

## *Federal SERC Responsibilities and how they are implemented in California*

The SERC is mandated by Federal law, Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, also known as the Emergency Planning and Community Right-To-Know Act (EPCRA), Title 42 United States Code (USC), Sections 11001 - 11050 <http://www.law.cornell.edu/uscode/text/42/chapter-116>. The regulations that interpret this act are Code of Federal Regulations (CFR) Parts 355 and 370 <http://www.gpo.gov/fdsys/pkg/CFR-2002-title40-vol1/content-detail.html>.

SARA Title III directs the Governor of each State to appoint a SERC to:

- *Designate local emergency planning districts (Title 42, USC, Section 11001)*
- *Appoint a LEPC and members for each district (Title 42, USC, Section 11001)*
- *Supervise and coordinate the activities of the LEPCs (Title 42, USC, Section 11001)*
- *Establish procedures for receiving, processing and providing information to the public on hazardous materials (Title 42, USC, Section 11001)*
- *Review LEPC regional emergency plans and make recommendations to LEPC on revisions of the plan that may be necessary to ensure coordination of such plan with emergency regional plans of other LEPCs (Title 42, USC, Section 11003)*
- *Receive verbal and written follow-up emergency notifications of the release of extremely hazardous substances or hazardous chemicals (Title 42, USC, Section 11004)*

Federal law does not require the SERC to meet on any scheduled basis. Federal law does lean toward local emergency planning.

The following describes how in California the required SERC responsibilities listed above are implemented:

- *Designate local emergency planning districts.* In California, these districts are the same as the six (6) Mutual Aid Regions [http://www.caloes.ca.gov/HazardousMaterials/Documents/CalEMA\\_Admin\\_MA\\_LEPC\\_062711.pdf](http://www.caloes.ca.gov/HazardousMaterials/Documents/CalEMA_Admin_MA_LEPC_062711.pdf). The SERC may revise these districts as it deems necessary.
- *Appoint a LEPC and members for each district.* In California, there are six (6) LEPCs; one for each local emergency planning district [http://www.caloes.ca.gov/HazardousMaterials/Documents/CalEMA\\_Admin\\_MA\\_LEPC\\_062711.pdf](http://www.caloes.ca.gov/HazardousMaterials/Documents/CalEMA_Admin_MA_LEPC_062711.pdf). The SERC may revise these LEPCs as it deems necessary. Each LEPC shall include, at a minimum, representatives from each of the following groups or organizations:
  - Elected State and local officials
  - Law Enforcement
  - Civil Defense
  - Firefighting
  - First Aid
  - Health

- Local Environmental
  - Hospital
  - Transportation
  - Broadcast and Print Media
  - Community Groups
  - Owners and operators of facilities subject to EPCRA
- ***Supervise and coordinate the activities of the LEPCs***. This is one of six purposes listed on the adopted November 13, 2000 State SERC Mission Statement <http://www.caloes.ca.gov/HazardousMaterials/Documents/SERC%20Mission%20Statement%20113000.pdf>. On November 5, 1990, the SERC adopted the LEPC Mission Statement <http://www.caloes.ca.gov/HazardousMaterials/Documents/LEPC%20Mission%20Statement%20110590.pdf>. The Governor's Office of Emergency Services (Cal OES) Fire and Rescue Division/HazMat Section administratively supports the SERC Chair, Director Ghilarducci, and the Cal OES LEPC Liaisons. Cal OES legal counsel provides legal advice to the SERC and LEPCs. The Cal OES Regions provide administrative support to the LEPCs as a liaison
  - ***Establish procedures for receiving, processing and providing information to the public on hazardous materials***. In California, this requirement is partially met at the state, regional, and local levels. Procedures vary depending on the information:
    - *Emergency Planning and Notification, Facility Emergency Coordinator, Emergency Planning Changes*

The Emergency Planning and Notification Requirements obligate any facility at which there is an amount of the federally extremely hazardous substance equal to or in excess of its threshold planning quantity present to notify its SERC that it is subject to the emergency planning requirements and the facility shall:

- Designate a facility representative who will participate in the local emergency planning process. A facility representative is designated in the hazardous material disclosure under the Business Owner/Operator Identification information as described below but their participation or lack of in LEPC activities varies from one business to another
- Inform the LEPC of any changes occurring at the facility which may be relevant to emergency planning. Such notification of changes occurs at the local governmental level where the hazardous material inventory disclosure requirements are implemented and enforced
- Promptly provide to the LEPC any information necessary for development or implementation of the regional emergency plan. Such information is provided to the local governmental agencies, known as Certified Unified Program Agencies (CUPAs), implementing and enforcing the hazardous material disclosure requirements. CUPAs are required to develop hazardous material emergency plans, known as area

plans, based on the hazardous material disclosure and other information. The LEPCs review these area plans and incorporate information from them into the regional emergency plan

All Emergency Planning and Notification, Facility Emergency Coordinator, and Emergency Planning Changes information received by Cal OES, on behalf of the SERC, is forwarded to the CUPAs

- *Hazardous Material Inventory*

The hazardous material inventory provisions and a portion of the public right-to-know requirements have been integrated into the California Unified Program as one of six elements, California Health and Safety Code (HSC), Division 20, Chapter 6.11, Sections 25404 – 25404.9

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.11.&article=](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.11.&article=). The regulations that interpret the Unified Program law are California Code of Regulations (CCR), Title 27, Division 1, Subdivision 4, Chapter 1, Sections 15100 – 15620

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>. Cal OES is the state authority for the hazardous material inventory requirements. The California Environmental Protection Agency (Cal EPA) administers the Unified Program and the 83 CUPAs and their Participating Agencies (PA's) implement and enforce the program elements.

The CUPAs and/or the PAs receive from facilities/businesses (regulated businesses) the inventory information in the form of a Business Plan. The Business Plan law is located in the HSC, Division 20, Chapter 6.95, Article 1, Sections 25500 – 25519

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1). The Business Plan regulations that interpret the law are in the CCR, Title 19, Division 2, Chapter 4, Article 4, Sections 2729 – 2732

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>.

The Business Plan is required by state law in lieu of the federal hazardous material disclosure forms Tier I or II. These agencies review and approve the Business Plans and also inspect the businesses to ensure these plans are accurate, complete and current. The Business Plan contains all the required federal and state hazardous material disclosure information:

- Business Owner/Operator Identification that includes environmental and emergency contacts
- Hazardous materials inventory at the facility
- Site Map
- Emergency response plans and procedures in the event of a reportable release or threaten release of a hazardous material

- Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threaten release of a hazardous material

Public access to the Business Plan information is provided by the CUPAs and PAs. The CUPAs and PAs have written procedures for receiving, processing and providing the information to the public, as well as inspecting the businesses.

As of January 2013, all Unified Program regulated businesses are required to electronically submit their regulatory reports. Regulated businesses can report using Cal EPA's California Environmental Reporting System (CERS) or directly to their local regulatory agency (CUPA and/or PAs). CERS supports electronic data exchange among regulated businesses, local governments, and the United States Environmental Protection Agency (US EPA). Cal EPA will create a public access website that will allow access to the information collected from businesses and local governments. <http://cers.calepa.ca.gov/>

- *LEPC Regional Emergency Plans*

Each LEPC shall develop and maintain a regional emergency plan. In doing so, the LEPC shall evaluate the need for resources necessary to develop, implement, and exercise the regional emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such resources. The regional emergency plan shall include, at a minimum:

- Identify facilities subject to EPCRA within the emergency planning district
- Identification of hazardous material transportation routes likely to be used for the transportation of substances on the list of extremely hazardous substances
- Identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities above, such as hospitals or natural gas facilities
- Methods and procedures to be followed by facility owner/operators and local emergency and medical personnel to respond to any release of such substances
- Designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the plan
- Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred

- Methods for determining the occurrence of a release, and the area or population likely to be affected by such release
- Description of emergency equipment and facilities in the community and at each facility in the community subject to EPCRA, and the identification of the persons responsible for such equipment and facilities
- Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes
- Training programs, including schedules for training of local emergency response and medical personnel
- Methods and schedules for exercising the emergency plan

The status of each LEPC regional emergency plan is unknown. The LEPCs are required to submit the plan to the SERC. The SERC is supposed to review the plan and make recommendations to the LEPCs on revisions of their plan to ensure coordination of such plan with the regional emergency plans of other LEPCs. In California, no procedures exist in law, regulation, or executive order, nor were any approved by the SERC for:

- Receiving and reviewing the regional emergency plans
- Providing recommendations to the LEPCs on revisions
- Providing access by the Public to the regional emergency plans.

Cal OES staff, on behalf of the SERC, may provide input periodically on such plans verbally or by email correspondence when the LEPCs pose questions regarding their regional emergency plans

- *Safety Data Sheets (SDS)*

In California, the SERC decided that businesses submit the Business Plan to CUPAs in lieu of submitting the SDS, formerly known as Material Safety Data Sheets. Various businesses still submit SDS to the SERC. On behalf of the SERC, Cal OES forwards SDS to the CUPAs. The CUPAs and their PAs have written procedures for receiving, processing, and providing information to the public.

Note: The Cal OES Fire and Rescue Division/HazMat Section are the caretakers of SERC policies, procedures, guidance, and other documents.

- *Toxic Chemical Release Forms – also known as Toxic Release Inventory (TRI)*

EPCRA requires facilities in certain industries, which manufacture, process, or use significant amounts of toxic chemicals, to annually report their releases of these chemicals to the US EPA (Administrator) and to an official or officials of the State designated by the Governor, on form R. Form R, or an alternative form A in lieu of form R if certain conditions are met, can be electronically submitted to the Administrator and states that are participating in the TRI State Exchange

Network (<http://www.epa.gov/tri/report/software/index.htm>). Unsure if California is a participating state. The reports contain information about the types and amounts of toxic chemicals that are released each year to the air, water, and land as well as information on the quantities of toxic chemicals sent to other facilities for further waste management. US EPA maintains this information in a database called the Toxics Release Inventory (TRI), which is available to the public over the Internet <http://www.epa.gov/tri> and in written reports.

There is no Governor Executive Order that designates an official or officials for receiving the TRI information. Prior to the January 1, 2014 amendments to HSC, Division 20, Chapter 6.95, Article 1 being chaptered (SB 483), Cal EPA could have requested any business to submit the information required to be submitted in the toxic chemical release form. Cal EPA was to use this information to collect adequate standardized quantitative data for use in multimedia applications, such as pollution prevention.

In 2007, AB 833 was chaptered adding Article 4 (Sections 25546 - 25546.5) to HSC, Division 20, Chapter 6.95  
[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=4](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=4).. This bill re-established the California Toxic Release Inventory Program that mirrors the US EPA's TRI and mandates the Department of Toxic Substances Control (DTSC) to develop and implement it. DTSC, Office of Environmental Information Management (EIM) receives the form R or the form A in a hard copy version. There is no California State Database in which these hard copies are scanned into. How and if the TRI information is made available to the public is unknown.

- *Hazardous Material Spill Release and Continuous Release Notifications*

Parallel EPCRA hazardous material spill release notification requirements are codified in law, HSC, Division 20, Chapter 6.95, Article 1, Section 25510  
[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1); supporting regulations are CCR, Title 19, Division 2, Chapter 4, Article 2, Sections 2701-2705  
<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>. Other California laws and regulations exist that require spill release notifications. These laws and regulations are outside the scope of EPCRA requirements and therefore are not mentioned in this brief. To access a Release Reporting Matrix listing the above and additional requirements click this link  
<http://www.caloes.ca.gov/HazardousMaterials/Documents/Spill%20Release%20Reporting/Release%20Reporting%20Matrix%20-%20Feb2014.pdf>.

In California, the owner or operator of a facility verbally notifies the California State Warning Center (CSWC), and 911 and/or the CUPA who has jurisdiction over the facility, HSC, Division 2, Chapter 6.95, Article 1, Section 25510  
[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&)

[division=20.&title=&part=&chapter=6.95.&article=1](#) and CCR, Title 19, Division 2, Chapter 4, Article 2 Section 2703

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>.

The CSWC assigns a spill control number to the notification and completes a spill report. Upon receipt of a notification, the CSWC immediately notifies and forwards the spill report to the appropriate Federal, State, and local authorities. Notifying the CSWC satisfies the requirement to verbally notify the SERC and the LEPCs as required under Section 304 of SARA Title III; CCR, Title 19, Division 2, Chapter 4, Article 2, Section 2703 (e)

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>

All verbal notifications to the CSWC can be accessed at either

[http://w3.calema.ca.gov/operational/malhaz.nsf/\\$defaultview](http://w3.calema.ca.gov/operational/malhaz.nsf/$defaultview) or

<http://www.caloes.ca.gov/HazardousMaterials/Pages/Historical-HazMat-Spill-Notifications.aspx>.

In California, the owner or operator of a facility, if required by EPCRA, submits a written emergency follow-up notice to the verbal notification to the SERC CCR, Title 19, Division 2, Chapter 4, Article 2 Section 2705

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome> .

On behalf of the SERC, all written notices are directed to the Cal OES Fire and Rescue Division/HazMat Section where they are date stamped, filed, and kept indefinitely.

The Cal OES Fire & Rescue Division/HazMat Section and legal counsel work in tandem to process all public requests for spill report information. Cal OES has written public request procedures.

- ***Review LEPC regional emergency plans and make recommendations to LEPC on revisions of the plan that may be necessary to ensure coordination of such plan with regional emergency plans of other LEPCs.*** LEPC regional emergency plans are described on pages 4-5. In California, the SERC does not formally have a process for meeting this responsibility. Cal OES staff, on behalf of the SERC, may provide input periodically on such plans verbally or by email correspondence when the LEPCs pose questions regarding their plans. The status of each LEPC regional emergency plan is unknown.

Under the Unified Program, the CUPAs/PAs are required to maintain and update on a three year basis local hazardous material emergency plans known as area plans. Area plan law HSC, Division 20, Chapter 6.95, Article 1, Section 25503 (c) and (d)

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1) and regulations (CCR, Title 19, Division 2, Chapter 4, Article 3, Sections 2720- 2728

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>. These area plans contain information gathered from the EPCRA hazardous material disclosure information disclosed by regulatory facilities subject to EPCRA and the Business Plan

requirements, as well as from the other hazardous material programs such as the California Accidental Release Prevention (CalARP) program. This information provides the basis for the Area Plan and is used to determine the appropriate level of emergency planning necessary to respond to a release. The LEPCs' regional emergency plans incorporate the information from these area plans.

The Area Plan includes at a minimum:

- Identification of the hazardous materials which pose a threat to the community
- Procedures and protocols for emergency response
- Notification and coordination of emergency response personnel
- Public safety notification and evacuation
- Training for emergency response personnel
- Identification of emergency response supplies and equipment
- Critique and follow-up after a major incident

The Hazardous Materials Emergency Preparedness (HMEP) grant (as described on pages 9-10) provides financial assistance through the LEPCs to the CUPAs/PAs for the maintenance and update of the area plan

- ***Receive verbal and written follow-up emergency notifications of the release of extremely hazardous substances or hazardous chemicals.*** Parallel EPCRA hazardous material spill release notification requirements are codified in law, HSC, Division 20, Chapter 6.95, Article 1, Section 25510 [http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1); supporting regulations are CCR, Title 19, Division 2, Chapter 4, Article 2, Sections 2701-2705 <http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>. Other California laws and regulations exist that require spill release notifications. These laws and regulations are outside the scope of EPCRA requirements and therefore are not mentioned in this brief. To access a Release Reporting Matrix listing the above and additional requirements click this link <http://www.caloes.ca.gov/HazardousMaterials/Documents/Spill%20Release%20Reporting/Release%20Reporting%20Matrix%20-%20Feb2014.pdf>.

In California, the owner or operator of a facility verbally notifies the California State Warning Center (CSWC), and 911 and/or the CUPA who has jurisdiction over the facility, HSC, Division 2, Chapter 6.95, Article 1, Section 25510 [http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.95.&article=1) and CCR, Title 19, Division 2, Chapter 4, Article 2 Section 2703 <http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>. The CSWC assigns a spill control number to the notification and completes a spill report. Upon receipt of a notification, the CSWC immediately notifies and forwards the spill report to the appropriate Federal, State, and local authorities. Notifying the CSWC satisfies the requirement to verbally notify the SERC

and the LEPCs as required under Section 304 of SARA Title III; CCR, Title 19, Division 2, Chapter 4, Article 2, Section 2703 (e)

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>

All verbal notifications to the CSWC can be accessed at either

[http://w3.calema.ca.gov/operational/malhaz.nsf/\\$defaultview](http://w3.calema.ca.gov/operational/malhaz.nsf/$defaultview) or

<http://www.caloes.ca.gov/HazardousMaterials/Pages/Historical-HazMat-Spill-Notifications.aspx>.

In California, the owner or operator of a facility, if required by EPCRA, submits a written emergency follow-up notice to the verbal notification to the SERC CCR, Title 19, Division 2, Chapter 4, Article 2 Section 2705

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome> . On behalf of the SERC, all written notices are directed to the Cal OES Fire and Rescue Division/HazMat Section where they are date stamped, filed, and kept indefinitely.

The Cal OES Fire & Rescue Division/HazMat Section and legal counsel work in tandem to process all public requests for spill report information. Cal OES has written public request procedures.

- ***Other actions performed by the SERC:***

- *Administer the United States Department of Transportation/Pipeline and Hazardous Materials Safety Administration (US DOT/PHMSA) HMEP Grant*

The US DOT/PHMSA provides assistance to public sector employees through the HMEP Grant. The HMEP grant program is intended to provide financial and technical assistance as well as national direction and guidance to enhance State, Territorial, Tribal, and local hazardous materials emergency planning and training. The purpose of the HMEP grant program is to increase effectiveness in safely and efficiently handling hazardous materials accidents and incidents; enhance implementation of the EPCRA; and encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges of responses to transportation situations. The HMEP Grant Program distributes fees collected from shippers and carriers of hazardous materials to emergency responders for hazmat training and to LEPCs for hazmat planning. This is a performance-based grant that builds on and supports accomplishments of long-term goals and objectives.

In California, Cal OES Fire and Rescue Division/HazMat Section administers the entire (planning and training) HMEP Grant Program for the SERC; Cal OES Fire and Rescue Division/HazMat Section works with Cal OES CSTI to administer the training portion of the Grant. Both Cal OES and the LEPCs oversee the planning projects and training activities funded through the U.S. DOT PHMSA HMEP Grant.

Cal OES submits to U.S. DOT/PHMSA a request for a continuation of the grant on a yearly basis. U.S. DOT/PHMSA, who sets the amount of funding for each state or territory, approves the amount of the award issued to the State of California. Amount of award received is determined by (1) number of 302 facilities (extremely hazardous substance handling) filing in the state, (2) population, and (3) highway miles within the state.