Region 8
Emergency Preparedness Newsletter

Vol. VII, No. 1, January 2017

Welcome to the EPA Region 8 Preparedness Newsletter.

Feel free to page through the entire newsletter or click on the links to the stories you want to read first.

Huge Chemical Disposal Nears Final Completion
Parish Chemical Company

The largest single chemical disposal in the history of Region 8 will soon be a thing of the past. This Vineyard, Utah, manufacturer, now insolvent, warehoused more than 35,000 containers of designer chemicals including volatile, flammable organic solvents such as ethers, oxidizers, peroxides and corrosive chemicals, strong acids and bases such as sulfuric acid and sodium hydroxide and even water-reactive chemicals such as metallic sodium.

The site first came to the attention of the EPA in 1992 when the state sought EPA assistance with a fire at the facility. The local Orem Fire Department chief would not let his men near the fire for safety concerns, and local authorities evacuated everyone, including a local elementary school, within ¾ of a mile radius and shutdown nearby Interstate 15 for hours.

The Parish Chemical Company had a long history of non-compliance with numerous local, state and federal regulations. Appropriate chemical segregation was not maintained, labeling was inconsistent and often non-existing, open wiring and ignition sources were located throughout the site, and outside storage subjected heat-sensitive chemicals to extreme temperature fluctuations.

EPA's first removal in 2008 was to stabilize and reduce safety concerns at the site, but the current removal, which began in September 2013 included the final disposal of all chemicals. This painstaking procedure involved haz-catting the chemicals on site to appropriately segregate and remove. "Originally we checked 20% of the containers containing chemicals to assess their contents, but when we found wide discrepancies, we had to go to 100% inspection," On-Scene Coordinator David Romero said.

The Parish facility manufactured specialty, hazardous chemicals and stored more than 100,000 gallons of liquid chemicals, in containers ranging from small vials to 5,000 gallon tanks, including shock-sensitive explosives, phosgene gas (a WWI gas, a precursor to chlorine gas), cyanides, and more than 1,000 gallons of peroxides (extremely unstable, shock-sensitive and explosive).

"For proper disposal, Clean Harbors had to ascertain the composition of every container, determine the contents and decide upon a plan for disposal," said OSC Romero, adding, "Some chemicals were incinerated, others neutralized and put in a landfill. There were a lot of unknowns."

Soon the facility will go up for sale at auction to help recoup some of the more than $4 million spent by the EPA since 2008. There are less than 200 containers remaining for disposal and the removal will soon be complete.

The meticulous work of dealing with so many exotic, dangerous chemicals took longer than expected, which resulted in increased costs, but with all the inherent dangers there were no safety incidents. "And that's the way I wanted to keep it," said Romero.

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EPA Report
Hydraulic Fracturing Effects on Drinking Water

People rely on clean and plentiful water resources to meet their basic needs, including drinking, bathing, and cooking. In the early 2000s, members of the public began to raise concerns about potential impacts on their drinking water from hydraulic fracturing at nearby oil and gas production wells.

In response to these concerns, Congress urged the U.S. Environmental Protection Agency (EPA) to study the relationship between hydraulic fracturing for oil and gas and drinking water in the United States. The goals of the study were to assess the potential for activities in the hydraulic fracturing water cycle to impact the quality or quantity of drinking water resources and to identify factors that affect the frequency or severity of those impacts.

To achieve these goals, the EPA conducted independent research, engaged stakeholders through technical workshops and roundtables, and reviewed approximately 1,200 cited sources of data and information. The data and information gathered through these efforts served as the basis for a report, representing the culmination of the study of the potential impacts of hydraulic fracturing for oil and gas on drinking water resources.

The final assessment was announced in December, 2016. Read the executive summary or to view the PowerPoint briefing by the EPA, click this link.

Railroad Emergency Preparedness

R.E.S.P.O.N.S.E. Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation is a bill to enhance emergency responder training for incidents involving hazardous materials rail transportation. The bill was signed into law (114-321) on December 16, 2016.

The RESPONSE Act establishes a temporary subcommittee under the Federal Emergency Management Agency's (FEMA) National Advisory Council to provide recommendations and advice regarding emergency responder training related to hazardous materials incidents involving railroads.

The subcommittee will be composed of members from various government agencies, including the Federal Railroad Administration, the Pipeline and Hazardous Materials Safety Administration, and FEMA. The subcommittee will also include non-governmental members, including those from affected industries, technical experts, and emergency responder training providers.

The RESPONSE Act will enhance rail safety by helping improve access to training for emergency responders, identifying challenges to obtaining appropriate training for emergency responders, modernizing training course content related to rail hazardous materials incidents, and identifying strategies to integrate data regarding the flow of hazardous materials by rail and other relevant data for local emergency responders.

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TRI
Changes for NPEs

EPA is proposing to add a nonylphenol ethoxylates (NPEs) category to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). EPA is proposing to add this chemical category to the EPCRA section 313 list because EPA believes NPEs meet the EPCRA section 313(d)(2)(C) toxicity criteria.

Specifically, EPA believes that longer chain NPEs can break down in the environment to short-chain NPEs and nonylphenol, both of which are highly toxic to aquatic organisms. Based on a review of the available production and use information, members of the NPEs category are expected to be manufactured, processed, or otherwise used in quantities that would exceed EPCRA section 313 reporting thresholds.

RCRA
Hazardous Waste Generator Improvements Rule

Rule Summary:

The EPA Administrator signed the final Hazardous Waste Generator Improvements Rule on October 28, 2016 which was published in the *Federal Register* (FR) on November 28, 2016.

This rule finalizes a much-needed update to the hazardous waste generator regulations to make the rule easier to understand, facilitate better compliance, provide greater flexibility in how hazardous waste is managed, and close important gaps in the regulations.

Two key provisions where EPA is finalizing flexibility are:

- Allowing a hazardous waste generator to avoid increased burden of a higher generator status when generating episodic waste provided the episodic waste is properly managed, and
- Allowing a very small quantity generator (VSQG) to send its hazardous waste to a large quantity generator under control of the same person.

In addition to finalizing key flexibilities, the rule enhances the safety of facilities, employees, and the general public by improving hazardous waste risk communication and ensuring that emergency management requirements meet today's needs.

Further, the EPA is finalizing a number of clarifications without increasing burden including a reorganization of the hazardous waste generator regulations so that all of the generator regulations are in one place.

For More Information:

View the rule in the *Federal Register*

Fact Sheet

Frequently Asked Questions

Webinar

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Tier II Reporting

The Tier2 Submit Software for Tier II reporting is available for downloading at the EPA website. There were few modifications this year. The most significant change was incorporating XML file formatting. Other modifications were adding "Date Signed" to the Advanced Search, updating the chemical inventory links in the Tier2 Submit-generated KML files, and resolving a large file import issue, as well as incorporating state- specific fields. The 2016 TIer2 Submit Tutorial is also available at this link.

Executive Order 13650
Western Regions SERC Conference

Registration is still open for the 2017 Western Regions SERC Conference in Denver, CO January 31-February 1. The Western Regions Conference is held for SERCs in Regions 8, 9, and 10 and was convened as part of Executive Order 13650: Chemical Facility Safety and Security. The meeting focuses on State Emergency Response Commission concerns and provides updates, information sharing, and tools regarding chemical facility safety and security. The Chemical Safety Board will be featured as a presenter.

State and tribal representatives may register for the conference and receive hotel information and an updated agenda here.

Ricin Mistakenly Used During Training

The Center for Domestic Preparedness (CDP) discovered that students and workers at the Chemical, Ordnance, Biological, and Radiological unit (COBRA) facility, in Anniston, Alabama, since 2011 had been using the toxic version of ricin as opposed to the less lethal version the CDP had thought was being ordered. The discovery was first noted in November 2016.

FEMA's CDP has consequently suspended all chemical and biological operations following the incident. The center said it had been ordering a ricin extract that was supposed to be safer for training, but the supplier had been sending the full toxin, which is deadly. An estimated 9,600 first responders from across the country may have been exposed to the ricin.

The center put out a statement saying in part, "There is no higher priority than the health and safety of our employees and those we train." There have been no reports of trainees falling sick during hazmat training.

Last December, a congressional committee that oversees FEMA wrote to the agency's director demanding answers about the mistaken use of the deadly toxin. The bipartisan committee leaders asked FEMA Administrator Craig Fugate to respond to several questions about the agency's handling and knowledge of the problem that resulted in firefighters, nurses and emergency medical personnel being exposed to the deadly toxin. Among the questions posed in the letter are how and when FEMA learned of the problem, questions on the CDP's procurement of the toxin, how the agency will prevent such mistakes in the future and what role the Centers for Disease Control and Prevention plays in training and oversight of the CDP.

The suspension will last through at least January 2017.

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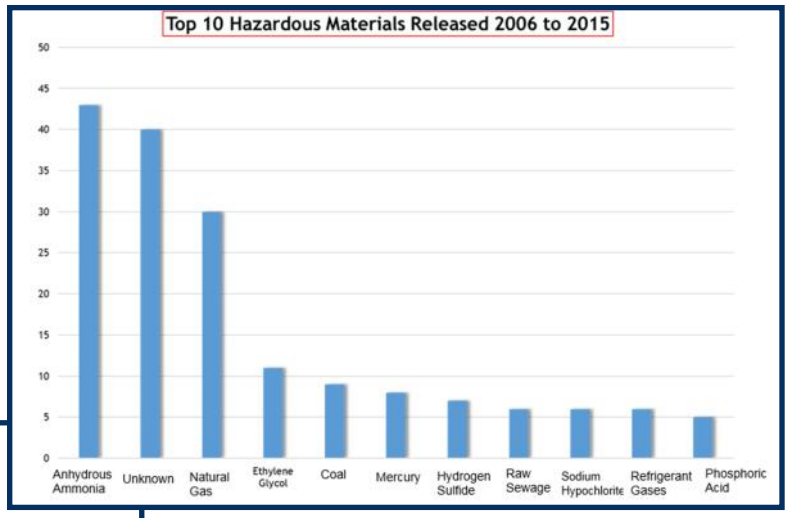
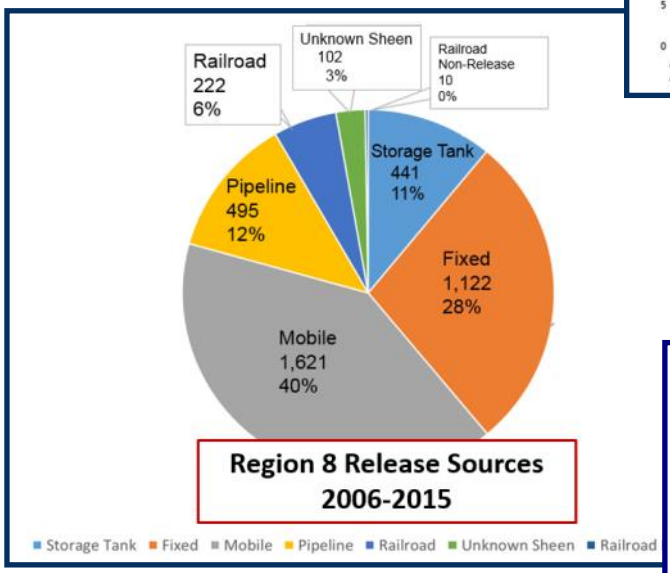
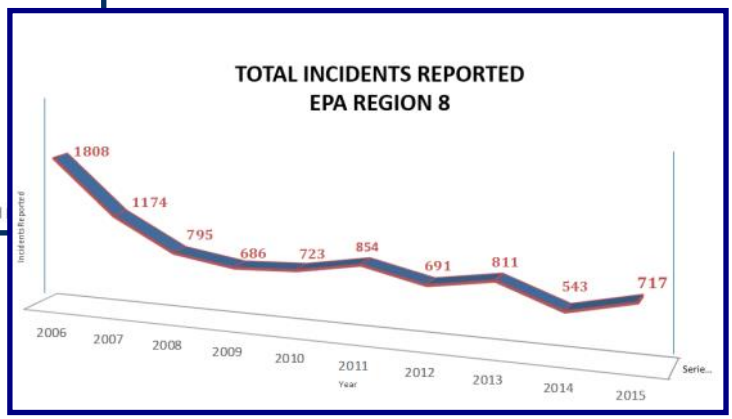
2006-2015 Accidental Release Report

The National Response Center (NRC) is the sole national point of contact for reporting all oil, chemical, radiological, biological and etiological discharges into the environment. In addition to gathering and distributing spill data and serving as the communications and operations center for the National Response Team (NRT), the NRC makes notifications regarding incidents meeting established trigger criteria. Region 8 has recently gathered the information from reportable spills within the region dating from 2006-2015 into a graphical report. Below are a few graphics from the consolidated data for the region. The full report is available **here.**







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FAQs Tier II Reporting

Check out the EPAs Frequently Asked Questions about Tier II Reporting. There are several pages of questions arranged in alphabetical order. Some answers are listed below.

Agricultural use exemption and fuels?
The exemption for routine agricultural use under Sections 311 and 312 is designed to eliminate the reporting of fertilizers, pesticides, and other chemical substances when applied, administered, or otherwise used as part of routine agricultural activities. In other words, the agricultural exemption is intended primarily to cover hazardous chemicals used or stored at the farm facility. The term “agricultural” is a broad term encompassing a wide range of growing operations, farms, nurseries and other horticultural operations (52 FR 38344). Harvesting service is not considered to be part of the growing operation. Therefore, the fuel used by the harvesting service must be reported under sections 311 and 312 if it exceeds the reporting threshold. However, fuel used by the farmer and which is located at the farm itself would be exempt.

Are farm suppliers and retailers exempt from 311 and 312?
Under Section 311(e)(5), retailers are exempted from reporting requirements for fertilizers only. Therefore, substances sold as fertilizers would not need to be reported under Sections 311 and 312 by retail sellers. However, other agricultural chemicals, such as pesticides, would have to be reported under Sections 311 and 312 retail sellers.

Are hazardous chemicals, blended for fertilizer, exempted under agricultural use exemption?
Are ammonia and phosphoric acid, held for blending at the retailer's facility, exempt from the definition of "hazardous chemical?”
Section 311(e)(5) exempts from the definition of hazardous chemical "any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer". In this example, the ammonia and phosphoric acid intended for blending are not exempt from the definition of "hazardous chemical" since they are not "... a fertilizer held for sale by a retailer to the ultimate customer." They are, in essence, chemicals held for the purpose of producing a fertilizer. In other words, the ammonia and phosphoric acid held for blending are the starting materials used to make a fertilizer; they are not, in this instance, fertilizers themselves. The retailer should report the amounts of ammonia and phosphoric acid that are held for blending to produce the new fertilizer. The amounts of ammonia and phosphoric acid that are sold directly to the ultimate customer (without blending) are fertilizers exempt from the definition of "hazardous chemical" and would, thus, be exempt from reporting under Sections 311/312.

Consumer product exemption and batteries
Section 311(e)(3) exempts "any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use for the general public." Because the public is generally familiar with the hazards posed by such materials, the disclosure of such substances is unnecessary for right-to-know purposes. The exemption extends to any substance packaged in the same form or concentration as a consumer product whether or not it is used for the same purpose as the consumer product.

What about car batteries at a wholesaler?
Section 311(e)(3) exempts from the definition of hazardous chemical "any substance to the extent is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public." This exclusion applies to household or consumer products either in use by the general public or in commercial or industrial use when the product has the same form and concentration as that intended for use by the general public. The term "form" refers to the packaging, rather than the physical state of the substance. Therefore, car batteries held for sale by a wholesaler are exempt from reporting since the hazardous chemicals contained are in the same form and concentration as batteries sold for use by the general public.

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South Dakota Chemical Workshops for LEPCs

The South Dakota Department of Environment and Natural Resources (DENR), is partnering with EPA, OSHA and DHS to hold Chemical Safety Industry Workshops for LEPCs across the state this coming spring. The information will be pertinent to Local Emergency Planning Committees. Register here.

March 27—Mitchell
March 28 — Aberdeen
March 29 — Pierre
March 30—Rapid City

The topics covered will include :

- Emergency Planning and Community Right-to-Know Act (EPCRA) and Tier II Reporting
- Risk Management Program (RMP)
- Spill Prevention, Control, and Countermeasure Program (SPCC)
- Facility Response Plan Rule (FRP)
- Government Initiated Unannounced Exercises (GIUEs)
- Process Safety Management Program (PSM)
- Chemical Facility Anti-Terrorism Standard (CFATS)
- Spill Reporting Requirements
- Participation in Local Emergency Planning Committees
- Executive Order (EO) 13650 - Federal response to the West, TX explosion

North Dakota Chemical Industry Workshops This Spring

North Dakota's Department of Emergency Services is offering workshops on federal programs that regulate chemical safety. Representatives from OSHA, DHS, and EPA will describe their programs, reporting requirements and the responsibilities of industry, as well as where to find resources and how to report a spill or release. The intended audience is industries regulated by federal programs (RMP, EPCRA, PSM, CFATS, SPCC, FRP) and their Local Emergency Planning Committees (LEPCs).

Register for North Dakota Chemical Facility Safety Workshops

Minot, April 10

Williston, April 11

Dickinson, April 12

Bismarck, April 13

Fargo, April 14

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Spotlight on North Dakota LEPC

Wind, water and sand... these components sculpted northeastern Dunn County's wildly rugged Little Missouri Breaks country. Called "Mako Shika" or "where the land breaks" by the Sioux, these unusual land formations offer the state's awe-inspiring scenery**.** The picturesque Killdeer Mountains are located in the northwest part of the Dunn county, while the southern portion is prairie land. Dunn County's economy is based on agriculture and oil.

Denise Brew is the Dunn County Emergency Manager and the person who organizes the LEPC meetings.

The Dunn County LEPC membership is comprised of members from the sheriffs' department, police department, fire departments, ambulance personnel, the county coroner, county government officials including mayors and emergency managers. Also represented are commercial oil and pipeline companies. In addition, members include the county health nurse, auditor, treasurer, planning and zoning coordinator, the tax director as well as the state attorney. The emergency manager organizes the meetings, including notifications and running the meetings .

Dunn County, like many LEPCs, has struggled with attendance in the past, and in 2016 instigated regular quarterly meetings. This practice has helped. In addition, Brew turned the quarterly meeting into a social gathering including a meal. The meeting is held while the members share the meal. This social time also assists the first responders in recognizing other first responders. A 2017 goal is holding an event for all first responders so they can have a meet and greet.

The LEPC is expected to continue to increase in importance in 2017 as Dunn County is now predicted to be the largest oil producing county in North Dakota; this is huge in the emergency responders' world. Supporting their needs becomes critical. With this growth, Brew is hoping to see more companies reaching out to become LEPC members.

Brew stated, "The most important task of the LEPC is ensuring all emergency responders have every tool needed to respond to emergencies. With the changing seasons in North Dakota, this is our focus each quarter. "

The most frequently discussed topic remains covering any events occurring in the past quarter, and any tools needed by emergency responders.

In the recent past, the LEPC established a Critical Response Plan to assist persons in need of lodging or help. The plan will assist with finding lodging and introducing Social Services to the people in need.

Brew is proud to be a part of the LEPC and to support and inform the public about the LEPC. She basically loves emergency management and is a little surprised not everyone is as excited about emergency planning as she is.

The December meeting was held with a wind chill of -35 below!

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Gold King Mine
Fate and Transport Report

WASHINGTON January 6, 2017 – Today, the U.S. Environmental Protection Agency (EPA) posted the final fate and transport report for the Gold King Mine (GKM) release. The report focuses on understanding pre-existing river conditions, the movement of metals related to the GKM release through the river system, and the effects of the GKM release on water quality. The research supports EPA's earlier statements that water quality in the affected river system returned to the levels that existed prior to the GKM release and contamination of metals from the release have moved through the river system to Lake Powell.

"This report is a comprehensive analysis of the effects on water quality from the Gold King Mine release," said Dr. Thomas A. Burke, EPA's Science Advisor and Deputy Assistant Administrator of EPA's Office of Research and Development. "While data indicate that water quality has returned to pre-event conditions, EPA is committed to continue our work with states and tribes in the river system affected by the Gold King Mine release to ensure the protection of public health and the environment."

The area affected by the Gold King Mine release consists of complex river systems influenced by decades of historic acid mine drainage. The report shows the total amount of metals, dominated by iron and aluminum, entering the Animas River following the release --- which lasted about nine hours on August 5, 2015 --was comparable to four to seven days of ongoing GKM acid mine drainage or the average amount of metals carried by the river in one to two days of high spring runoff. However, the concentrations of some metals in the GKM plume were higher than historical mine drainage. As the yellow plume of metal-laden water traveled downstream after the release, the metal concentrations within the plume decreased as they were diluted by river water and as some of the metals settled to the river bed.

There were no reported fish kills in the affected rivers, and post-release surveys by multiple organizations have found that other aquatic life does not appear to have suffered harmful short-term effects from the GKM plume. The concentrations of metals in well-water samples collected after the plume passed did not exceed federal drinking water standards. No public water system using Lake Powell as a source of drinking water has reported an exceedance of metals standards since the release.

Some metals from the GKM release contributed to exceedances of state and tribal water quality criteria at various times for nine months after the release in some locations. Metals from the GKM release may have contributed to some water quality criteria exceedances during the spring 2016 snow melt. Other exceedances may reflect longstanding contributions of metals from historic mining activities in the region and natural levels of metals in soils and rocks in the area. EPA will continue to work with states and tribes to interpret and respond to these findings.

Results from this analysis will inform future federal, state and tribal decisions on water and sediment monitoring. EPA will continue to work with states and tribes to ensure the protection of public health and the environment in the river system affected by the Gold King Mine release.

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RMP Final Rule Summary

The U.S. Environmental Protection Agency (EPA) finalized amendments to the Accidental Release Prevention Requirements for Risk Management Programs (RMP) under the Clean Air Act, Section 112(r)(7). The amendments aim to modernize EPA's RMP regulations as required under Executive Order (EO) 13650 which directs the federal government to carry out a number of tasks intended to prevent chemical incidents.

The amendments:

- Address and improve accident prevention program elements;
- Enhance the emergency preparedness requirements;
- Ensure LEPCs (Local Emergency Planning Committees), local emergency response officials, and the public can access information in a user-friendly format to help them understand the risks at RMP facilities and better prepare for emergencies.

The effective date for the amendments is March 14, 2017. More information about the amendments is available at the EPA RMP website.

Accident Prevention Program Revisions:
All facilities with Program 2 or 3 processes must conduct a root cause analysis as part of an incident investigation of a catastrophic release or an incident that could have reasonably resulted in a catastrophic release.

Regulated facilities with Program 2 or 3 processes must contract with an independent third-party to perform a compliance audit after the facility has an RMP reportable accident.

The rule adds an element to the process hazard analysis (PHA), which is updated every five years. Program 3 facility owners or operators in NAICS codes 322 324 and 325 are required to conduct a 'safer technology and alternatives analysis' (STAA) as part of their PHA, and to evaluate the practicability of any inherently safer technology (IST) identified.

Emergency Response:
Program 2 or 3 process facilities are required to coordinate with the local emergency response agencies at least once a year to determine how the facility is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the source, their quantities, the risks presented by covered processes, and the resources and capabilities at the facility to respond to an accidental release of a regulated substance.

All facilities with Program 2 or 3 processes are required to conduct notification exercises annually to ensure that their emergency contact information is accurate and complete.

Responding facilities shall conduct field exercises and tabletop exercises with schedules advised by local emergency planners, but at a minimum:

- full field exercises at least once every ten years and
- tabletop exercises at least once every three years.

RMP

Responding facilities that have an RMP reportable accident, and document the response activities in an after-action report comparable to the exercise evaluation reports, may use that response to satisfy the field exercise requirements.

Owner and operators of responding facilities that conduct exercises to meet other Federal, state or local exercise requirements may satisfy the RMP exercise requirements provided that the scope of the exercise includes the objectives of an RMP exercise.

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RMP Final Rule Summary Continued

Information Sharing
The rule requires all facilities to provide certain basic information to the public, upon request.

- Names of regulated substances held in a process;
- Safety Data Sheets (SDSs) for all regulated substances located at the facility;
- The five-year accident history information required to be reported under § 68.42;
- The following summary information concerning the stationary source's compliance with § 68.10(f)(3) or the emergency response provisions of subpart E:
    - Whether the stationary source is a responding stationary source or a non-responding stationary source;
    - Name and phone number of local emergency response organizations with which the owner or operator last coordinated emergency response efforts, pursuant to § 68.180; and
    - For stationary sources subject to § 68.95, procedures for informing the public and local emergency response agencies about accidental releases;
        - o Exercises. A list of scheduled exercises required under § 68.96; and
        - o LEPC contact information. Include LEPC name, phone number, and web address as available.
- The owner or operator of the facility shall provide ongoing notification of availability of information elements on a company website, social media platforms, or through some other publicly accessible means that:
        - o The information specified above is available
            - § (i) Specify the information elements can be requested; and
            - § (ii) Provide instructions for how to request the information (e.g. email, mailing address, and/or telephone or website request);
- The rule also requires all facilities to hold a public meeting for the local community within 90 days of an RMP reportable accident

EPA proposed requirements for facilities to provide certain information to the Local Emergency Planning Committee (LEPC), Tribal Emergency Planning Committee (TEPC) or other local emergency response agencies. However, rather than prescribe information elements that must be provided upon request, EPA is requiring the owner or operator of a stationary source to share information that is relevant to emergency response planning as part of the coordination activities that occur annually between facility representatives and local emergency response agencies.

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We will increase EPA Region 8 preparedness through:

- Planning, training, and developing outreach relations with federal agencies, states, tribes, local organizations, and the regulated community.
- Assisting in the development of EPA Region 8 preparedness planning and response capabilities through the RSC, IMT, RRT, OPA, and RMP.
- Working with facilities to reduce accidents and spills through education, inspections, and enforcement.

To contact a member of our Region 8 EPA Preparedness Unit team, review our programs or view our organization chart, please see: https://www.epa.gov/emergency-response/region-8-preparedness-unit-members

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Wyoming
Mr. Don Huber, Chair
Phone: 307-670-2590
donhuber11@gmail.com

RMP Hotline: (303) 312-6345

RMP Reporting Center: The Reporting Center can answer questions about software or installation problems. The RMP Reporting Center is available from 8:00 a.m. to 5:30 p.m., Monday - Friday: (703) 227-7650 or RMPRC@epacdx.net.

RMP: https://www.epa.gov/rmp **EPCRA:** https://www.epa.gov/epcra

Emergency Response: https://www.epa.gov/emergency-response

SPCC/FRP: https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations

Compliance and Enforcement: https://www.epa.gov/enforcement

List of Lists: https://www.epa.gov/epcra/epcracerclacaa-ss112r-consolidated-list-lists-march-2015-version

To report an oil or chemical spill, call the National Response Center: (800) 424-8802.

U.S. EPA Region 8
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Denver, CO 80202-1129

This newsletter provides information on the EPA Risk Management Program, EPCRA, SPCC/FRP (Facility Response Plan) and other issues relating to Accidental Release Prevention Requirements. The information should be used as a reference tool, not as a definitive source of compliance information. Compliance regulations are published in 40 CFR Part 68 for CAA section 112(r) Risk Management Program, 40 CFR Part 355/370 for EPCRA, and 40 CFR Part 112.2 for SPCC/FRP.

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