

EPCRA/RMP Violations

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Common EPCRA/RMP Violations 2009:

- I will present to you today the most common EPCRA/RMP violations that I have observed during my inspections in 2009.



EPCRA Violations:

- EPCRA 302-312/CERCLA: 40 C.F.R. § 302.6(a):
A facility must immediately (EPA deems this to be within 15 minutes) notify the National Response Center (NRC) as soon as the person in charge has knowledge of a hazardous substance release from their facility in an amount equal to or greater than the reportable quantity.



EPCRA Violations (cont):

- Sections 304(a) and (b) of EPCRA, and 40 C.F.R. §355.40 (b): Require the Owner/Operator to immediately notify the State Emergency Response Commission (SERC/OSC) and the Local Emergency Planning Commission (LEPC/CUPA).



EPCRA Violations (cont):

- ❖ Two of the facilities that I inspected in 2009 that had releases of a hazardous substance had completely failed to notify the NRC.
- ❖ One of the facilities notified the Cal-EMA and the CUPA within two hours of the release. The other facility notified six hours after the release.



EPCRA Violations (cont):

- 40C.F.R. § 370.25(a)(b)(c) and §370.20 (b)(1):
Require that the Owner/Operator of the facility submit an inventory containing information on their hazardous chemicals for the proceeding year above threshold levels. In California this inventory is contained within your Hazardous Materials Business Plan (HMBP). Regulations require this to be submitted by March 1st, of the following year.



EPCRA Violations (cont):

- ❖ One facility failed to file an inventory for their anhydrous ammonia for two years. This same facility also had an unreported release.

When inspectors see missing reports it is sometimes an indication of things to come.



EPCRA Violations (cont):

- 40 C.F.R. §370.41 (a)(b): The Owner/Operator must certify that all information (including inventory) is correct and complete on their HMBP (Tier II).
 - ❖ Two facilities had been submitting their HMBP inventory, but had not reported the chlorine contained in all of the rail cars at the facility.
 - ❖ Another facility had also been submitting their HMBP inventory, but had not included the anhydrous ammonia they had onsite for two years.



RMP Violations:

- Applicability of a Risk Management Plan (RMP) 40 C.F.R. §68.10(a)(1)(2)(3): The Owner/Operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under §68.15, shall comply with the requirements of this part no later than:



RMP Violations (cont):

1. June 21, 1999
2. Three years after the date on which a regulated substance is first listed under §68.130; or
3. The date on which a regulated substance is first present above a threshold quantity in a process.



RMP Violations (cont):

- ❖ One facility came on line in 1983, and failed to submit their RMP by June 21, 1999 (they met the threshold Quantity). This facility's first RMP submittal was not done until December 2008, which is approximately nine years and six months late.



RMP Violations (cont):

- Training 40 C.F.R. §68.71(b): The Owner/Operator must provide refresher training at least every 3 years.
- ❖ One facility had not provided refresher training in the last 3 years.



RMP Violations (cont):

- Training for Emergency Response 40 C.F.R. §68.95(a)(3): The Owner/Operator must provide training for all employees in relevant procedures.
 - ❖ One facility had identified in their RMP that yearly training would be done and this was to include fit testing and medical evaluation. This had not been done for the prior year.



RMP Violations (cont):

- Emergency Response 40 C.F.R. §68.95 (a)(1)(i):
The Owner/Operator must have procedures for informing the public and local emergency response agencies about accidental releases.
- ❖ One facility did not have the National Response Center listed on the facility's call list.



RMP Violations (cont):

- Prevention Program 40 C.F.R. §68.67(g): The Owner/Operator must maintain resolution of recommendations of the life of the process.
- ❖ One facility had no recommendations for the life of the process. The equipment had been evaluated; however, all of the equipment ranged in age from 7 to 19 years.



RMP Violations (cont):

- Operating Procedures 40 C.F.R. 68.69(a)(1)(iii)(v)(vii): The Owner/Operator must develop and implement written operating procedures which provide instructions or steps for conducting activities associated with each covered process consistently with the safety information.
- ❖ Five facilities did not address steps for temporary or emergency operations, nor did they address a startup following a turn-around.



RMP Violations (cont) :

- Hazard Assessment Alternative Release Scenario Analysis 40 C.F.R. §68.28(d): The Owner/Operator must insure that the passive and active mitigation systems, if considered are capable of withstanding the release event triggering the scenario and will be functional.
- ❖ One facility did not provide sufficient documentation that the mitigation system would be functional.



RMP Violations (cont):

- Defining off-site impacts-population 40 C.F.R. §68.30(b): The Owner/Operator must identify the presence of institutions, parks and recreational areas, major commercial, office and industrial buildings in their RMP.
- ❖ One facility failed to identify a river and a lake which were water recreation areas.



RMP Violations (cont):

- Process Safety Information 40 C.F.R. §68.67(e):
The Owner/Operator must establish a system to promptly address the teams PHA findings and recommendations.
- ❖ Two facilities failed to list the completion dates on recommendations that were completed, or to identify the recommendations that were in progress.



RMP Violations (cont):

- Compliance Audits 40 C.F.R § 68.79(c)(d)(e): The Owner/Operator is required to document the audit findings in a report and promptly determine and document an appropriate response to each of the findings of the audit and document that the deficiencies have been corrected. The Owner/Operator is also required to retain the two most recent compliance reports.
 - ❖ Two facilities had not retained compliance audit reports, so it was unknown if an audit was done.



RMP Violations (cont):

- Operating Procedures 40 C.F.R. §68.69(d): The Owner/Operator must develop and implement safe work practices to provide for the control of hazards during specific operations, such as lockout/tag out.
- ❖ One facility had mislabeled two chlorine shutoff valves for the wrong direction.



RMP Violations (cont):

- The General Duty Clause 112(r)(1) requires you to identify the “state of practice” in your industry: What are similar businesses doing to identify hazards, design and maintain a safe facility, and minimize the consequences of accidental releases? In other words, if you have a hazardous material you are responsible to operate your facility in a safe manner.
- ❖ One facility had not calibrated their chlorine sensors in more than five years, despite the manufacturer’s recommendation to do annual calibrations.

