



Region 8 Emergency Preparedness Newsletter

Volume VII No. 2

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.

[Stationary Train Rail Cars](#)

How EPCRA applies to stored rail cars



[EPCRA Emergency Plans](#)

Emergency Planning for Hazardous Chemicals

[RMP Ruling](#)

Rule making delayed and public hearing held



[Region 8 RRT Meeting](#)



[Montana Indian Nations Work Group](#)

Spring Meeting in Great Falls

[Oil Spill Exercise](#)

Federal, state and local officials participating

[Frequently Asked Questions](#)

SARA Title III Section 302 Notification and Emergency Planning



[Training and Workshops](#)

LEPCs
Chemical Industries
HAZWOPER
CAMEO



[LEPC Best Practices](#)

An Interview with the Albany Wyoming LEPC



[Region 8 EPA](#)

Contacts and Information



EPCRA and Hazardous Chemicals at Rail Yards

The EPA is frequently asked this question and the answer bears repeating. *Are hazardous chemicals stored at the destination indicated on the shipping papers considered to be storage “incident to transportation” if they will be shipped later on to another destination under new shipping papers?*

The exemption in Section 327 of EPCRA for substances stored “incidental to transportation” does not apply when substances are not under active shipping papers. The legislative history of EPCRA makes clear that the exemption “is limited to the storage of materials which are still moving under active shipping papers and which have not reached the ultimate consignee.” Thus, if a rail yard is identified as the ultimate consignee on the shipping papers, or the chemicals are not under active shipping papers, the hazardous chemicals present at the rail yard are no longer in transportation or stored incident to transportation.



The reporting requirements of Sections 311 and 312 of EPCRA apply to owners and operators of facilities that are required to have or prepare a Safety Data Sheet (SDS) for any hazardous chemical. If hazardous chemicals present at a rail yard are required to have an SDS, and the reporting thresholds are met or exceeded, then the owner or operator of the rail yard must comply with EPCRA Sections 311 and 312.

This answer is not intended to restrict the Department of Transportation’s jurisdiction over such facilities. The Department of Transportation has jurisdiction over rail transportation of hazardous materials, including “storage incident to movement.” While DOT’s definition of “storage incident to movement” is similar to “storage incident to transportation” under EPCRA, DOT’s definition can sometimes be more expansive, resulting in overlapping EPA and DOT jurisdiction in some cases.

For example, for safety reasons, DOT maintains jurisdiction over rail cars of hazardous chemicals stored on railroad-controlled property as “storage incident to movement,” no matter how long they are stored there and regardless of whether the chemicals are under active shipping papers. In the context of rail shipments, DOT’s regulations consider the type of track used for storage to be a relevant factor. The regulations specify that, in the case of railroad shipments, even if a shipment has been delivered to the destination shown on the shipping document, if the track is under the control of a railroad carrier or track is used for purposes other than moving cars shipped to or from the lessee, storage on the track is storage incidental to movement.

Hazardous chemicals stored in rail cars at rail yards are also subject to EPCRA Sections 311 and 312 reporting requirements unless the hazardous chemicals are under active shipping papers and have not reached their ultimate consignee listed on the shipping papers, regardless of the type of track used for storage. This is to ensure that emergency responders and the public are aware of hazardous chemicals stored in their community – a particular concern when rail yards are providing storage services for chemical companies and other hazardous chemical users. Rail cars under active shipping papers that have not reached their final destination are subject to the Hazardous Materials Regulations and must have an emergency response telephone number on the shipping paper that is monitored while the hazardous material is in transportation.

[Return to Top](#)

Montana Indian Nations Work Group

The Montana Indian Nations Work Group (MINWG) met April 6 and 7th in Great Falls, Montana. The Group focuses on homeland security and emergency management including Tribal Emergency Response Commissions (TERC), tribal health, and Tribal Leaders.

The organization endeavors to promote an environment where members feel comfortable expressing their ideas. The MINWG provides a forum to assist with the development, education, and implementation of emergency management planning, TERC, and homeland security grant efforts for each Indian Nation. The group emphasizes the strengths of each Indian Nation as well as the benefits of working together as a unit. Developing and maintaining personal relationships between each of the Indian Nations remains a key element of the group.

In addition, the group realizes and operates as though there are no boundaries between Tribal and County when it comes to a disaster or emergency in saving lives, protecting property and the environment.



Risk Management Program Amendments

On March 16, 2017, the EPA published in the Federal Register a 'stay and delay' of the effective date of the RMP Amendments, pending reconsideration to June 19, 2017. The EPA is proposing to further delay the effective date to February 19, 2019. This action would allow the Agency time to consider petitions for reconsideration of this final rule and take further regulatory action, which could include proposing and finalizing a rule to revise the Risk Management Program amendments.



The EPA Administrator announced the reconsideration of the Risk Management Program Amendments. EPA received petitions from several groups including the RMP Coalition, the Chemical Safety Advocacy Group, and several states and having considered the objections raised, the Administrator determined that the criteria for reconsideration have been met for at least one of the objections. EPA held a public hearing on April 19th, 2017, to provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA made every effort to accommodate all speakers.

FAQs for EPCRA Section 302

What is the primary purpose of Section 302 notification requirements?

Notifications indicating that a facility has one or more extremely hazardous substances in excess of the threshold planning quantity help to identify locations within the State where emergency planning activities can be initially focused. While the substances on the list do not represent the entire range of hazardous chemicals used in commerce, they have been designated as those substances which are, in the event of an accident, most likely to inflict serious injury or death upon a single, short-term exposure. Therefore, Section 302 notifications should be useful in helping State and local governments identify those areas and facilities that represent a potential for experiencing a significant hazardous material incident.

How do Section 302 notification requirements apply to transportation of an extremely hazardous substance (EHS)?

Although Section 302 reporting requirements do not apply to the transportation of any EHS, including transportation by pipeline, or storage of EHS under active shipping papers, transportation activities within a community should be addressed in local emergency plans.

Would pesticide sprayed on ground count towards a Section 302 threshold?

If a facility has a pesticide sprayed on its grounds without first being stored at the facility, must the amount of EHS present in the pesticide that has been applied be counted towards the TPQ?

Under section 302, an owner or operator must identify any EHSs that are present at the facility and, for each EHS, determine the amount present. If the amount present equals or exceeds the EHSs TPQ, then the facility is subject to emergency planning requirements. In this specific example, the facility would not count the amount of EHS present in the soil toward the EHSs TPQ because it is not present in a contained structure. The definition of facility (40 CFR §355.61) includes all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person. This includes man-made structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. Once it is applied, the residual pesticide does not have to be applied toward the threshold determination. It can be considered no longer "present at the facility."

This does not, however, exempt the owner or operator from emergency planning requirements for EHSs present above their TPQ at the facility, such as any EHS in a pesticide that is brought on-site prior to application, stored, or present anywhere else at the facility.

Section 302 notification requirements and mixtures with unknown components

Are facilities exempt from Section 302 notification requirements if they produce, use, or store mixtures whose extremely hazardous substance component information is not available on the SDS provided by the manufacturer?

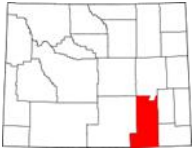
If the facility which produces, uses, or stores mixtures knows or reasonably should know the components of the mixture, the facility owner or operator must notify under Section 302 if the extremely hazardous substance component is more than one percent of the total weight of the mixture and equal to or more than the threshold planning quantity.

Wyoming's Albany County LEPC

In the southeastern reaches of Wyoming, the Albany County LEPC is a cohesive, active unit focused on protecting its community. Aimee Binning, the Emergency Management Coordinator, shares a few of their best practices.



The Albany County LEPC includes representatives from various members of the community including first responders, elected officials, state and federal agencies, news agencies, the Red Cross, Volunteers Active in Disasters, a local college and private industry representatives. Every Tier II reporting facility is invited to participate in the LEPC meetings.



The LEPC meets quarterly. The secretary manages the details of the meeting including the pre-agenda documents, the minutes from the previous meeting and logistics. The LEPC attendance is increasing and they may soon outgrow their current meeting space. Before each meeting, the LEPC membership sends agenda items to the secretary for the executive committee to review.

Each meeting includes a 20-minute presentation. For 2017, the topic is a facility's Tier II report, including a plume model for a worst-case scenario. The facility works jointly with the Emergency Management Coordinator to present the information. The purpose is to engage LEPC members in planning for a response to the facility. From these presentations, the LEPC schedules trainings and exercises using the agency, industry partners, and subject matter experts.



Also, every meeting focuses on different items requiring an annual review by the LEPC. During the January meetings, the LEPC reviews grant projects and reports to send to the Wyoming SERC; April meetings include elections and a review of the by-laws. July is focused on Threat and Hazard Identification and Risk Assessment and grant projects and, at the October meeting, they review the Hazmat

Emergency Response plan.

The LEPC faces similar challenges to other LEPCs: involvement, attendance and participation from agencies identified in EPA guidelines. Albany County endeavors to make LEPC meetings valuable for all who attend. Their success can be attributed to keeping members involved through activities such as planning and exercises, or via education in which they present special projects or new capabilities.



The LEPC assists in building community response plans, identifying training needs, participating in exercises and creating after-action reports. Industry partners, and their specialty-trained professionals, support the LEPC with training for hazardous materials.



The Albany LEPC brings together various agencies that work well together, seemingly without egos. LEPC planning, exercises and after-action reports improve relationships within the community during emergencies. These trusted relationships have allowed frank and honest conversations with members understanding the work is important and sharing objectives.



[Return to Top](#)

EHS and Emergency Planning

The extremely hazardous substances (EHS) list and its threshold planning quantities (TPQs) are intended to help communities focus on the substances and facilities of most immediate concern for emergency planning and response. However, while the list includes many of the chemicals which may pose an immediate hazard to a community upon release, it does not include all substances which are hazardous enough to require community emergency response planning. There are tens of thousands of compounds and mixtures in commerce in the United States, and in specific circumstances many of them could be considered toxic or otherwise dangerous. The list represents only a first step in developing effective emergency response planning efforts at the community level. Without a preliminary list of this kind, most communities would find it very difficult to identify potential chemical hazards among the many chemicals present.

Similarly, threshold planning quantities are not absolute levels above which the extremely hazardous substances are dangerous and below which they pose no threat at all. Rather, the threshold planning quantities are intended to provide a "first cut" for emergency response planners in communities where these extremely hazardous substances are present. Identifying facilities where extremely hazardous substances are present in quantities greater than the threshold planning quantities enable the community to assess the potential danger posed by these facilities.

Sections 311 and 312 of Title III provide a mechanism through which a community will receive safety data sheets (SDS) and other information on extremely hazardous substances, as well as many other chemicals, from many facilities which handle them. A community can then assess and initiate planning activities, if desirable, for extremely hazardous substances below the threshold planning quantity and for any other hazardous substances of concern.

In addition to the assistance provided by the EHS list and the TPQ, community emergency response planners can check out the [National Response Team's Hazardous Materials Emergency Planning Guide](#). A [Technical Guidance for Hazardous Analysis](#) may also assist local emergency planning committees in evaluating potential chemical hazards and setting priorities for sites.



Spring RRT Meeting

The Region 8 Regional Response Team (RRT) met April 19th and 20th in Denver Colorado. There are 13 RRTs across the country. Each RRT maintains a Regional Contingency Plan and includes state and federal government representation. EPA and the Coast Guard co-chair the RRTs. RRTs are planning, policy and coordinating bodies and do not respond directly to an emergency. The following topics dominated the discussions during the spring 2017 meeting.

- Ash Coulee Creek Oil Spill Presentations and Perspectives
- White Rock Oil Spill Presentations and Perspectives
- Area Contingency Plan Updates including a general overview of progress and more specific information about work in the following sub-areas:
 - Missouri/James/Big Sioux
 - South Platte/Upper Arkansas
 - Missouri Headwaters/Clark Fork
 - North Platte/Cheyenne
 - Colorado
- Vance Street Pond Hot Site
- Outreach/Coordination Update
- Pueblo Chemical Depot Update



The next meeting will be October 17-18th, 2017. If you would be interested in attending as a guest, please contact Gina Cristiano, at Cristiano.gina@epa.gov.

EPA Exercise for Oil Spills

Federal, state and local public safety entities came together Wednesday, April 12th, in Yuma, Arizona for training provided by the U.S. Environmental Protection Agency on responding to and cleaning oil spills. Public safety agencies at the local level would be first on scene, so officials say combining resources is key to combating a hazardous incident such as an oil spill.

The U.S. EPA is hosting the week-long training with real-life scenario using local public safety resources to ensure that local resources are protected.



[Return to Top](#)

Training Offered

Hazardous Waste Operations and Emergency Response (HAZWOPER) 40-hour course.

Rapid City, South Dakota June 19, 2017, 8 AM to June 23, 2017 3 PM

For more information or to register go to the [Trainex website](#).

Sampling for Hazardous Materials

Pierre, South Dakota April 26th and 27th

This two-day introductory course provides classroom and field instruction for the environmental sampling of soil, groundwater, surface water, sediment and waste.

For more information or to register, go to the [Trainex website](#).

CAMEO Training

Williston North Dakota May 24 and 25th

For Class Information, contact Mike Smith, CFM, Director, Williams County Office of Emergency Management & Homeland Security. mikesm@co.williams.nd.us

Chemical Industry Workshops

North Dakota's Department of Emergency Services held workshops this spring for facilities in the chemical industries about federal programs that regulate chemical safety. Representatives from Occupational Safety and Health Administration (OSHA), department of Homeland Security (DHS), and EPA reviewed federal programs (Risk Management, EPCRA, Process Safety Management, Chemical Facility Anti-Terrorism Standards | Homeland Security, Spill Prevention and Control, and Facility Response Plan) and Local Emergency Planning Committees (LEPCs). The workshops were held in various North Dakota cities. If you would be interested in a similar workshop, contact Rebecca Broussard at the EPA.

Broussard.Rebecca@epa.gov



LEPC Workshops



South Dakota's Department of Environment and Natural Resources held workshops across the state for LEPCs. A variety of community members of LEPCs attended the sessions.

The topics included LEPC basics, EPA response programs, Computer Aided Management of Emergency Operations (CAMEO) and Region 8's The Environmental Response Application (TERA) mapping tool software demonstrations, South Dakota's Tier II database, Hazard

Materials Emergency Preparedness (HMEP) grants and an update on Resource Conservation and Recovery Act (RCRA). If interested in these workshops, please contact Rebecca Broussard with the EPA.

Broussard.Rebecca@epa.gov

[Return to Top](#)

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, click this [link](#).

Region 8 SERC Contact Information

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Wyoming

Mr. Don Huber, Chair
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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>

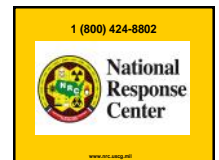
Emergency Response: <https://www.epa.gov/emergency-response>

[Lists of Lists](#)

Questions? Call the Superfund, TRI, EPCRA, RMP, and Oil Information Center at (800) 424-9346 (Monday-Thursday).

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

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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.