DRAFT

EC-2000-007 01/20/00
II-A-003

EPCRA
Provisions on Reporting

INTRODUCTION

This memo analyzes the provisions in the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§11001-11050) that require reporting to the EPA or the states by the regulated community, authorize the EPA to promulgate regulations requiring reporting, or provide for public requests for information reported to the EPA.

The Emergency Planning and Community Right-to-Know Act (EPCRA) was enacted as Title III of the Superfund Amendments and Reauthorization Act of 1986. EPCRA consists of three subtitles. Subtitle A establishes the framework for state and local emergency planning and notification of accidents. Subtitle B provides the mechanism for informing the public of the presence of chemicals in the community. Subtitle C contains general provisions focusing on public access to information and enforcement, which apply to all of the information required to be obtained under both Subtitles A and B. Regulations implementing the statutory provisions of EPCRA are codified in Title 40 of the Code of Federal Regulations, Parts 350, 355, 370 and 372.

EPCRA creates a comprehensive system for emergency planning at state and local levels through the establishment of State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs). Each LEPC is required to develop an initial Comprehensive Emergency Response Plan by October 1988, which is reviewed annually by the SERC. EPCRA's planning provisions also require facilities to notify the SERC and LEPC of the presence of an extremely hazardous substance within 60 days of its presence in amounts meeting or exceeding certain thresholds. The list of chemicals for which thresholds have been set is available at 40 C.F.R. Part 355, Appendix A.

EPCRA's reporting requirements consist of Emergency Release Notification, Materials Safety Data Sheets (MSDSs), Emergency and Hazardous Chemical Inventory Forms, and Toxic Chemical Release Forms. The Emergency Release Notification provision requires the owner or operator of a facility at which certain hazardous chemicals are produced, used, or stored to notify the SERC and LEPC immediately of releases of reportable quantities of listed substances. An owner or operator of a facility that is required to maintain an MSDS for a hazardous chemical under the Occupational Safety and Health Act must submit the MSDS or a list of the chemicals to the SERC, LEPC, and local fire department. In addition, these facilities must annually submit to the same entities Emergency and Hazardous Chemical Inventory Forms for their hazardous chemicals. Lastly, the owner or operator must submit a Toxic Chemical Release Form (Form R) to EPA and the designated state agency for each listed toxic chemical that was manufactured, processed, or otherwise used at the facility in excess of the thresholds set by EPA.

EPCRA has five major provisions for reporting, information provision, and promulgation of regulations:

- emergency planning (sections 11001-11003);

Received
JAN 12 2001
Enforcement & Compliance Docket & Information Center

- emergency release notification (section 11004);
- community Right-to-Know reporting requirements (sections 11021-11022);
- toxic chemical release inventory (section 11023);
- general (e.g., trade secrets, information availability, and enforcement) (sections 11041-11046).

Many of EPCRA's provisions pose no barrier to electronic reporting and could in fact be used to facilitate reporting and information provision by electronic methods. One provision even requires the EPA to maintain a computer data base of national toxic chemical inventory data submitted to EPA under EPCRA. The data must be accessible by "computer telecommunication and other means" to any person on a cost reimbursable basis. Other provisions are ambiguous about electronic reporting and will depend on how EPA regulations define certain terms and provide needed protections. They mostly involve provisions relating to **time-sensitive requirements**, forms, copies, on-site inspections, trade secrets and confidential business information, provision of evidence, subpoenas, and enforcement. There are, however, a few provisions that pose a potential barrier to electronic reporting, generally involving one of the following requirements: notice by telephone, radio, or in person; written followups, statements of need, and confidentiality agreements; **time-sensitive requirements**; publication of notice in newspapers; and criminal enforcement .

A. Emergency Planning and Notification: Sections 11001-11003

Section 11001 requires the establishment of state emergency response commissions (SERCs), emergency planning districts, and local emergency planning committees (LEPCs). Under section 11001(a), the SERCs are directed to establish procedures for receiving and processing requests from the public for information under section 11004. Section 11001(c) extends this requirement to the LEPCs. Under section 11001(d), interested persons are authorized to petition the State commissions to modify their appointments to the LEPCs. None of the subsections of section 11001 pose a barrier to electronic reporting. In fact, EPA's regulations could allow SERCs and LEPCs to adopt procedures for receiving and processing requests for information by electronic methods.

Section 11001 Establishment of State Commissions, Planning Districts, and Local Committees: Rulemaking and Petitions	No barrier
(a) (...) The State emergency response commission ***shall establish procedures*** for receiving and processing requests from the public for information under section 11044 of this title, including tier II information under section 11022 of this title. (...) (c) (...) rules ***shall include provisions for public notification*** of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan. The local emergency planning committee shall establish ***procedures for receiving and processing requests*** from the public for information under section 11044 of this title, including tier II information under section 11022 of this title. (d) (...) Interested persons may ***petition*** the State emergency response commission to modify the membership of a local emergency planning committee.	

Under section 11002, substances on EPA's list of extremely hazardous substances are subject to EPCRA. Facilities that produce one or more of these substances in an amount exceeding thresholds set by the Administrator are likewise subject to EPCRA's provisions. For these facilities, section 11002(c) applies. Every facility must notify the SERC and LEPC within 60 days of the date whenever any substance on the list of extremely hazardous substances becomes present at the facility in excess of the threshold established for such substance. In the event the EPA list is revised, the facility must also notify the EPA if it now has a substance on the revised list in excess of the threshold established. In addition, the Governor or SERC has the discretion to designate additional facilities as covered by EPCRA, after public notice and comment. No barrier to electronic reporting is posed by Section 11002(c)'s notification requirements.

Section 11002(c) Substances and facilities covered and notification	No barrier
[I]f a substance on the list of extremely hazardous substances referred to in subsection (a) of this section first becomes present at such facility in excess of the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in excess of the threshold planning quantity established for such substance, the owner or operator of the facility ***shall notify*** the State emergency response commission and the local emergency planning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this subchapter.	

Section 11002(d) requires the SERC to notify the Administrator of facilities subject to the requirements of EPCRA by forwarding to EPA each notification received from a facility under section 11002(c) and of each facility designated by the Governor or SERC under section 11002 (b)(2). Electronic reporting could greatly facilitate the SERC's ability to forward these notices to EPA.

Under section 11003, each LEPC was required to prepare an emergency plan before October 17, 1988. The plans must be reviewed at least once every year. Section 11003(c) sets out the required elements of the plans, which include: the identification of facilities subject to EPCRA; the identification of transportation routes for substances on the list of extremely hazardous substances; methods and procedures to be followed in response to releases; and reliable, effective, and timely notification procedures. The language of this provision presents no barrier to the electronic submission of emergency response plans, and electronic data collection could also facilitate the LEPCs' annual reviews of these plans.

MSDS for each chemical or a list of such chemicals to the appropriate LEPC, SERC, and local fire department. The requirements of this section could be met electronically if the MSDS or lists of chemicals are available in electronic form.

Section 11021(a) MSDS Submission Requirements	No barrier
The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical (...) ***shall submit a material safety data sheet*** for each such chemical, or a list of such chemicals as described in paragraph (2), to each of the following: (A) The appropriate local emergency planning committee. (B) The State emergency response commission. (C) The fire department with jurisdiction over the facility.	

Section 11021(c) requires an owner or operator of a facility to submit its list of chemicals under subsection (a)(1) of this section to the LEPC upon request. An LEPC must make an MSDS available to any person upon request. No barrier to electronic reporting is posed by this section.

Section 11021 (c) Availability of MSDS on Request to LEPCs and public	No barrier
(1) To local emergency planning committee. If an owner or operator of a facility submits a list of chemicals under subsection (a)(1) of this section, the owner or operator, upon request by the local emergency planning committee, ***shall submit the material safety data sheet*** for any chemical on the list to such committee. (2) To public. A local emergency planning committee, upon request by any person, ***shall make available a material safety data sheet*** to the person in accordance with section 11044 of this title. If the local emergency planning committee does not have the requested material safety data sheet, the committee shall request the sheet from the facility owner or operator and then make the sheet available to the person in accordance with section 11044 of this title.	

Section 11021(d)(2) requires the owner or operator of a facility to update its MSDS within three months of discovering significant new information relating to the chemical for which an MSDS was submitted to the LEPC. Such updates could be provided electronically to the LEPCs.

Section 11021(d) MSDS Updating	No barrier
(2) Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted to the local emergency planning committee under subsection (a) of this section, ***a revised sheet shall be provided*** to such person.	

Under section 11022, the owner or operator of any facility that is required to prepare or have available an MSDS for a hazardous chemical under OSHA must submit an emergency and hazardous chemical inventory form to the appropriate LEPC, SERC, and local fire department with jurisdiction over the facility. This provision is ambiguous about an electronic reporting option, depending on how EPA has defined "form," but it could represent an opportunity to offer electronic reporting if "form" is defined to include electronic transmissions.

Section 11022(a) Basic Requirement for Inventory Forms	Ambiguous

Under section 11003(g), regional response teams established pursuant to the National Contingency Plan may also review and comment upon an emergency plan at the request of an LEPC. The LEPC must then submit a copy of the plan to the relevant SERC, which raises the same question about whether an electronic transmission could serve as a copy.

Section 11004 covers the emergency notification procedures that the owner or operator of a regulated facility must follow in the event of a release of an extremely hazardous substance. Subsection (a) sets out the types of releases that require the owner or operator to provide notice to LEPCs and SERCs They include the release of a listed substance that requires section 103(a) CERCLA notification, other listed substances if they are not federally permitted under CERCLA and if they exceed the threshold set by EPA, and non-listed substances that require CERCLA section 103(a) notices. For these substances, the notification procedures of subsection (b) must be followed.

Subsection (b) requires that the owner or operator must give immediate notice of a release to the relevant community emergency coordinators for LEPCs and to SERCs. Notice is to be given by such means as telephone, radio, or in person. For incidents involving the transport of a regulated substance, this provision is satisfied by calling 911 or the operator. This provision of EPCRA poses a barrier to electronic reporting because it specifies voice-related methods of communication.

Section 11004(b) Notification of Release	Potential barrier
(1) ***Notice*** required under subsection (a) of this section ***shall be given immediately*** after the release by the owner or operator of a facility (by such means as ***telephone, radio, or in person***) to the community emergency coordinator for the local emergency planning committees (...) for any area likely to be affected by the release and to the State emergency planning commission of any State likely to be affected by the release. With respect to transportation of a substance subject to the requirements of this section, or storage incident to such transportation, the notice requirements (...) shall be satisfied by ***dialing 911*** or, in the absence of a 911 emergency telephone number, calling the ***operator***.	

Section 11004(c) requires owners and operators to follow the initial notification with a written followup emergency notice. The followup notice must update the original information and provide additional information addressing response actions taken, health effects of the release, and medical advice for exposed individuals. The writing requirement is a potential barrier to electronic reporting, unless EPA regulations are amended to specify that this requirement can be satisfied by electronic reporting.

Section 11004(c) Followup Emergency Notice	Potential barrier
As soon as practicable after a release which requires notice under subsection (a) of this section, such owner or operator shall provide a ***written followup*** emergency notice (...).	

B. Reporting Requirements: Sections 11021-11022

Under section 11021(a)(1), owners and operators who are obligated under OSHA requirements to prepare a material safety data sheet (MSDS) for a hazardous chemical must submit either an

Section 11003(c) Plan Provisions - Rulemaking	No barrier
Each emergency plan shall include (but is not limited to) each of the following: (1) Identification of facilities subject to the requirements of this subchapter (...) (2) ***Methods and procedures*** to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances. (...) (4) ***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 (...)	

Section 11003 (d) required each facility to notify promptly the LEPC (or the Governor if there was no committee) of any changes in the following: a facility representative who will participate in the emergency planning process as a facility emergency coordinator; any changes occurring at the facility; and upon request, such information as was necessary to develop and implement the emergency plan. This has an ambiguous impact on electronic reporting, depending on whether electronic provision of information is deemed sufficient to provide prompt notice. On the other hand, once electronic reporting is reliably established, it could enable such notices of changes to be received even more quickly.

Section 11003(d) Notices of Information	Ambiguous
(2) The owner or operator of the facility ***shall promptly inform*** the emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur. (3) Upon request from the emergency planning committee, the owner or operator of the facility ***shall promptly provide*** information to such committee necessary for developing and implementing the emergency plan.	

Under section 11003(e), an LEPC is required to submit a copy of its emergency plan to the relevant SERC(s). It is ambiguous whether the requirement of a "copy" could be satisfied by electronic reporting, but EPA's regulations could authorize the plans to be transmitted electronically.

Section 11003(e) State Review by SERC	Ambiguous
After completion of an emergency plan under subsection (a) of this section for an emergency planning district, the local emergency planning committee shall ***submit a copy*** of the plan to the State emergency response commission of each State in which such district is located.	

(1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] and regulations promulgated under that Act ***shall prepare and submit*** an emergency and hazardous chemical ***inventory form*** (...) to each of the following: (A) The appropriate local emergency planning committee. (B) The State emergency response commission. (C) The fire department with jurisdiction over the facility.

Section 11022(d) and (e) cover information on this inventory form. The form must provide the following "tier I" information for hazardous chemicals: an estimate of the maximum amount of hazardous chemicals present at the facility at any time during the preceding calendar year, an estimate of the average daily amount present at the facility during the preceding calendar year, and the general location of hazardous chemicals within the facility.

Upon request by the SERC, LEPC, or local fire department, an inventory form must also provide "tier II" information: the chemical name or the common name of the chemical as provided on the MSDS, an estimate of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year, an estimate of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year, a brief description of the manner of storage of the hazardous chemical, the location within the facility of the hazardous chemical, and an indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 11044. There is no barrier to using electronic methods to transmit this information unless withholding the location information is not possible using electronic means.

Section 11022(e)(1) Availability to State Commissions, Local Committees, and Fire Departments	No barrier
Upon ***request*** by a State emergency planning commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility ***shall provide*** tier II information, as described in subsection (d) of this section, to the person making the request. Any such request shall be with respect to a specific facility.	

Section 11022(e)(2) authorizes state and local officials to submit a request for tier II information to the SERC or the LEPC, who must then request the facility owner or operator for the information and make it available to the requesting official. There is no barrier to using electronic methods for both the requests for tier II information and the transmittal from the SERC or LEPC to the requesting official.

Section 11022(e)(2) Availability to State and Local Officials	No barrier
A State or local official acting in his or her official capacity may have access to tier II information by ***submitting a request*** to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and ***make available*** such information to the official.	

Any member of the public may submit a written request to a SERC or LEPC for tier II information relating to the preceding calendar year with respect to a specific facility. The request must be in writing, which prevents electronic submission, but nothing in EPCRA presents a barrier to electronic provision of the requested information, as long as location information can be withheld if requested.

Section 11022(e)(3)(A) Public Request for Tier II Information	Potential barrier

Any person may ***request*** a State emergency response commission or local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. ***Any such request shall be in writing*** and shall be with respect to a specific facility.

The SERC or LEPC shall then provide to the public any tier II information in its possession. This information could also be provided electronically.

Section 11022(e)(3)(B) Automatic Provision of Tier II Information to Public	No barrier
(...) Any tier II information which a State emergency response commission or local emergency planning committee has in its possession ***shall be made available*** (...) [T]he State emergency response commission or local emergency planning committee shall (...) request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds (...) and ***make such information available*** (...).	

For tier II information not in its possession, the LEPC or SERC must request the facility owner or operator for the information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds at any time during the preceding calendar year and must make this information available. If the facility has stored the hazardous chemical in an amount less than 10,000 pounds at any time during the preceding calendar year, a request from the public must include the general need for the information. The SERC or LEPC may then, in its discretion, request the facility owner or operator for the tier II information on behalf of the person making the request.

Section 11022(e)(3)(C) Discretionary Provision to the Public	No barrier
(...) with respect to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds (...), a request from a person must include the general need for the information. The State emergency response commission or local emergency planning committee ***may*** (...) request the facility owner or operator for the tier II information (...) [and] ***shall make the information available*** in accordance with section 11044 (...).	

Under section 11022(e)(3)(D), a SERC or LEPC is directed to respond to a public request for tier II information no later than 45 days after the date of receipt of the request. This response could be made electronically unless that method could not meet the time limit.

Section 11022(e)(3)(D) Public Request Response Time	No barrier
A State emergency response commission or local emergency planning committee ***shall respond*** to a request for tier II information under this paragraph no later than 45 days after the date of receipt of the request.	

Section 11022(f) requires the owner or operator a facility which filed an inventory form to allow the fire department to conduct an on-site inspection of the facility. The owner or operator must provide specific location information on hazardous chemicals at the facility. Whether or not this provision impacts electronic reporting may depend on whether the on-site inspection includes access to records.

Section 11022(f) Fire Department Access	Ambiguous
Upon request to an owner or operator of a facility which files an inventory form under this section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an ***on-site inspection*** of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.	

Under section 11023, the owner or operator of a facility must complete a toxic chemical release form-- developed by EPA--for its EPCRA-regulated chemicals. The owner or operator must annually submit this form to the Administrator and to an official of the State; however, under section 11023(i), the Administrator can reduce the frequency of reporting in certain circumstances. The form must contain data reflecting the preceding calendar year's releases. This provision is ambiguous about electronic reporting because EPA has adopted a paper form, Form R. The EPA has, however, developed Automated TRI Reporting Software (ATRS), an electronic version of the toxic chemical release forms (Form R and Form A), available for downloading at http://www.epa.gov/opptintr/atrs/index.htm. EPA regulations could allow for electronic submission of these forms.

Section 11023(a) Toxic Chemical Release Forms–Basic Requirement	Ambiguous
The owner or operator of a facility (...) shall complete a ***toxic chemical release form*** as published under subsection (g) of this section for each toxic chemical listed under subsection (c) of this section that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by subsection (f) of this section during the preceding calendar year at such facility. ***Such form shall be submitted*** to the Administrator and to an official or officials of the State designated by the Governor on or before July 1, 1988, and annually thereafter on July 1 and shall contain data reflecting releases during the preceding calendar year.	

Under section 11023(e), any person may petition the Administrator to add or delete a toxic chemical from the list of covered chemicals (available at 40 C.F.R. Section 372.65) due to human health effects. The Administrator must act on the petition within 180 days of its receipt. The Governor of a State may also petition the Administrator, based on human health effects or the chemical's "significant adverse effect on the environment." These petitions could be submitted to EPA electronically if EPA regulations allow this method.

Section 11023(e) Petitions to Add or Delete a Toxic Chemical from the List	No barrier
(1) Any person ***may petition*** the Administrator to add or delete a chemical from the list (...). (2) A State Governor ***may petition*** the Administrator to add or delete a chemical from the list (...).	

Section 11023(h) explains the intended uses of the toxic chemical release forms, one of which is to inform the federal, state, and local governments and the public about toxic chemical releases. As a result, this section states that the release forms shall be made available, consistent with section 11044(a). This provision is ambiguous about electronic reporting because EPA has already adopted a paper Form R, but electronic methods could be used if EPA's regulations are amended.

Section 11023(h) Use of Toxic Release Forms	Ambiguous

The ***release forms*** required under this section are intended to provide information to the Federal, State, and local governments and the public, including citizens of communities surrounding covered facilities. The ***release form shall be available***, consistent with section 11044 (a) of this title, to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes.

Section 11023(j) requires the Administrator to establish and maintain a national toxic chemical inventory in a computer database. This data must be available to any person. The language of this provision could be relied upon by EPA authorize the expansion of electronic reporting under EPCRA.

Section 11023(j) EPA Management of Data	No barrier
The Administrator ***shall establish and maintain in a computer data*** base a national toxic chemical inventory based on data submitted to the Administrator under this section. The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost reimbursable basis.	

C. General Provisions: Sections 11041-11046

Section 11041 provides that state or local laws enacted after August 1, 1985 and requiring owners or operators to submit an MSDS must be identical to the MSDS required by EPCRA. The state or locality may, however, require additional information from owners and operators. This section does not pose a barrier to electronic reporting, assuming the MSDSs could be prepared electronically, and it could be relied upon by EPA to authorize some minimum uniformity in reporting under EPCRA, while still allowing states or localities to collect additional data electronically if they so choose.

Section 11041 Relationship to Other Law	No barrier
Any State or local law enacted after August 1, 1985, which requires the submission of a material safety data sheet from facility owners or operators shall ***require that the data sheet be identical*** in content and format to the data sheet required under subsection (a) of section 11021 of this title. In addition, a State or locality ***may require the submission of information which is supplemental*** to the information required on the data sheet (including information on the location and quantity of hazardous chemicals present at the facility), through additional sheets attached to the data sheet or such other ***means as the State or locality considers appropriate.***	

Section 11042(a) states that, with regard to a hazardous chemical, an extremely hazardous substance, or a toxic chemical, any person required to submit information under EPCRA may withhold the specific chemical identity if the submitter fulfills certain requirements. Not only must a submitter claim that such information is a trade secret, but this claim must be substantiated with an explanation of the reasons why such information deserves protection.

The factors indicating information is a trade secret are enumerated in section 11042(b). They include whether disclosure would cause substantial harm and whether the chemical identity is not readily discoverable through reverse-engineering, etc. The trade secret claimant must provide the Administrator with a copy of its information submittal and the information withheld from such submittal. This requirement may pose a barrier to electronic reporting.

When submitting the information to the Administrator, a person withholding information may designate – in writing and in such manner as the Administrator may prescribe by regulation – the

information which such person believes is entitled to be withheld and may submit the withheld information separately. This requirement poses a barrier to electronic reporting option under this provision. If electronic reporting is adopted, measures are needed to ensure that the segments of electronic reports that contain confidential information are not disclosed.

EPA's authority to prescribe regulations under section 11042(a)(2)(B) may, however, present an opportunity for EPA to allow electronic reporting as long as the technology is adequate to prevent disclosure of trade secrets.

Section 11042(a) Authority to Withhold Information	Potential barriers
(1) (...) any person required (...) to submit information to any other person ***may withhold*** from such submittal the specific chemical identity (including the chemical name and other specific identification) (...). (2)(A) A person is entitled to withhold information under paragraph (1) if such person—(i) ***claims that such information is a trade secret***, on the basis of the factors enumerated in subsection (b) of this section, (ii) includes in the submittal referred to in paragraph (1) an ***explanation*** of the reasons why such information is claimed to be a trade secret, (...) and (iii) submits to the Administrator a ***copy of such submittal, and the information withheld from such submittal.*** (2)(B) In submitting to the Administrator the information required by subparagraph (A)(iii), a person withholding information under this subsection may—(i) ***designate, in writing*** and in such manner as the Administrator may ***prescribe by regulation***, the information which such person believes is entitled to be withheld under paragraph (1), and (ii) ***submit such designated information separately*** from other information submitted under this subsection.	

Section 11042(c) authorizes the Administrator to promulgate regulations implementing this section. It presents no barriers to electronic reporting, and may offer EPA an opportunity EPA to authorize electronic reporting as long as the technology can prevent disclosure of trade secrets.

Section 11042(c) Trade Secret Regulations	No barrier
(...) the Administrator shall prescribe regulations to implement this section. With respect to subsection (b)(4) of this section, such regulations shall be equivalent to comparable provisions in the Occupational Safety and Health Administration Hazard Communication Standard (...).	

Section 11042(d) enables any person to petition the Administrator for the disclosure of a withheld chemical identity. If the Administrator determines that the trade secret claimant provided sufficient assertions supporting its trade secret claim, the Administrator must notify the trade secret claimant that it has 30 days to supplement its original explanation with detailed information. The Administrator then reviews the information for its final determination. The provision poses no barrier to electronic reporting, and EPA regulations could authorize the submission of petitions electronically.

If the Administrator concludes that the assertions are true, the person petitioning for disclosure may seek judicial review of the determination. If, on the other hand, the Administrator determines that the specific chemical identity is not a trade secret and plans to release the identity, it must notify the trade secret claimant, who then has 30 days to appeal the determination or, upon a showing of good cause, to provide supplementary assertions. This provision has an ambiguous impact on electronic reporting unless EPA regulations allow such supplementary information to be submitted to the EPA electronically. If the Administrator does not reverse his determination after an appeal or an examination of any supplementary assertions, the trade secret claimant may seek judicial review of the determination. Moreover, section 11042(e) states that the trade secret provisions do not authorize anyone to withhold information that is required to be provided to a health professional, a doctor, or a nurse in accordance with

section 11043 (see below).

Section 11042(d) Petition for Review	Ambiguous/ No barrier
(1) In general. Any person may ***petition*** the Administrator for the disclosure of the specific chemical identity of a hazardous chemical, an extremely hazardous substance, or a toxic chemical which is claimed as a trade secret under this section. (...) (3) Finding of sufficient assertions. (A) If the Administrator determines pursuant to paragraph (2) that the explanation presents sufficient assertions to support a finding that the specific chemical identity is a trade secret, the Administrator shall ***notify the trade secret claimant that he has 30 days to supplement*** the explanation with detailed information to support the assertions; (...) (C) If the Administrator determines (...) that the specific chemical identity is not a trade secret, the Administrator shall ***notify the trade secret claimant*** that the Administrator intends to release the specific chemical identity.(...) (4) Finding of insufficient assertions. (A) If the Administrator determines pursuant to paragraph (2) that the explanation presents insufficient assertions to support a finding that the specific chemical identity is a trade secret, the Administrator shall ***notify the trade secret claimant*** that he has ***30 days to appeal*** the determination to the Administrator, or, upon a showing of good cause, ***amend the original explanation*** by providing ***supplementary assertions*** to support the trade secret claim.	

Section 11042(f) requires that information submitted to the Administrator under sections 11042(a)(2) or (d)(3) of this section (except a specific chemical identity) must be available to the public. An exception is granted for information that, if made public, would divulge information entitled to protection under section 1905 of title 18.[1] This information could be made available to the public electronically, only if the technology provides adequate protections to the specific chemical identity and other confidential information qualifying as a trade secret.

Section 11042(f) Availability to Public of Information Concerning Trade Secrets Assertions	Ambiguous
Any information submitted to the Administrator under subsection (a)(2) of this section or subsection (d)(3) of this section (except a specific chemical identity) ***shall be available to the public***, except that upon a showing satisfactory to the Administrator by any person that the information (or a particular part thereof) to which the Administrator has access under this section if made public would divulge information entitled to protection under section 1905 of title 18, such information or part shall be considered confidential in accordance with the purposes of that section, except that such information or part may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter.	

Under section 11042(g), the Administrator must provide a requesting state with information obtained under section 11042 (a)(2) and (d)(3). The EPA could supply this information electronically.

11042(g) Information Provision to State	No barrier
Upon request by a State, acting through the Governor of the State, the Administrator ***shall provide to the State any information*** obtained under subsection (a)(2) of this section and subsection (d)(3) of this section.	

Even if the identity of a chemical can be withheld as a trade secret, section 11042(h) requires the Governor or SERC to identify the adverse health effects associated with the hazardous chemical or extremely hazardous substance claimed as a trade secret. The Governor or SERC must assure that this information is provided to any person, upon request. When the identity of a toxic chemical is claimed as a trade secret, the Administrator must identify its adverse health and environmental effects and assure that this information is included in the computer database required by section 11023 (j) and provided to any person requesting information about the toxic chemical. Nothing in this section poses a barrier to electronic reporting.

Section 11042(h) Information on adverse effects.	No barrier
(1) In any case in which the identity of a hazardous chemical or an extremely hazardous substance is ***claimed as a trade secret***, the Governor or State emergency response commission established under section 11001 of this title shall identify the adverse health effects associated with the hazardous chemical or extremely hazardous substance and ***shall assure that such information is provided*** to any person requesting information about such hazardous chemical or extremely hazardous substance. (2) In any case in which the ***identity of a toxic chemical is claimed as a trade secret***, the Administrator shall identify the adverse health and environmental effects associated with the toxic chemical and shall assure that such information is included in the ***computer database*** required by section 11023 (j) of this title and is ***provided to any person*** requesting information about such toxic chemical.	

Section 11043(a) concerns disclosure of information to health professionals. It requires an owner or operator to disclose the specific chemical identity of a hazardous chemical, extremely hazardous substance, or toxic chemical to any health professional who requests this information. The health professional's request must be in writing and include a written statement of need and a written confidentiality agreement. The written statement of need must demonstrate that the professional has a reasonable basis to suspect that the information is needed for purposes of diagnosis or treatment of an individual who has been exposed to the chemical concerned. The owner or operator must promptly provide the requested information to the health professional, notwithstanding any trade secret claims under section 11042. These requirements for writing pose potential barriers to electronic reporting, as does the requirement that information must be promptly provided by the owner or operator.

Section 11043 (a) Diagnosis or Treatment by Health Professional	Potential barrier
An owner or operator of a facility which is subject to the requirements of section 11021 , 11022 , or 11023 of this title ***shall provide*** the specific chemical identity, if known, of a hazardous chemical, extremely hazardous substance, or a toxic chemical to any health professional who ***requests such information in writing*** if the health professional provides a ***written statement of need*** under this subsection and a ***written confidentiality agreement*** under subsection (d) of this section. (...), the owner or operator (...)shall ***promptly provide*** the requested information (...).	

Section 11043(b) covers disclosure of information to treating physicians and nurses. It requires an owner or operator to provide a copy of an MSDS, an inventory form, or a toxic chemical release form (including the specific chemical identity of a hazardous chemical, extremely hazardous substance, or a toxic chemical) to any treating physician or nurse who requests such information. The request must include the following elements: the physician or nurse has determined that a medical emergency exists; the specific chemical identity will assist in emergency or first-aid diagnosis or treatment; and the individual being diagnosed or treated has been exposed to the chemical concerned. Immediately following such a request, the owner or operator shall provide the requested information to the physician or nurse, notwithstanding any trade secret claims. No written confidentiality agreement or statement of need is required at this time. However, the owner or operator may require a written confidentiality agreement as circumstances permit. Again, the time-sensitive need to provide the information, the requirement for a copy of other paper forms, and the emergency nature of the requester's situation pose

potential barriers to an electronic reporting option.

Section 11043(b) Medical Emergency	Potential barriers
An owner or operator (...) ***shall provide a copy*** of a material safety data sheet, an inventory form, or a toxic chemical release form, including the specific chemical identity, if known, of a hazardous chemical, extremely hazardous substance, or a toxic chemical, to any treating physician or nurse who requests such information if such physician or nurse determines that (...) ***Immediately following such a request***, the owner or operator to whom such request is made ***shall provide the requested information to the physician or nurse*** (...) No written confidentiality agreement or statement of need shall be required as a precondition of such disclosure, but the owner or operator disclosing such information may require a written confidentiality agreement in accordance with subsection (d) of this section and a statement setting forth the items listed in paragraphs (1) through (3) as soon as circumstances permit.	

To assist preventive measures by local health professionals, section 11043(c) requires an owner or operator to provide the specific chemical identity of a hazardous chemical, an extremely hazardous substance, or a toxic chemical to any health professional who is a local government employee or a person under contract with the local government and who requests this information. The request must be in writing, include a written statement of need, and be accompanied by a written confidentiality agreement. Following a written request, the owner or operator must promptly provide the information, notwithstanding trade secret protections afforded under section 11042. The written statement must describe a health need, such as the assessment of human exposure in a local community to the hazards of the chemical concerned. The requirement for written information and reference to prompt disclosure may pose barriers to electronic reporting.

Section 11043(c) Preventive Measures by Local Health Professionals	Potential barrier
(1) An owner or operator of a facility subject to the requirements of section 11021, 11022 , or 11023 of this title ***shall provide the specific chemical identity***, if known, of a hazardous chemical, an extremely hazardous substance, or a toxic chemical to any health professional (such as a physician, toxicologist, or epidemiologist)—(A) who is a local government employee or a person under contract with the local government, and (B) who ***requests such information in writing*** and provides a ***written statement*** of need under paragraph (2) and a ***written confidentiality agreement*** under subsection (d) of this section. Following such a written request, the owner or operator to whom such request is made shall ***promptly provide*** the requested information to the local health professional (...).	

Section 11043(d) explains that any person obtaining information under subsection (a) or (c) is required to agree in a written confidentiality agreement that they will not use the information for any purpose other than the health needs asserted in the statement of need. This writing requirement poses a potential barrier to electronic reporting.

Section 11043(d) Written Confidentiality Agreement	Potential barrier
Any person obtaining information under subsection (a) or (c) of this section shall, in accordance with such subsection (a) or (c) of this section, be ***required to agree in a written confidentiality agreement*** that he will not use the information for any purpose other than the health needs asserted in the statement of need, except as may otherwise be authorized by the terms of the agreement or by the person providing such information. (...).	

Under section 11043(e), the EPA must promulgate regulations describing criteria for the statement of need under section 11043 (a) and (c) and the confidentiality agreement under section 11043(d). This rulemaking authority poses no barrier to electronic reporting, and provides EPA with an opportunity to authorize electronic reporting of the statement of need and confidentiality agreement.

Section 11043(e) Statement of Need and Confidentiality Agreement Regulations	No barrier
As soon as practicable after October 17, 1986, the Administrator ***shall promulgate regulations*** describing ***criteria and parameters*** for the statement of need under subsection2 (a) and (c) of this section and the confidentiality agreement under subsection (d) of this section.	

Under section 11044(a), each emergency response plan, MSDS, list described in section 11021 (a)(2) of this title, inventory form, toxic chemical release form, and followup emergency notice must be made available to the general public during normal working hours at the location or locations designated by the Administrator, Governor, SERC, or LEPC. The provision does not pose a barrier to an electronic reporting option. One information repository or "location" could be an electronic database, and electronic reporting could facilitate the states' and EPA's ability to make this information public.

Section 11044(a) Availability to Public	No barrier

Each emergency response plan, material safety data sheet, list described in section 11021 (a)(2) of this title, inventory form, toxic chemical release form, and followup emergency notice ***shall be made available*** to the general public, consistent with section 11042 of this title, during normal working hours at the location or locations designated by the Administrator, Governor, State emergency response commission, or local emergency planning committee, as appropriate (...).

Section 11044 (b) requires each LEPC to publish annually a notice in local newspapers that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section, and that members of the public who wish to review these documents may do so at the location designated under section 11044(a). The newspaper requirement poses a potential barrier to electronic reporting. If authorized by EPA regulations, however, electronic reports could actually better reach the public.

Section 11044 (b) Notice of Public Availability	Potential barrier
Each local emergency planning committee shall annually ***publish a notice in local newspapers*** that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that followup emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or followup notice may do so at the location designated under subsection (a) of this section.	

Section 11045 provides for the enforcement of EPCRA's planning, notification, and reporting requirements. Section 11045(a) authorizes the Administrator to order a facility owner or operator to comply with section 11002 (c) on emergency planning notification and section 11003 (d) on providing information. Any person who fails to obey such an order is liable to the United States for a civil penalty of not more than $25,000 for each day of violation or failure to comply. This enforcement provision could have an impact on electronic reporting because verification of the data could be an issue in the event of court proceedings.

Section 11045(a) Civil Penalties for Emergency Planning	Ambiguous
The Administrator may order a facility owner or operator (except an owner or operator of a facility designated under section 11002 (b)(2) of this title) to comply with section 11002 (c) of this title and section 11003 (d) of this title. The United States district court for the district in which the facility is located shall have jurisdiction to enforce the order, and ***any person who violates or fails to obey*** such an order shall be liable to the United States for a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.	

Section 11045(b) sets out the civil, administrative, and criminal penalties for failure to provide emergency notification. There are two classes of penalties. For a class I administrative penalty, the Administrator may not assess more than $25,000 per violation. For a class II administrative penalty, the Administrator may assess a civil penalty of not more than $25,000 per day for each day during which the violation continues. In any proceeding for the assessment of a civil penalty under this subsection, the Administrator is authorized to issue subpoenas for the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. It is ambiguous if electronic reports will fall under this subpoena provision, but the requirement to prove knowing and wilful failure to provide notice may make it difficult to allow electronic reporting because evidence will be needed to prove knowledge and intent and to satisfy the burden of proof beyond a reasonable doubt.

Section 11045(b) Civil, Administrative, and Criminal Penalties for Emergency Notification	Ambiguous/ Potential barrier
(1) A civil penalty of not more than $25,000 per violation may be assessed by the Administrator in the case of a ***violation*** of the requirements of section 11004 of this title [Emergency notification provision] (...) (2) A civil penalty of not more than $25,000 per day for each day during which the violation continues may be assessed by the Administrator in the case of a ***violation*** of the requirements of section 11004 of this title. (...) In any proceeding for the assessment of a civil penalty under this subsection the Administrator may issue ***subpoenas*** for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures (...) (4) Any person who ***knowingly and willfully fails to provide*** notice in accordance with section 11004 of this title shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than two years, or both (...).	

Section 11045(c) provides the civil and administrative penalties for violations of reporting requirements. Any person other than a governmental entity who violates any requirement of section 11022 on emergency and hazardous chemical inventory forms or section 11023 on toxic chemical release forms is liable for a civil penalty in an amount not to exceed $25,000 per day of violation. Any person other than a governmental entity who violates any requirement of section 11021 on MSDSs or section 11043 (b) on medical emergencies, and any person who fails to furnish to the Administrator information required under section 11042 (a)(2) on trade secrets is liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation. These enforcement provisions underline the importance of ensuring that electronic reports can be verified in a civil proceeding, if necessary, although the burden of proof in civil cases is not as high as in criminal proceedings.

Section 11045(c) Civil and Administrative Penalties for Reporting	Ambiguous
(1) Any person (other than a governmental entity) who ***violates any requirement of section 11022 or 11023*** of this title shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. (2) Any person (other than a governmental entity) who violates any requirement of section 11021 or 11043 (b) of this title, and any person who ***fails to furnish to the Administrator information required under section 11042 (a)(2)*** of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. (...)	

Section 11045(d) provides for civil, administrative, and criminal penalties with respect to trade secrets. If the Administrator determines that a trade secret claim is frivolous, the trade secret claimant is liable for a penalty of $25,000 per claim. In addition, this section provides for a criminal penalty for disclosure of trade secret information. Any person who knowingly and willfully discloses any trade secret information is subject to a fine of not more than $20,000 or to imprisonment of up to one year, or both. These provisions may limit EPA's ability to use electronic reporting unless technology can reliably prevent improper protection or disclosure of trade secrets.

Section 11045(d) Civil, Administrative, and Criminal Penalties with Respect to Trade Secrets	Ambiguous
(1) If the Administrator determines—(A)(i) under section 11042 (d)(4) of this title that an explanation submitted by a trade secret claimant presents insufficient assertions to support a finding that a specific chemical identity is a trade secret, or (ii) after receiving supplemental supporting detailed information under section 11042 (d)(3)(A) of this title, that the specific chemical identity is not a trade secret; and (B) that the ***trade secret claim is frivolous, the trade secret claimant is liable for a penalty*** of $25,000 per claim. The Administrator may assess the penalty by administrative order or may bring an action in the appropriate district court of the United States to assess and collect the penalty. (2) Any person who ***knowingly and willfully divulges or discloses any information entitled to protection under section 11042*** of this title shall, upon conviction, be subject to a fine of not more than $20,000 or to imprisonment not to exceed one year, or both.	

Under section 11045(e), a facility owner or operator who has failed or refused to provide information to a health professional under section 11043 is subject to judicial action. Nothing in these enforcement provisions poses a barrier to electronic reporting.

Section 11045(e) Special Enforcement Provisions for Section 11043	No barrier
Whenever any facility owner or operator required to provide information under section 11043 of this title to a health professional who has requested such information ***fails or refuses to provide such information*** in accordance with such section, such health professional may bring an action in the appropriate United States district court to require such facility owner or operator to provide the information. Such court shall have jurisdiction to issue such orders and take such other action as may be necessary to enforce the requirements of section 11043 of this title.	

Section 11045(f) sets out procedures for obtaining judicial review of administrative orders assessing civil penalties. Any person against whom a civil penalty is assessed may seek judicial review of the administrative order by filing a notice of appeal within 30 days of such order's issuance. The appellant must simultaneously send a copy of the notice by certified mail to the Administrator. This provision poses a barrier to electronic reporting. The Administrator also is directed to promptly file with the court a certified copy of the record underlying the violation or imposition of the penalty. The Administrator is authorized to issue subpoenas for the production of relevant papers, books, or documents in connection with hearings under this section. If any person refuses to obey a subpoena, the district court has jurisdiction to issue an order requiring such person to appear and produce documents before the administrative law judge. It is ambiguous whether EPA's adoption of electronic reporting will pose an obstacle to the subpoena requirements.

Section 11045 (f) Procedures for Administrative Penalties	Potential barrier/ Ambiguous
(1) Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days after the date of such order and by simultaneously sending a ***copy of such notice by certified mail to the Administrator***. The Administrator shall promptly file in such court a ***certified copy of the record*** upon which such violation was found or such penalty imposed. (...) (2) The Administrator may issue ***subpoenas*** for the attendance and testimony of witnesses and the ***production of relevant papers, books, or documents*** in connection with hearings under this section. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an ***order*** requiring such person to appear and give testimony before the administrative law judge or to ***appear and produce documents*** before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.	

Section 11046 (a) covers the authority of citizens and state and local governments to bring civil actions under EPCRA. Generally, any person may bring a civil action on his own behalf against an owner or operator of a facility for failure to submit any of the following: a followup emergency notice, an MSDS or a list under section 11021(a), an inventory form containing tier I information, or a complete toxic chemical release form. Any person may sue the Administrator for failure to do any of the following: publish inventory forms, respond to a petition to add or delete a chemical within 180 days after receipt of the petition, publish a toxic chemical release form, establish a computer database, promulgate trade secret regulations, and render a decision in response to a trade secret disclosure petition within 9 months after receipt of the petition.

Any person also may sue the Administrator, a state Governor, or a SERC for failure to provide a mechanism to make information publicly available as required by section 11044. Finally, any person may sue a state Governor or a SERC for failure to respond to a request for tier II information under section 11042 within 120 days after the date of receipt of the request. As with other enforcement provision of EPCRA, this section makes it very important that EPA's electronic reporting system be able to verify electronic reports as evidence for enforcement proceedings.

Section 11046 (a) Authority to Bring Civil Actions	Ambiguous
(1) (...) any person may commence a civil action on his own behalf against the following: (A) An owner or operator of a facility for failure to (...): (i) ***Submit a followup emergency notice*** under section 11004 (c) of this title. (ii) ***Submit a material safety data sheet or a list*** under section 11021 (a) of this title. (iii) ***Complete and submit an inventory form*** under section 11022 (a) of this title containing tier I information as described in section 11022 (d)(1) of this title (...) (iv) ***Complete and submit a toxic chemical release form*** under section 11023 (a) of this title. (B) The Administrator for failure to (...): (i) ***Publish inventory forms*** under section 11022 (g) of this title. (ii) ***Respond to a petition*** to add or delete a chemical under section 11023 (e)(1) of this title within 180 days after receipt of the petition.(iii) ***Publish a toxic chemical release form*** under 11023(g)4 of this title. (iv) ***Establish a computer database*** in accordance with section 11023 (j) of this title.(v) ***Promulgate trade secret regulations*** under section 11042 (c) of this title. (vi) ***Render a decision in response to a petition*** under section 11042 (d) of this title within 9 months after receipt of the petition. (C) The Administrator, a State Governor, or a State emergency response commission, for failure to ***provide a mechanism for public availability*** of information in accordance with section 11044 (a) of this title. (D) A State Governor or a State emergency response commission for ***failure to respond to a request for tier II information*** under section 11022 (e)(3) of this title within 120 days after the date of receipt of the request.	

Section 11046(a)(2) authorizes any state or local government to commence a civil action against an owner or operator of a facility for failure to do any of the following: provide notification to the emergency response commission in the state, submit an MSDS or a list under section 11021 (a), make an MSDS available on request, or submit a completed inventory form containing tier I information. This section also authorizes any SERC or LEPC to commence a civil action against an owner or operator of a facility for failure to provide information under section 11003(d) on comprehensive emergency response plans or for failure to submit tier II information to SERCs, LEPCs, local fire departments, state and local officials, or the public upon request, as provided for in section 11023(e). Any state may commence a civil action against the Administrator for failure to provide information to the state under section 11042 (g). This enforcement provision is ambiguous about electronic reporting, depending on whether technology will be able to ensure that electronic reports can be verified in civil proceedings.

Section 11046(a)(2) State or Local Suits	Ambiguous
(A) Any State or local government may commence a civil action against an owner or operator of a facility ***for failure to do any of the following***: (i) ***Provide notification*** to the emergency response commission in the State under section 11002 (c) of this title. (ii) ***Submit a material safety data sheet*** or a list under section 11021 (a) of this title. (iii) ***Make available information*** requested under section 11021 (c) of this title. (iv) ***Complete and submit an inventory form*** under section 11022 (a) of this title containing tier I information unless such requirement does not apply by reason of the second sentence of section 11022 (a)(2) of this title. (B) Any State emergency response commission or local emergency planning committee may commence a civil action against an owner or operator of a facility ***for failure to provide information*** under section 11003 (d) of this title or for ***failure to submit tier II information*** under section 11022 (e)(1) of this title. (C) Any State may commence a civil action against the Administrator ***for failure to provide information*** to the State under section 11042 (g) of this title.	

Section 11046 authorizes the Administrator to prescribe regulations to implement EPCRA. It poses no barrier to electronic reporting and may provide additional authority for EPA to amend its regulations under EPCRA, offering more opportunities for electronic reporting.

Section 11046 Regulations	No barrier
The Administrator may ***prescribe such regulations*** as may be necessary to carry out this chapter.	

[1]Title 18, Section 1905. Disclosure of confidential information generally. Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 111021-1314), publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.