

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAM

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Directive assigns responsibility and describes procedures for the implementation and maintenance of Emergency Planning and Community Right-to-Know Programs throughout VHA.
- 2. SUMMARY OF MAJOR CHANGES:** Minor updates to formatting and current VHA program office titles.
- 3. RELATED ISSUES:** None.
- 4. RESPONSIBLE OFFICE:** The Deputy Under Secretary for Health for Operations and Management (10N) is responsible for the contents of this Directive. Questions may be directed to the Director, Occupational Safety, Health and Green Environmental Management Systems (GEMS) Programs (10NA8) at 202-632-7889.
- 5. RESCISSIONS:** VHA Directive 2004-032, dated July 7, 2004, is rescinded.
- 6. RECERTIFICATION:** This VHA Directive is scheduled for recertification on or before the last working day of July 2020.

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EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAM

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides information and direction for the implementation of an Emergency Planning and Community Right-to-Know Program at VHA facilities. **AUTHORITY:** 42 U.S.C. 11001 through 11050, Executive Order (EO) 13693.

2. BACKGROUND: The Department of Veterans Affairs (VA) as a Federal agency is required by the Environmental Protection Agency (EPA) to participate in an Emergency Planning and Community Right-to-Know Program.

a. The Emergency Planning and Community Right-to-Know Act (EPCRA), is a separate, free-standing law included as Title III to the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III), Public Law (Pub. L.) 99-499, and codified at Title 42 United States Code (U.S.C.) 11000 through 11050. Congress passed this Act in response to concerns raised by the disaster in Bhopal, India, in which thousands were killed or injured as a result of the release of a toxic gas from a nearby industrial facility. The Act provides for adequate response should the release of hazardous materials occur. It further mandates emergency planning efforts at state and local levels, and provides residents and local governments with access to information concerning potential chemical hazards and emissions present in their communities.

b. When passed in 1986, Federal agencies and activities were not required to comply with SARA Title III. However, as a result of the Federal Facilities Compliance Act of 1992, Pub. L. 102-386, and Executive Order 13148, all Federal agencies and facilities are required to comply with the provisions of SARA Title III as well as state and local environmental regulations, and to actively participate in emergency planning activities. EPCRA is unique among Federal environmental laws in that Congress specifically requires state and local government organizations to administer the majority of the law by receiving reports and notifications, planning for chemical emergencies, and providing the public with access to submitted information.

c. The basic purposes of SARA Title III are to promote emergency planning for response to chemical releases, and to ensure that information regarding chemicals in the community is available to the public and emergency planning agencies. These are accomplished by:

(1) Establishing State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) with responsibility to develop emergency plans to be followed in the event of an emergency chemical release.

(2) Implementing a series of notification and reporting requirements to state and local emergency planning activities with respect to type and quantities of specific chemicals.

(3) Promoting the development of local response plans and procedures in the event of an emergency chemical release.

d. SARA Title III promotes the protection of emergency responders, the local community, and the environment from toxic and hazardous materials and their emissions that may constitute a health or environmental hazard. Compliance with SARA Title III improves chemical safety and protection of public health. Title III reporting procedures are complex and may be modified by local and/or state requirements.

e. Other Federal agencies, state governments, and industry are working with local communities to ensure a successful program. The LEPC is responsible for the development of the local emergency response plan, the collection and storage of information provided by facilities, and making this information available to the public. Information on the LEPC may be obtained by contacting the local city and/or county Emergency Management Office.

3. POLICY: It is VHA policy that each facility must establish and participate in an Emergency Planning and Community Right-to-Know Program in accordance with this Directive and consistent with all Federal, state, and local regulations.

4. RESPONSIBILITIES:

a. **Under Secretary for Health.** The Under Secretary for Health (10), or designee is responsible for:

(1) Overseeing VHA Occupational Safety and Health (OSH) and Office of Emergency Management (OEM) Programs and policies.

(2) Establishing OSH and OEM Program performance standards for the Assistant Deputy Under Secretary for Health for Operations and Management for Administrative Operations (10NA).

b. **Deputy Under Secretary for Health for Operations and Management.** The Deputy Under Secretary for Health for Operations and Management (10N) is responsible for:

(1) Overseeing the development and implementation of the VHA OSH and OEM Programs and policies.

(2) Establishing performance standards for the Assistant Deputy Under Secretary for Health for Administrative Operations, as well as Veterans Integrated Service Network (VISN) Directors.

c. **Assistant Deputy Under Secretary for Health for Operations and Management for Administrative Operations.** The Assistant Deputy Under Secretary for Health for Operations and Management for Administrative Operations (10NA) is responsible for:

(1) Establishing and overseeing the Office of Occupational Safety, Health, and Green Environmental Management Systems (GEMS) Programs (10NA8).

(2) Establishing and overseeing the Office of Emergency Management (10NA1).

(3) Ensuring that staffing and funding are adequate to implement the Emergency Planning and Community Right-to-Know Program.

d. Director, Office of Occupational Safety, Health, and Green Environmental Management Systems Programs, and Director, Office of Emergency Management.

The Director, Office of Occupational Safety, Health, and GEMS Programs (10NA8), and Director, Office of Emergency Management (10NA1) are jointly responsible for:

(1) Ensuring that analysis performed in support of this Directive is conducted through intra-office coordination between 10NA1 and 10NA8 to determine if there are national trends that provide opportunities for improvement.

(2) Coordinating with all other applicable offices within VHA and VA in the development of action plans to address identified opportunities for improvement.

(3) Providing for periodic review and follow up with the Assistant Deputy Under Secretary for Health for Administrative Operations as necessary.

(4) Developing recommendations for correction to the Assistant Deputy Under Secretary for Health for Administrative Operations and the Deputy Under Secretary for Health for Operations and Management.

e. Veterans Integrated Service Network Directors. VISN Directors are responsible for:

(1) Establishing and participating in an effective Emergency Planning and Community Right-to-Know Program for all VA medical facilities within their network.

(2) Coordinating with all local LEPC's and other federal, state, and local agencies in activities related to EPCRA.

(3) Providing, upon request by authorized external regulatory agencies, the nature and quantity of chemicals on the Extremely Hazardous List or other chemicals as may be required by law.

(4) Reviewing annually and update facility inventories of hazardous chemicals and wastes.

(5) Integrating the health care facility Emergency Planning and Community Right-to-Know Program into the facility Emergency Management and GEMS Programs.

f. VA Medical Facility Directors. VA medical facility Directors are responsible for:

(1) Establishing and participating in an effective Emergency Planning and Community Right-to-Know Program.

(2) Appointing a facility Emergency Response Coordinator (ERC) to administer the facility Emergency Planning and Community Right-to-Know Program and to serve as a point of contact with the Local Emergency Planning Committee (LEPC).

NOTE: *If necessary, the facility Emergency Response Coordinator can represent the facility on the LEPC.*

(3) Ensuring that the nature and quantity of chemicals on the Extremely Hazardous List or other chemicals as may be required by law are provided upon request by authorized external regulatory agencies.

g. **Facility Emergency Response Coordinator.** The facility Emergency Response Coordinator is responsible for:

(1) Coordinating with the LEPC and other Federal, state, and local agencies including, but not limited to:

(a) Participating in SARA Title III planning activities.

(b) Discussing with the LEPC the potential for spills or releases of chemicals on the Extremely Hazardous List and their Threshold Planning Quantities (TPQs) as published in the most recent Title 40 Code of Federal Regulations (CFR) Part 355, Appendices A and B.

(c) Reviewing proposed hazardous chemicals and quantities that would require additional reporting to LEPCs.

(d) Reporting spills or releases of chemicals on the Extremely Hazardous List or other chemicals as required, in coordination with available GEMS staff.

(2) Reviewing annually and updating facility inventories of hazardous chemicals and wastes.

(3) Integrating the facility Emergency Planning and Community Right-to-Know Program into the facility Emergency Management and GEMS Programs when implemented.

h. **Facility Chief, Facilities Management.** The facility Chief, Facilities Management is responsible for:

(1) Maintaining and updating Waste Minimization and Compliance Reports, including:

(a) The name and position title of the ERC.

(b) A listing of locations with EPA designated extremely hazardous substances on site at any one time at or above the threshold planning quantity, and the types and amounts of chemicals involved.

(c) A listing of facilities required to submit the EPA Toxic Chemical Release Inventory Form R for each calendar year.

(d) A listing of facilities experiencing emergency releases of extremely hazardous or hazardous substances, including the location and duration of the release, as well as the chemical(s) released.

(2) Providing for the review of periodic survey data of hazardous substances, including follow-up with the Deputy Under Secretary for Health for Operations and Management.

5. REFERENCES:

a. Executive Order 13693, Planning for Federal Sustainability in the Next Decade (March 19, 2015).

b. Federal Facilities Compliance Act of 1992, Pub. L. 102-386, 42 U.S.C. 11001 through 11050.

c. The Superfund Amendment and Reauthorization Act of 1986, Pub. L. 99-499, Sections 302-304, 311 and 313.

d. 40 CFR parts 355 and 370.