



COLORADO DESIGNATED EMERGENCY RESPONSE AUTHORITY

*What it is and how do you do it.*¹

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Colorado law requires that each county and municipality designate an emergency response authority for responding to hazardous substance incidents. That authority, called a Designated Emergency Response Authority (DERA), must provide or conduct emergency response capabilities, directly or through mutual aid agreements. In 2016, the Colorado State Legislature passed a revised statute that changed the DERA requirements. This guidance document explains the basic structure of DERA and the recent changes.²

WHAT IS A DERA?

The law requires each county and municipality to designate a DERA. The default DERA for a municipality is the fire authority. The default county DERA is the sheriff. The Colorado State Patrol (CSP) is the DERA on any federal, state, or county highway located outside of municipal city limits. Counties and municipalities are required to annually report their DERA designation to the CSP.

WHAT IS A HAZARDOUS SUBSTANCE?

The definition of Hazardous Substance includes substances, materials, waste, or mixture that are designated as hazardous under Colorado law or federal laws. This definition is very broad and includes such substances as anhydrous ammonia, chlorine and petroleum products.³

WHAT IS A HAZARDOUS SUBSTANCE INCIDENT?

A hazardous substance incident is an actual or threatened emergency circumstance that results or may result in harm to the environment or public. A hazardous substance incident includes all spilling, dumping, or abandonment of a hazardous substance. The spilling, dumping, or abandonment does not

¹ This document has been created by the Colorado Emergency Planning Committee as an aid to local emergency planning committees and others charged with preparedness for hazardous substance incidents.

² See §29-22-101 C.R.S., *et seq.*

³ “Hazardous substance” means any substance, material, waste, or mixture designated as a hazardous material, waste, or substance according to Federal Regulations, §18-13-112(2)(b), C.R.S., or as designated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“Superfund”).

have to threaten immediate harm. For example, a transportation incident in which a spill does not occur during the incident but is threatened prior to or during the cleanup period is included.

WHAT ARE THE DERA'S AUTHORITIES AND RESPONSIBILITIES?

The DERA is responsible for providing or conducting emergency response to a hazardous substance incident. The DERA may fulfill this obligation directly or through mutual aid and intergovernmental agreements, including agreements with private entities such as local businesses and non-government organizations.

WHAT IS EMERGENCY RESPONSE TO A HAZARDOUS SUBSTANCE INCIDENT?

Emergency response includes the actions necessary to minimize the effects or threat of adverse effects of the incident on human health or the environment. It is the judgment of the DERA or incident commander that controls.

MAY A DERA RESPOND TO INCIDENTS ON PRIVATE PROPERTY?

Hazardous substance incidents on private property shall be promptly reported to DERA when the hazardous substance incident is otherwise reportable to any federal, state or local agency. While the DERA may not prohibit the owner or operator of private property from undertaking emergency response, the DERA may undertake emergency response if the owner or operator does not act or, if in the judgment of the DERA, there exists an imminent danger to human health of the environment.

WILL THE DERA BE REIMBURSED FOR RESPONSE COSTS?

A public entity has the right to claim reimbursement for all reasonable and necessary emergency response costs from the person with care, custody, and control of the hazardous substance. The reimbursement may include the costs of collection. The reimbursement also includes the value of emergency response services provided to the DERA by a private entity regardless of whether the DERA paid for those services.

Private entities may directly pursue reimbursement, if the claim has been approved by the DERA and if there is a standing agreement with the DERA prior to the incident that says that the private entity will not be paid by the DERA.⁴

⁴ This allows DERAs to put agreements in place as part of their preparedness planning and to specify the financial arrangements in advance.

THE DERA MAY REQUEST INFORMATION ON CHEMICAL STORAGE

The DERA and fire department have the authority to request information from anyone storing chemicals based upon a chemical list and thresholds in the statute. There is an exclusion for chemicals in typical consumer-sized packaging and those stored by farmer or rancher for use in active agriculture.⁵

Hazard type	Quantity
Class A or B explosive	Any quantity
Class C explosive	50 pounds
Etiological agent	Any quantity
Water reactive flammable solid	5 pounds
Pyrophoric material	5 pounds
Organic/inorganic peroxide	50 pounds
Poison A or poison B	100 pounds or 15 gallons
Flammable liquid other than a pyrophoric liquid	700 pounds or 120 gallons
Compressed flammable gas other than	3,000 cubic feet or more
Liquefied petroleum gases at one atmosphere at 75 Fahrenheit	exceeding 18,000 gallon water capacity
Oxidizer	200 pounds or 120 gallons
Combustible liquid	
Class I	120 gallons
Class II	240 gallons
Class III	500 gallons
Corrosive material	200 pounds or 120 gallons (unless a lesser amount specified in 49 CFR Part 172.101)
Irritating material	200 pounds or 120 gallons

⁵ §29-22-107(2)(a), C.R.S. Note that the list is much more expansive than EPCRA and the thresholds are much lower. Petroleum products and explosives are covered.