in the local emergency planning process, the Working Group is evaluating the following medium to long term action items:<sup>3</sup>

#### Medium to Long Term

- Based on data and comments received in response to OSHA’s Request for Information (RFI) on Process Safety Management and Prevention of Major Chemical Accidents, determine whether to pursue regulatory changes to OSHA’s Process Safety Management Standard (29 CFR 1910.119) and OSHA’s Emergency Action Plan Standard (29CFR 1910.38) that would require facilities to coordinate emergency planning with local emergency-response authorities.
- Provide best practices to SERCs, TERCs, LEPCs, and TEPCs on organizational design, staffing, and developing relationships with key local and facility representatives to increase effectiveness.
- Complete regulatory action to clarify EPA Risk Management Program (RMP) information requirements to explicitly indicate that facilities can only report as ‘non-responders’ if local public responders have the means to respond to a facility’s regulated substance and agree to respond. Otherwise, the facility must indicate itself as a responder.
- To the extent feasible, include LEPCs (including first responders and emergency planners) in Federal safety inspections at regulated facilities.
- Develop protocols for appropriately sharing facility inspection information and results (while ensuring protection of security and enforcement information) with LEPCs/TEPCs.

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<sup>3</sup> Medium and long term actions would be completed after 2014.

**Improve Training for First Responders, Including a Comprehensive Implementation and Compliance Strategy for OSHA’s Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard.**

Stakeholders, particularly local emergency responders, members of the local emergency planning committees, local residents, and facility operators, have noted the lack of a coordinated approach to emergency preparedness and response training. To address this, the Working Group is working on the following short term action items:

- Review existing courses and identify the most up-to-date training requirements for first responders.
- Provide a single, web-based portal on available training for first responders.
- Identify States where volunteers and public employees are not covered by health and safety standards and develop options to address any lack of coverage that is identified.

**Provide Further Technical Assistance to SERCs, TERCs, LEPCs, and TEPCs on Prevention and Preparedness for Chemical Incidents.** Input from State and local stakeholders indicate that LEPCs need assistance in contingency planning activities and analyzing the chemical information received from regulated facilities. To achieve this, the Working Group is working on the following short term action items:

Short Term

- Develop guidance to assist LEPCs/TEPCs in developing chemical facility emergency response plans that will promote the inclusion of all relevant community stakeholders (i.e., first responders, community residents, community groups, schools, industry, utilities, etc.).
- Establish a “community” via social media to promote information exchange, including lessons learned and best practices, as well as provide information on guidance and outreach materials, training schedules, etc. Within the “community,” seek opportunities for ‘peer-to-peer’ involvement to leverage experience and best practice applications.
- Work with States to improve SERC/TERC member orientation and training and conduct area/regional LEPC/TEPC workshops to provide technical assistance.
- Revise the “National Response Team (NRT) Hazardous Materials Planning Guide (NRT-1)” and the “Criteria for Review of Hazardous Materials Emergency Plans (NRT-1a)” to improve the development and review of hazardous materials emergency plans.

To improve participation in the local emergency planning process, the Working Group is evaluating the following medium to long term action items:

Medium to Long Term

- Establish a mechanism to send notifications regarding new information on chemical safety and security issues and activities to SERCs/TERCs and LEPCs/TEPCs (e.g., lessons learned from a chemical incident).

- Work with States to assist the SERCs to enhance their role as information-sharing (e.g., RMP, CFATS, and EPCRA Tier II facility and chemical information) organizations and central repositories for training, resources, and program summaries related to chemical facilities.

**Identify and Coordinate Funding Sources for LEPCs/TEPCs to Sustain Planning Activities.**

LEPC and TEPC access to funding for implementing community planning, preparedness, and response programs is not consistent. Stakeholders noted that better coordination of Federal grant funds and support for mutual aid agreements could assist with this need. To achieve this, the Working Group is working on the following short term action items:

Short Term

- Federal agencies will identify all potential resources (e.g., grants, technical assistance, fee systems, private sector funding) and best/successful practices to access funding and support, and provide that information to LEPCs/TEPCs.
- Work with FEMA to modify the examples in the allowable cost list in the FY15 Homeland Security Grant Program Funding Opportunity Announcement to clarify and amplify that planning, training, and exercises for chemical facility incidents are eligible as permitted by law.

To improve participation in the local emergency planning process, the Working Group is evaluating the following medium to long term action items:

Medium to Long Term

- Identify models for mutual aid agreements to lend assistance to LEPCs/TEPCs for chemical emergency planning and response activities.
- Develop a compendium of Federal preparedness funding sources that can be used for first responder training and exercises, such as the Pipeline and Hazardous Materials Safety Administration (PHMSA) Hazardous Materials Grant Program, which includes the Hazardous Material Emergency Preparedness, Hazardous Material Instructor Training, the Supplemental Public Sector Training grants, and the Homeland Security Grant Program.
- Develop a compendium of successful best practices for SERCs on mechanisms for establishing funding to support the EPCRA program.

**Increase Use of Electronic Reporting and Data Management.** State and local officials as well as first responders have noted that local contingency planning and response would be more effective if information provided by chemical facilities was electronically available to officials who need it. To achieve this, the Working Group is working on the following short term action items:

Short Term

- Work with first responders to develop guidance on facility specific chemical information, such as current and up-to-date quantity and location, needed during an emergency response,

ensuring that facilities provide 24-hour contact information and that emergency responders are aware of that information<sup>4</sup>.

- Make subject matter experts from Federal and State government available to assist emergency planners and first responders on accessing and understanding the various databases and the information contained therein.

To improve participation in the local emergency planning process, the Working Group is evaluating the following medium to long term action items:

#### Medium to Long Term

- Explore further expansion of the Computer-Aided Management of Emergency Operations (CAMEO)<sup>5</sup> software suite to include OSHA information; develop a mobile device application; and consider additional initiatives to assist LEPCs/TEPCs in planning.
- Develop a web-based version of EPCRA Tier II Submit<sup>6</sup> to facilitate State development of an internet reporting system, which can be integrated with existing delivery systems, and assist with the accuracy and completeness of EPCRA reporting requirements in lieu of other hazmat emergency management information portal systems.
- Leverage the DHS Homeland Security Information Network and other information-sharing tools and platforms to improve first-responder access to chemical facility security information that is not sensitive but is essential for response planning.

#### **Improve Public Participation in Emergency Response Planning and Access to Information about**

**Chemical Risks.** In some communities, the public is not notified about chemical releases nor does it know how to respond if a chemical accident occurs (e.g., evacuate or shelter-in-place). Additionally, in some cases the public does not know about LEPCs/TEPCs or how to participate in the planning and preparedness process. To improve public engagement on these issues, the Working Group is working on the following short term action items:

#### Short Term

- Develop outreach materials and successful practices describing mechanisms for broadening LEPC/TEPCs membership to groups outside those listed in the EPCRA statute.
- Hold stakeholder training workshops / annual conferences to promote networking and information exchange.

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<sup>4</sup> EPCRA inventory information is submitted on an annual basis, the quantity and/or locations of chemical(s) at the facility may be different at the time of an incident, therefore, it would be useful for responders to be able to have up to the minute quantity and location information when they respond to an incident location.

<sup>5</sup> The CAMEO software suite is a system of software applications used to assist LEPCs plan for chemical emergencies. LEPCs can use CAMEO to access, store, and evaluate information (i.e. EPCRA, RMP) that is critical for developing emergency plans. The CAMEO system integrates a chemical database and a method to manage the data, an air dispersion model, and a mapping capability.

<sup>6</sup> EPA developed EPCRA Tier II Submit to help facilities prepare an electronic chemical inventory report and submit it to their SERC, LEPC, and fire department. Many States accept Tier II Submit, and the Tier II chemical inventory data can also be exported into the CAMEO emergency planning software.

To improve participation in the local emergency planning process, the Working Group is evaluating the following medium to long term action items:

Medium to Long Term

- Include non-government entities that play a role in emergency planning and response around chemical facilities in meetings with SERCs and LEPCs/TEPCs to identify methods of integrating these groups into planning prior to an emergency.
- Develop best practices and/or guidance on successful notification systems and implementing those systems, including reverse 911, sheltering in place, and evacuation.
- Identify planning processes and information sharing tools to address the need to improve communications on local chemical risk to the public.

These action items will continue the development of the “whole community” that is necessary to enhance the sharing of information, the exchange of ideas on lessons learned and best practices, and the development and distribution of guidance and tools on response procedures and local contingency planning to foster safety and security.

## **Modernizing Policies, Programs, and Requirements**

Pursuant to Section 6(a) of the EO, the Working Group developed options to improve chemical facility risk management practices through agency programs, private sector initiatives, government guidance, outreach, standards, and regulations. To do so, the Working Group reviewed existing programs, lessons learned from major incidents, recommendations from the safety and security communities, and feedback from EO listening sessions. These options were released on January 3, 2014, to provide a starting point for additional stakeholder discussion. The stakeholder discussion and comment period, which continues through March 31, 2014, is a critical step in evaluating the feasibility and effectiveness of these options. Feedback on these options will inform a plan for implementing improvements to chemical risk management. This effort does not supersede official or standard processes for agency actions, such as notice and comment rulemaking. The options can be found at: [https://www.osha.gov/chemicalexecutiveorder/Section\\_6ai\\_Options\\_List.html](https://www.osha.gov/chemicalexecutiveorder/Section_6ai_Options_List.html).

The RFI comment period for Section 6(e) of the EO, related to modernization of OSHA’ PSM and related standards, remains open until March 31, 2014. Both the RFI and instructions for submitting comments may be found at <http://www.gpo.gov/fdsys/pkg/FR-2013-12-09/pdf/2013-29197.pdf> .

The Working Group continues to pursue the directives of the EO and is committed to building on the existing coordination with State regulators; State, local, and tribal emergency responders; chemical facility owners and operators; and local and tribal communities to improve chemical facility safety and security.