

U.S. Environmental Protection Agency



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West Virginia LEPC Newsletter

Local Emergency Planning Committee

Vol. 1, No. 2
December 2009

Happy Holidays

I hope you all found the first edition of this newsletter informative and useful.

In this edition, I would like to highlight Federal Release Reporting Requirements (CERCLA 103, EPCRA 304 and the Clean Water Act (CWA).

Also, we have created new websites that highlight individual counties. You can view the websites at:

www.epaosc.org/wvsubarea, and www.epaosc.org/huntingtonsubarea

The websites feature county fact sheets and home webpages. (Please visit your county's webpage and notify me if there are any errors).

And again, I'd like to encourage you to submit newsletter articles related to your county and please feel free to share any ideas with us to make this electronic publication YOUR newsletter.

Sincerely,
Bob Kelly



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Federal Release Reporting Requirements (CWA 331, CERCLA 103, EPCRA 304) CWA REPORTING

If a facility or vessel discharges oil to navigable waters or adjoining shorelines, or which may affect natural resources under exclusive U.S. authority, the owner/operator is required to follow certain federal reporting requirements found under Section 311 of the Clean Water Act (CWA), and codified in two EPA regulations – 40 CFR part 110, Discharge of Oil regulation, and 40 CFR part 112, Oil Pollution Prevention regulation.

The Discharge of Oil regulation provides the framework for determining whether an oil discharge to inland and coastal waters or adjoining shorelines should be reported to the National Response Center (NRC).

The Oil Pollution Prevention regulation, part of which is commonly referred to as the “SPCC rule,” identifies certain types of discharges from regulated facilities that also need to be reported to EPA.



Any person in charge of a vessel or of an onshore or offshore facility is subject to the reporting requirements of the Discharge of Oil regulation if it discharges a harmful quantity of oil to U.S. navigable waters, adjoining shorelines, or the contiguous zone, or which may affect natural resources under exclusive U.S. authority.

A harmful quantity is any quantity of discharged oil that violates state water quality standards, causes a film or sheen on the water’s surface, or leaves sludge or emulsion beneath the surface. For this reason, the Discharge of Oil regulation is commonly known as the “sheen” rule.



Note that a floating sheen alone is not the only quantity that triggers the reporting requirements. Under this regulation, reporting oil discharges does not depend on the specific amount of oil discharged, but instead can be triggered by the presence of a visible sheen created by the discharged oil or the other criteria described above.

Any person in charge of a vessel or an onshore or offshore facility must notify the National Response Center (NRC), at 1-800-424-8802, immediately after he or she has knowledge of the discharge. The NRC is the federal government’s centralized reporting center, which is staffed 24 hrs/day by U.S. Coast Guard (USCG) personnel. NRC will ask a caller to provide as much information about the incident as possible including:

- Name, organization, and telephone number,
- Name and address of the party responsible for the incident,
- Date and time of the incident,
- Location of the incident,
- Source and cause of the discharge,
- Types of material(s) discharged,
- Quantity of materials discharged,
- Danger or threat posed by the discharge,
- Number and types of injuries (if any),
- Weather conditions at the incident location, and
- Other information to help emergency personnel respond to the incident.



NRC relays information to an EPA or USCG On-Scene Coordinator (OSC), depending on the location of the incident. After evaluating the situation, the OSC decides if a federal emergency response action is necessary.

If a facility is regulated under the SPCC rule and has a reportable discharge according to EPA regulations (see below), it must be reported to both NRC and EPA. Any facility owner/operator who is subject to the SPCC rule must comply with the reporting requirements found in §112.4.

The owner/operator must provide the following:

- Name and location of the facility,
- Owner/operator name
Maximum storage/handling capacity of the facility and normal daily throughput
- Corrective actions and countermeasures taken, including descriptions of equipment repairs and replacements
- Adequate description of the facility, including maps, flow diagrams, and topographical maps, as necessary
- Cause of the discharge to navigable waters, including failure analysis
- Failure analysis of the system where the discharge occurred
- Additional preventive measures taken or planned to take to minimize discharge reoccurrence
- Other information EPA may reasonably require an owner/operator must send a copy of this information to the agency(-ies) in charge of oil pollution control activities in the state where the facility is located. After review of the information submitted, EPA may require a facility to submit and amend its SPCC Plan. A state agency may also make recommendations to EPA for a facility to amend its Plan to prevent or control oil discharges.

CERCLA 103 / EPCRA 304 REPORTING

Section 103 of CERCLA requires the "person in charge" of a facility or vessel, as soon as he or she has knowledge of a release of a hazardous substance in an amount equal to or greater than an RQ, to report the release immediately to the NRC. **The NRC number is 1-800-424-8802.**

Under section 304 of EPCRA, the "owner or operator" of a facility is required to report immediately to the appropriate SERCs and LEPCs when there is a release of a CERCLA hazardous substance or of an EHS at or above the RQ.

EPCRA section 329(4) defines facility to include stationary structures on a single site, or on contiguous or adjacent sites owned or operated by the same person. For purposes of release reporting under EPCRA section 304, motor vehicles, rolling stock, and aircraft are included in the definition of facility.

Covered facilities are those that produce, use, or store a "hazardous chemical." When reporting a release to the NRC under CERCLA 103 (40 CFR 302.6), the person making the report should provide as much of the following information as possible:

- Name, address, and telephone number of the person reporting and the responsible party;
- Specific location of the incident;
- Date and time the incident occurred or was discovered;
- Name of the chemical/material released;
- Source and cause of the release;
- Total quantity discharged;
- Medium into which the substance was discharged;
- Amount spilled into water;
- Weather conditions;
- Name of the carrier or vessel, the railcar/truck number, or other identifying information;
- Number and type of injuries or fatalities;
- Whether an evacuation has occurred;
- Estimation of the dollar amount of property damage;
- Description of current and future cleanup actions; and
- Other agencies notified.

CERCLA section 102(a) also gives EPA authority to designate additional hazardous substances not listed under the statutory provisions cited above. There are currently about 800 CERCLA hazardous substances. In addition, there are approximately 1,500 known radionuclides, approximately 760 of which are listed individually in 40 CFR 302.4.

EPCRA 304 (40 CFR 355) directs that notice include the following information, if known, and if inclusion will not cause a delay in responding to the emergency:

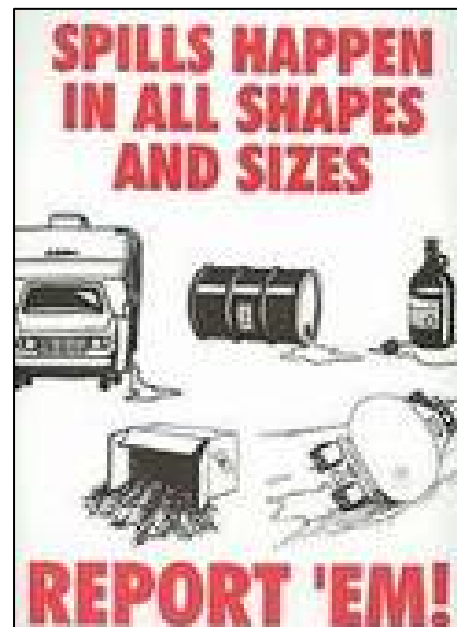
- ✓ Chemical name or identity of the released substance(s);
- ✓ Associated health risks and medical attention necessary
- ✓ Whether the substance is an EHS; for exposed individuals;
- ✓ Estimate of the quantity of the substance released;
- ✓ Precautions to take due to the release; and
- ✓ Time and duration of the release;
- ✓ Name and telephone number of contact person for media.

As soon as practicable after this initial notice, EPCRA 304(c) requires the facility owner/operator to submit written follow-up notices providing and updating the initial notice's information and including:

- additional information regarding response actions taken;
- any known or anticipated acute or chronic health risks associated with the release; and
- where appropriate, advice on medical attention for exposed individuals.

Remember, most of our States have adopted the federal reporting requirements and reportable quantities, but may also have additional reporting requirements and RQs for non-listed materials. Contact your State LEPC Coordinator or State Environmental Officer for details on the State reporting requirements.

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EPCRA Reporting Frequently Asked Questions

Q. Who must be notified of a release under EPCRA and who gives the notification?

A. The notice required by section 304 of EPCRA is to be given by the owner or operator of a facility (by telephone, radio, or in person) immediately after the release of a CERCLA hazardous substance or of an EHS at or above the RQ.

Notice is to be given to both the community emergency coordinator for each LEPC for any area likely to be affected by the release and to the SERC of any State likely to be affected by the release.

Notice requirements for transportation-related releases are satisfied by dialing 911 or, in the absence of a 911 number, calling the operator and providing the release information.

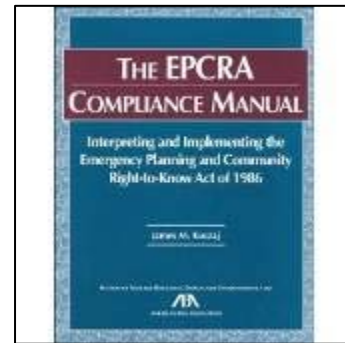
Q. When is a release reportable to State and local response authorities?

A. EPCRA State and local emergency notification requirements apply to the release of a CERCLA hazardous substance or an EHS in an amount equal to or greater than their RQs. EPCRA exempts from State and local reporting releases that result in exposure to persons solely within the site or sites on which a facility is located.

Q. Are reports made to State and local government agencies relayed to the NRC and, if so, does the original call satisfy reporting requirements under CERCLA 103?

A. Although reports are sometimes passed on to the NRC by State and local government agencies, persons responsible for reporting under CERCLA relying on other agencies to forward the information to NRC, do so at their own risk. This relay of information does not automatically satisfy CERCLA reporting requirements and state or local agencies cannot be responsible for an individual's compliance with a federal statute.

CERCLA 103(a) specifically requires the person in charge of a vessel or facility to report immediately to the NRC a release of a hazardous substance whose amount equals or exceeds the assigned RQ.



If the appropriate information is not received within an appropriate timeframe at the NRC, the person responsible for CERCLA reporting still may be found not to have complied with the section 103 notification requirements.

Q. Would the NRC need to be notified of a release of a hazardous substance in an amount equal to or exceeding an RQ at a Federal facility?

A. Yes. Under CERCLA section 120, all requirements of CERCLA apply to the Federal government in the same manner and to the same extent that they apply to any non-governmental entity. Therefore, even if the Superfund site is a Federal facility, the section 103 notification requirements apply.



Q. What is the relationship between CERCLA hazardous substances and the U.S. Department of Transportation's (DOT) Hazardous Materials Regulations?

A. CERCLA section 306(a), as amended, requires the DOT to list and regulate as hazardous materials all CERCLA hazardous substances. Thus, all CERCLA hazardous substances are covered by the DOT's Hazardous Materials Regulations.

The DOT Hazardous Materials Regulations (see 49 CFR Parts 171 and 172) require that when these materials are shipped in quantities equal to or greater than their RQs, and are present in a single package, above certain concentration thresholds (49 CR 171.8), they must be identified as such on shipping papers and by package markings.

**Please Feel Free to Email LEPC News / Events / Contact Information
to: kelly.robertj@epa.gov**

County	News / Events
Raleigh	Shelter in Place Drill – April 2010, Beckley, WV

Region 3 Emergency Notification Numbers

National Response Center (NRC)	(800) 424-8802
West Virginia Department of Environmental Protection Spill Line	1-800-642-3074
DEP Elkview Emergency Reponse Unit	1-304-558-5938

EPA SUPERFUND SITES

<u>SITE NAME</u>	<u>COUNTY/CITY</u>	<u>WEBSITE</u>
Vienna PCE Site (Recent 5-Year Review)	Wood County	www.epa.gov/reg3hwmd/npl/WVD988798401.htm
Heizer Creek (Old Landfill Site)	Putnam County	www.epa.gov/reg3hwmd/npl/WVD980538656.htm

ACRONYM GLOSSARY

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act
CFR: Code of Federal Regulations
CWA: Clean Water Act
EHS: Extremely Hazardous Substances
EPA: (U.S.) Environmental Protection Agency
EPCRA: Emergency Planning and Community Right-to-Know Act
LEPC: Local Emergency Planning Committee
MSO: Marine Safety Office
NRC: National Response Center
OSC: On-Scene Coordinator
RQ: Reportable Quantity
SERC: State Emergency Response Commission
SPCC: Spill Prevention, Control, and Countermeasures
USCG: United States Coast Guard