



Region 8 Emergency Preparedness Newsletter

Volume X No. 2 April 2020 Quarterly Newsletter

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Region 8 Emergency Preparedness COVID-19 Informational Links

As emergency preparedness readers, you are all fully immersed in this pandemic. Thank you for all you are doing for your community. We have included a few links with helpful information and updates provided by the EPA. In this emerging, rapidly evolving situation please check out these websites providing updated information and guidance as it becomes available. They are being updated frequently.

EPA

This website provides key EPA resources on the coronavirus disease (COVID-19)

- <https://www.epa.gov/coronavirus>

Disinfectants

Information on EPA acceptable disinfectants to use against the virus

- <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>
- Press Release on disinfectant availability issues
- <https://www.epa.gov/newsreleases/epa-takes-action-assure-availability-disinfectant-products-use-against-novel>

Drinking Water

- Press release, 3/31/2020
- EPA Urges States to Support Drinking Water and Wastewater Operations during COVID-19
- <https://www.epa.gov/newsreleases/epa-urges-states-support-drinking-water-and-wastewater-operations-during-covid-19>

PPE and HMEP Grants

“NASTTPO and others are engaging PHMSA on ways that HMEP monies might be used to replace or purchase PPE consistent with OMB Memo M-20-11 in support of COVID-19 response. Public and private agencies that have extra PPE they can donate to hospitals and other healthcare providers are encouraged to do so. NASTTPO believes that there will be means by which funds such as HMEP will become available to replace this equipment later.”

Tim Gablehouse, April 1, 2020

Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus.

<https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-11.pdf>

Additional Timely Information

World Health Organization <https://www.who.int/>

Center for Disease Control <https://www.cdc.gov/>

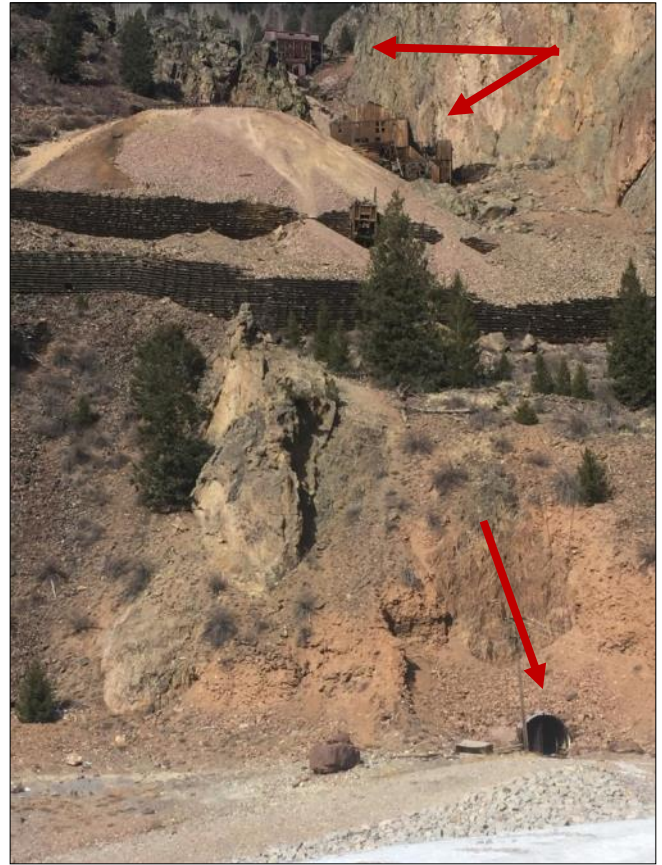
Nelson Tunnel/Commodore Waste Rock NPL Site



Colorado, as well as much of the western United States, remains pockmarked with old abandoned mines that create havoc for the environment. The Nelson Tunnel/Commodore Waste Rock Superfund National Priorities List (NPL) site, located outside of Creede, is one such mine.

The Nelson Tunnel is the lowest level of a large mine complex including the Commodore Mine, the Amethyst Mine, the Happy Thought Mine, and the Last Chance Mine. Built in the 1890s, the tunnel served as an important drainage for the complex. Shortly after it was built, the owner of the Commodore Mine drove another tunnel (Commodore Level 5) above it to haul ore and compete with the Nelson Tunnel.

Now an abandoned hard rock mine site, the Nelson Tunnel discharges acid mine drainage (AMD) directly into West Willow Creek, a tributary of the Rio Grande River, which is a state-designated Gold Medal Fishery. The site also includes a waste rock pile. Both of these features release contaminants to the surface water contributing to its selection as a Superfund site.



Multiple Layers of Mining from Creede Mining Complex

The site was added to the Superfund NPL in September 2008. During 2008 and 2009, EPA conducted a removal action to stabilize the Commodore Rock Pile. In 2011, EPA completed the site's remedial investigation, which assessed the nature and extent of contamination. The site's feasibility study is underway which will explore appropriate cleanup options.



Commodore Level 5 Portal Entry with Perspective

The complex and intersecting tunnels still serve the important role of draining these mines today. The Commodore Level 5 Tunnel connects to the Nelson Tunnel via a series of vertical mine workings. As water levels periodically fluctuate in the Nelson Tunnel, water flows into the Commodore Level 5 Tunnel, allowing pressure relief before water returns to the Nelson further down gradient. In this way, the viability of the Commodore Level 5 Tunnel is critical to the stability of the Nelson Tunnel. It is important to keep the tunnels open, accessible and draining. The Commodore portal door is the only entrance to the tunnels.

Nelson Tunnel/Commodore Site Continued

In 2018, the Colorado Department of Reclamations and Mining Safety (DRMS) reported that conditions in the Commodore Level 5 Tunnel were deteriorating at an increasing rate. If the workings continued to deteriorate without intervention, further rockfall could completely block the flow of water between the two tunnels, hindering the pressure relief that the Commodore Level 5 Tunnel currently provides. Such a blockage would also prevent any inspections of water levels beyond it, eliminating all knowledge of the amount of water impounded within the system. A major concern with these tunnels is the potential for a sudden uncontrolled release of AMD water.

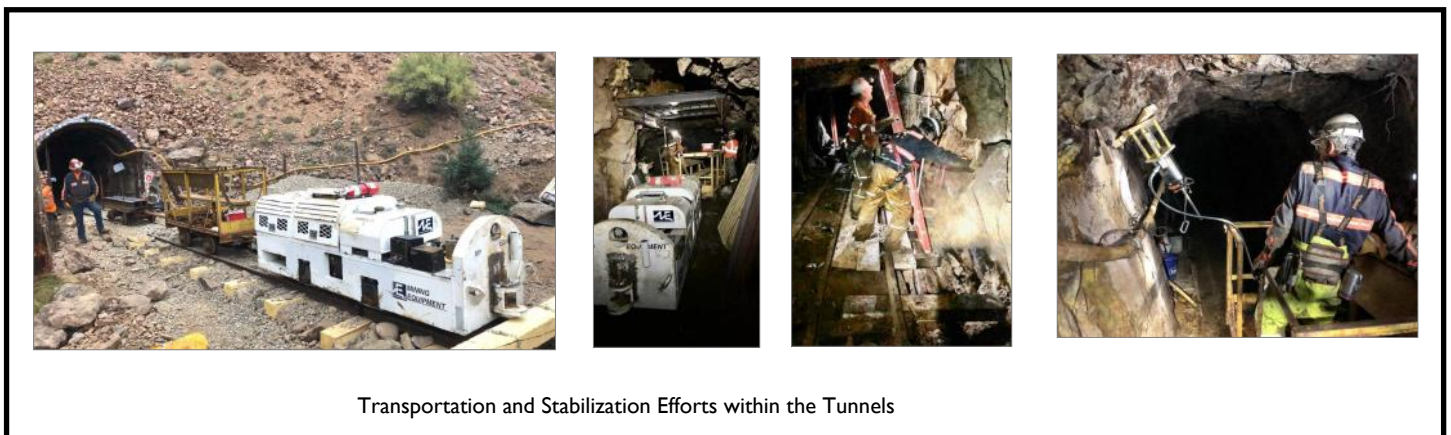


Deteriorating Conditions

To address this potential risk, the EPA began a time-critical 'removal action' to stabilize sections of the Commodore Level 5 Tunnel and vertical connections to the Nelson Tunnel.

The overall objectives of the removal action were:

- preventing water from impounding in the Commodore Level 5 Tunnel,
- preserving current conditions and,
- preventing further pressure on the Nelson Tunnel impoundments.



Transportation and Stabilization Efforts within the Tunnels

Nelson Tunnel/Commodore Site Continued

The work plan included :

- stabilizing areas,
- clearing rock fall within the tunnel,
- maintaining connections and physical access between Commodore Level 5 to the Nelson Tunnel, and
- rehabilitating the portal gate structure.



Stabilizing Bolts Reinforcing Rock Wall



Improved Stairwell



Better Drainage, New Rails



New Portal Gate and Entrance

This reclamation effort contributes to future remedial work at the site by ensuring continued access to key portions of the Nelson Tunnel for remedial design and water level monitoring purposes. It is also intended to reduce the likelihood of a large, sudden, uncontrolled release of acid mining discharge waters from the Nelson Tunnel. Remedial work and stabilization efforts are ongoing.

For more information and an interactive presentation, view EPA's On-Scene Coordinator website for the [Commodore 5/Nelson Tunnel project](#).

Waters of the US Rule

On January 23, 2020, the U.S. Environmental Protection Agency (EPA) and the Department of the Army (Army) finalized the [Navigable Waters Protection Rule to define “Waters of the United States”](#) and thereby establish federal regulatory authority under the Clean Water Act.

The Navigable Waters Protection Rule is the second step in a two-step process to review and revise the definition of “Waters of the United States” (WOTUS). This final rule will become effective 60 days after publication in the *Federal Register* and will replace the [Step One Rule](#) published in October, 2019.

The agencies are streamlining the definition so that it includes four simple categories of jurisdictional waters and provides clear exclusions for many water features that traditionally have not been regulated. Congress, in the Clean Water Act, explicitly directed the Agencies to protect “navigable waters.” The Navigable Waters Protection Rule regulates these waters and the core tributary systems that provide perennial or intermittent flow into them. Step 1 repealed the 2015 Waters of the US law.

In “Step 2”, four clear categories of waters are federally regulated:

- The territorial seas and traditional navigable waters,
- Perennial and intermittent tributaries to those waters,
- Certain lakes, ponds, and impoundments, and
- Wetlands adjacent to jurisdictional waters.

The final rule also details 12 categories of exclusions, features that are not “waters of the United States”.

The final rule clarifies key elements related to the scope of federal Clean Water Act jurisdiction, including:

- Providing clarity and consistency by removing the proposed separate categories for jurisdictional ditches and impoundments.
- Refining the proposed definition of “typical year,” which provides important regional and temporal flexibility and ensures jurisdiction is being accurately determined in times that are not too wet and not too dry.
- Defining “adjacent wetlands” as wetlands that are meaningfully connected to other jurisdictional waters, for example, by directly abutting or having regular surface water communication with jurisdictional waters.

For more information, check out these fact sheets:

- [Overview of the Navigable Waters Protection Rule - Fact Sheet \(PDF\)](#).
- [Mapping and the Navigable Waters Protection Rule - Fact Sheet \(PDF\)](#).
- [Implementing the Navigable Waters Protection Rule - Fact Sheet \(PDF\)](#).
- [Rural America and the Navigable Waters Protection Rule - Fact Sheet \(PDF\)](#).
- ["Typical Year" and the Navigable Waters Protection Rule - Fact Sheet \(PDF\)](#).
- [Navigable Waters Protection Rule Photo Appendix \(PDF\)](#).

Proposed Consent Decree

Hazardous Substance Worst Case Discharge Planning Regulations

On March 21, 2019, the Natural Resources Defense Council, Clean Water Action, and the Environmental Justice Health Alliance for Chemical Policy Reform filed a complaint alleging, inter alia, that EPA had a duty under Clean Water Act ("CWA") section 311(j)(5)(A)(i), to issue regulations that require an owner or operator of a non-transportation-related onshore "facility described in subparagraph (C) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of ... a hazardous substance" (the "Hazardous Substance Worst Case Discharge Planning Regulations") by August 18, 1992.



The proposed consent decree would set deadlines for EPA to complete a notice of proposed rulemaking pertaining to the issuance of the Hazardous Substance Worst Case Discharge Planning Regulations, and for publication of a notice taking final action following notice and comment rulemaking pertaining to the issuance of Hazardous Substance Worst Case Discharge Planning Regulations.

A copy of the proposed consent decree and the Federal Register notice with further details can be found [here](#).

AWIA Water Utilities Guide

The EPA has created a tutorial video to assist water utilities in complying with America's Water Infrastructure Act (AWIA) — Section 2013 — Risk and Resilience Assessment and Emergency Response Plan certification requirements.

The video demonstrates step-by-step instructions on how a water utility can certify electronically through EPA's website. View the YouTube [video here](#); when you reach the YouTube video, you will need to restart it from the beginning.

For LEPCs and community water utilities to learn more about America's Water Infrastructure Act Risk Assessment, emergency response plan requirements, AWIA Section 2018, Spill Notifications, or to read

2019 Tier II Forms Were Due March 1st, 2020

Hopefully all facilities needing to report their chemical inventories for last year have submitted their Tier II 2019 forms. Fire departments, LEPCs and SERCs should now be accumulating their updated Tier II reports and incorporating them into their emergency response plans. A new user interface was used on the Tier2 Submit application this year and was recently updated. The new version, [Tier2 Submit 2019 rev. 3](#), is now available on the EPA website. **If reporters have successfully submitted their Tier II reports, they do not need to install this update.** However we recommend that any facility who has not yet submitted their Tier II report, download and install this version to complete their Tier II report.

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Annual Western SERC and TERC Meeting

EPA Region 8 hosted the fifth annual Western Regions State Emergency Response Commission (SERC) and Tribal Emergency Response Commission (TERC) Meeting for EPA Regions 8, 9, and 10 in Denver, Colorado on January 28-29, 2020.



More than 60 attended. Representatives included Regions 8, 9, and 10 states and local emergency planning committee (LEPC) members, federal partners (EPA, Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Homeland Security (DHS including FEMA and CISA), and National Oceanic and Atmospheric Administration (NOAA))

and industry association National Association of Sara Title III Program Officials (NASTTPO).

This group, originally convened in 2016 as a part of 'Executive Order 13650: Chemical Facility Safety and Security' to exchange ideas and information relevant across the western United States, continues to meet. Attendees report finding the exchange of information, among participants with common issues and concerns, invaluable.

Agenda highlights included:

- state updates,
- break-out session on what SERCs can do for their LEPCs,
- a discussion on the National Response Framework vs. the National Contingency Plan including a panel on response resources and planning from the national to local level,
- Region 8's training and exercise program,
- a robust discussion on how states are addressing PFAS issues,
- planning tools to use for hazard risk analysis,
- updates to chemical data and planning management, and
- federal updates on America's Water Infrastructure Act (AWIA) and Risk Management Program (RMP) Reconsideration Rule.



Next year's meeting, 2021, will be hosted by Region 9. The location has yet to be determined. For more information, contact Breann Bockstahler at Bockstahler.Breann@epa.gov

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Ward County North Dakota LEPC

Ward County lies in north-central North Dakota, less than 100 miles from the Canadian border. In addition, Ward County is fortunate to have the Minot Air Force base just ten miles north of the city of Minot, the county seat for Ward County. Prior to 2011, Ward was known for economic growth fueled by the Bakken oil field.



Aerial Photo of Flooded Ward County



Aerial Photo of Flooded Ward County

However, that year the Souris River flooded four feet above any previous record. About 11,000 residents were evacuated during this '500 year flood'. Consequently, interest in and attendance at the LEPC peaked and the Ward LEPC grew vibrant with community involvement.

Jennifer Wiechmann, director of Ward County Emergency Management, answered some questions about running the Ward LEPC. The LEPC's membership is varied and includes the following positions: law enforcement (sheriff, police, highway patrol), fire, city and county officials (mayor, auditors, public works, highway department, zoo, parks), Emergency Medical Services, utilities representatives, energy facilities, air force base representatives, national guard, dispatch/411, Public Health and Red Cross.

The group meets every month in the emergency operations center. Ward County Emergency Management, as the LEPC chair, organizes each meeting.



Jennifer Wiechmann



Minot Air Force Base

Ward County LEPC Continued

Jennifer views the most important aspect of the meetings as bringing the whole community together. She believes the meetings foster relationships and understandings ahead of time so the community is better equipped to handle any incident. “The day of a disaster is not the time to put a name to a face, or try to learn what resources or capabilities each entity brings to the table,” she relayed.

The LEPC faces the unique issue that the flood, which once dictated much of the LEPC’s actions, is now ten years in the past. Remaining meaningful to the community and LEPC members is ever present in Jennifer’s mind. She strives to achieve buy-in from all her stakeholders and describes it as one of her challenges as the LEPC chair. That said, the LEPC still has a sizeable turnout for their meetings each month.

One key aspect of the LEPC’s success is keeping things brief. The meetings, held during the day so those that attend can head back to their jobs, typically emphasize training opportunities — serving as a resource for members to use. Being able to see a clear value in the LEPC is what builds and keeps involvement.



Ward LEPC Members

Turnover within the LEPC’s member departments could be detrimental to representation on the LEPC. However, Jennifer is seeing members passing the baton to their replacements and, so far, involvement hasn’t wavered.

Jennifer added that “Working with this committee is quite a joy. It really helped me learn who the stakeholders are in my community and how I can incorporate them in plans that are specific to my job as the Emergency Manager for Ward County.” She concluded that members that have been involved for several years have helped her grow into her position as LEPC chair. She is proud of how well the LEPC works together.



Agribusiness of Ward County



Historic Gassman Coulee Railroad Trestle

EPCRA TPQ Frequently Asked Questions

What is the relationship between reportable quantities (RQs) and threshold planning quantities (TPQs)?

The reportable quantity (RQ) that triggers emergency release notification (Section 304) was developed as a quantity that when released, poses potential threat to human health and the environment. The RQs were developed using several criteria, including aquatic toxicity, mammalian toxicity, ignitability, reactivity, chronic toxicity, potential carcinogenicity, biodegradation, hydrolysis, and photolysis (50 FR 13468, April 4, 1985).

The threshold planning quantities for emergency planning provisions (Section 302) were designed to help States and local communities focus their planning efforts. The TPQs are based on acute mammalian toxicity and potential for airborne dispersion and represent those quantities of substances that can cause significant harm should an accidental release occur.

Two threshold planning quantities (TPQs)

Several substances on the list of extremely hazardous substances (EHSs) have two threshold planning quantities (TPQs) listed in 40 CFR Part 355, Appendix A. When would a facility use the higher TPQ?

EHSs that are in **solid form** are subject to one of two different TPQs. A facility should use the lower TPQ if the solid is in powdered form and has a particle size less than 100 microns; is in solution; is in molten form; or meets the criteria for a National Fire Protection Association rating of 2, 3 or 4 for reactivity (§355.15(a)). If the solid does not meet one of these criteria, then the TPQ is 10,000 pounds (§355.15(b)).

A facility would only apply the 10,000 pound TPQ for an EHS when complying with the EPCRA Section 302 emergency planning notification requirements. For the purposes of EPCRA Section 311 or 312 reporting requirements (for example, Tier II reporting), a facility would use the threshold of 500 pounds or the designated TPQ in Part 355, Appendix A, whichever one is lower (§370.10(a)(1)).

How can a facility determine whether it has present an amount of an extremely hazardous substance (EHS) which equals or exceeds the threshold planning quantity (TPQ)?

To determine whether the facility has an amount of an extremely hazardous substance which equals or exceeds the TPQ, the owner or operator must determine the total amount of an extremely hazardous substance present at a facility at any one time, regardless of location, number of containers, or method of storage. This calculation must also take into account the amount of an extremely hazardous substance present in mixtures or solutions in excess of one percent and should include examination of such process components as reaction vessels, piping, etc., where formation of an EHS as a byproduct may take place.

If the EHS is a non-reactive solid in solution, first multiply the quantity of the solid on-site by 0.2 before comparing it to the lower TPQ listed for the EHS solid. If the EHS is a molten non-reactive solid, multiply the quantity of the molten solid on-site by 0.3 before comparing it to the lower TPQ listed for the EHS solid.

See EPA Q & A regarding [Description of the Terms "Molten" and "In Solution."](#) for more information.

EPCRA 302 Frequently Asked Questions

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.

Section 302 notification requirements for transportation of EHSs

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.

What is a reactive and non-reactive solid EHS?

Reactive solid means any extremely hazardous substance denoted with “a” in the “Notes” column in Appendix A or B of 40 CFR 355. Reactive solids are more likely than other solids to be dispersed into the air due to the energy or heat created from their reactivity with water or air. EHSs that are reactive solids have only one TPQ assigned (no 10,000 lb TPQ) regardless of their physical state, form or particle size.

Non-reactive solid means any substance listed in Appendix A or B of 40 CFR 355 with two threshold planning quantity values, the higher TPQ being 10,000 pounds.

Transportation exemption and EPCRA emergency planning

To what extent is a State required to plan if there are only a few (or no) facilities having extremely hazardous substances present in excess of threshold planning quantities, but there is significant interstate transportation of these and other hazardous substances?

While Section 327 of Title III generally exempts the transportation of hazardous materials from coverage under most Title III reporting requirements, the law does require comprehensive emergency plans that address all hazardous materials and the potential for both fixed facility and transportation incidents (Section 303). The list of extremely hazardous substances should provide a focus and a starting point for planning. Therefore, the transportation routes and facilities with significant inventories of hazardous substances should be considered in any plan. Finally, Section 301 includes transportation officials among those representatives who must participate in local planning committees.

More information and similar questions are available at EPA [Frequent Questions](#)

Local Government Reimbursement Program

In the event of a release (or threatened release) of hazardous substances, EPA may reimburse local governments for expenses related to the release and associated emergency response measures. The Local Governments Reimbursement (LGR) Program provides a "safety net" of up to \$25,000 per incident to local governments that do not have funds available to pay for response actions.

Once a local government has decided to apply for reimbursement, there are a number of basic requirements that must be met to comply with the regulations of the LGR program. When completing the LGR application, local governments should pay special attention to the following requirements to facilitate the reimbursement process:

- Reimbursement cannot supplant local funds normally provided for a response.
- Cost recovery must be pursued prior to applying for reimbursement.
- Detailed cost documentation must be submitted with the application.
- The application must be signed by the local government's highest ranking official.
- Applications must be submitted to EPA within one year of the "date of response completion" of the response.

Please review [Determining Your Eligibility](#) and [Requirements for Reimbursement](#) before starting your application. For more information, contact Tina Artemis at artemis.tina@epa.gov.

Oil Spill Response Training

Region 8 has money for oil spill response training

We are currently planning and scheduling an 'Oil Spill Response – Fast Water Practical' training. This three-day course is a hands-on practical oil spill response course for the fast waters usually found on rivers within the six states of EPA Region 8. The training involves responses to large transportation-related incidents (pipeline breaks), reading rivers to determine collection sites, proper boom deployment and case studies. If you are interested in inland oil spill prevention and cleanup, please contact Mark Wullstein (Wullstein.Mark@epa.gov or 303-312-6152). We will select a host location based on responses to this notice, as well as others.

Toxic Release Inventory (TRI) Updates

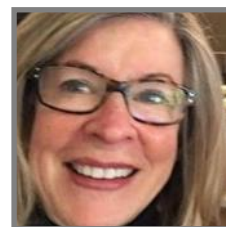
The 2018 TRI National Analysis is now available at <https://www.epa.gov/trinationalanalysis>.

Reporting for 2019 is due July 1st, 2020. [Find out what's new for RY 2019 and get started.](#)

In addition, EPA has produce an [interactive video](#) to explain some of TRI reporting as it pertains to the mining industry. Check it out.

Lori Reed, EPA Region 8 SEE, Retires

Lori Reed, Senior Environmental Employee (SEE) for EPA Region 8, is retiring May 1, 2020. Lori has worked with the Emergency Management Branch since January 2015 and focused on EPCRA issues. She produced the Tier2 Submit Tutorial and has been the editor of this newsletter. She was also a visitor to LEPC and TERC meetings throughout the region as well as a regular at state SERC meetings. She has expressed that while she will miss the emergency preparedness personnel she met around the region, she looks forward to her own travel plans as well as pursuing a few hobbies. Her previous career centered around software marketing for IBM and European-based companies. We will miss Lori tremendously as she has been a great asset to our Emergency Preparedness Program.



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.



Region 8 SERC Contact Information

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RMP Region 8 Reading Room: (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 email RMPPRC@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](#) (Updated June 2019)

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

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



U.S. EPA Region 8
1595 Wynkoop Street (8SEM-EM)
Denver, CO 80202-1129
800-227-8917

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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