

EPCRA/RMP Violations

by Diane Bodine



Common EPCRA/RMP Violations 2010:

- I will present to you today the most common EPCRA/RMP violations that I have observed during my inspections in 2010.
- I conducted 23 inspections in CA and AZ. Seven of these facilities had no violations.



EPCRA Violations:

- EPCRA 302-312/CERCLA 103: 40 C.F.R. § 302, 355, 372 EPCRA Sections 304 and CERCLA:
A facility must immediately notify the NCR, SERC and the LEPC 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):

- One facility did not make this notification until approximately two years later as they were unaware of the release. This notification was done through self disclosure.
- Even though the facility did a self disclosure to EPA's Air Division no such disclosure was made to EPCRA/CERCLA division of EPA.



EPCRA Violations (cont):

- A self disclosure audit is very clear in that facilities must be in compliance with all EPA regulations in order to receive penalty mitigation.
 - ❖ One of the facilities that I inspected in 2010 that had releases of a hazardous substance failed to notify the NRC, SERC and the LEPC for 31 hours after the release became known.



EPCRA Violations (cont):

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



EPCRA Violations (cont):

- ❖ One facility failed to file an accurate inventory for their 60,000 pounds of anhydrous ammonia. The facility had only reported 21,000 pounds on their Tier II.



EPCRA Violations (cont):

- 40 C.F.R. §370.41 : The Owner/Operator must certify that all information (including inventory) is correct and complete on their Tier II or HMBP .
 - ❖ One facility had been submitting their HMBP (Tier II) inventory, but had not reported the 90,000 pounds of nitric acid stored in a rail car at the facility.
 - ❖ This same facility failed to report 90,000 pounds of anhydrous ammonia also stored on site.



EPCRA Violations Cont:

- ❖ One facility that had EHS chemicals were not identified as such in the HMBP inventory.
- ❖ One facility used the wrong CAS number to identify a chemical



RMP Violations:

- 40 C.F.R. §68.10 Applicability of a Risk Management Plan (RMP) : 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):

- ❖ 40 CFR § 68.15 The facility must develop a management plan system and maintain, implement and integrate all elements of the RMP.
- ❖ One facility had the wrong RMP contact person and working phone number.
- ❖ One facility had not done a change of ownership.



RMP Violations (cont):

- 40 C.F.R. §68.28 Hazard Assessment Defining Off-site Impacts Population Analysis : The Owner/Operator must estimate the population that would be included in the distance to the end point using the current census or other updated information.
 - ❖ One facility used population census from a different county in another state.



RMP Violations (cont:)

- 40 C.F.R. §68.67 Prevention Program (PHA): The Owner/Operator must maintain resolution of recommendations of the life of the process. The facility must address the teams findings and recommendations. The facility must insure that the recommendations are resolved and documented.
- ❖ Five facilities had not done a close out of the PHA recommendations. Nor were they tracking their progress of completion of the recommendations.



RMP Violations (cont):

- 40 C.F.R. 68.69 Operating Procedures : 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. These procedures must be certified annually that they are correct and up to date.



RMP Violations (cont):

- ❖ Four facilities did not address steps for temporary or emergency operations, nor did they address a startup following a turn-around.
- ❖ Two facilities did not certify annually that their operating procedures are correct and up to date.



RMP Violations (Cont) :

- 40 CFR § 68.42 Hazard Assessment: Five Year Accident History The owner/operator must include all accident releases from a covered process including death, injury and property damage both on or off site.
 - ❖ One facility did not include an employee injury in their five year accident history of their resubmittal of their RMP.



RMP Violations (Cont) :

- 40 CFR § 68.48 Prevention Program-Safety Information Owner/operator must compile and maintain such safety information related to the regulated substance, process and equipment including specifications, codes and standards used to design, build and operate the process.
 - ❖ One facility failed to retain information on equipment specifications, codes and standards used to design, build and operate their process.



RMP Violations (Cont) :

- 40 CFR § 68.65 Prevention Program PSA:
Owner/operator must determine and document that the existing equipment that was designed with standards and codes that are no longer in use is now maintained, inspected, tested and operated in a safe manner.
 - ❖ One facility's documentation for testing was not consistent.



RMP Violations (Cont) :

- 40 CFR § 68.65 Process Safety Information
- The facility must correctly identify the correct amount of maximum intended inventory.
 - ❖ One facility has listed 5204 pounds of anhydrous ammonia as their maximum intended inventory when in fact they had 12,000 pounds of anhydrous ammonia.



RMP Violations (Cont) :

- 40 C.F.R. §68.71 Training: The Owner/Operator must provide refresher training at least every 3 years. The facility must maintain documentation that this occurred.
 - ❖ One facility could not provide any documentation that this occurred (who, when, what and how).



RMP Violations (Cont) :

- 40 CFR § 68.73 Mechanical Integrity-Prevention Program: The owner/operator must establish and implement written procedures to maintain on-going integrity of the process equipment.
 - ❖ One facility could not produce any documentation of inspections.
 - ❖ One facility could not produce any documentation of a Mechanical Integrity program at the facility.



RMP Violations (Cont) :

- 40 CFR § 68.75 Management of Change:
Owners/operators must insure that employees involved in a covered process receive training prior to the start up of a covered process that has been changed. All procedures and practices must be updated.
- ❖ Two facilities changed their covered chlorine process without doing a management of change.



RMP Violations (cont):

- 40 C.F.R § 68.79 Compliance Audits : The owner/operator must certify that the facility has conducted a compliance audit every three years and their procedures and practices are adequate and correct. The facility must maintain the most recent two audits.
 - ❖ Three facilities had not sign off or documented that the deficiencies they had found were corrected.
 - ❖ Two facilities had not preformed a compliance audit.



RMP Violations (cont):

- 40 C.F.R. §68.95 Emergency Response Plan : The Owner/Operator must maintain an emergency response plan that contains procedures for informing the public and local emergency response agencies of a release, how they will respond for medical treatment and how they will respond after the release.
 - ❖ One facility's emergency procedures lacked clear details of what their response would be.



RMP Violations (cont):

- ❖ One facility had no call down list of who to contact if there was an accidental release.



RMP Violations (cont):

- 40CFR § 68.190 Resubmittal of the RMP :
The owner or operator must review and update and submit the RMP every 5 years.
- ❖ Three facilities filed their RMP resubmittal late.
From 16 days to 8 years.



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.



RMP Violations (cont):

- ❖ Five facilities had various general duty issues like rusty and pitted piping. Rusty/corroded valves. Broken and faded signs that warned of different dangers. Grounding wires with peeling insulation. Unidentified chemicals in storage areas.



Closing

Questions?

Thank you for your attention today.

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