



Enforcement Alert

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EPCRA/CERCLA: Hazardous Chemical Releases Above Certain Quantities Must Be Reported to Authorities

13 Companies Recently Penalized for Not Complying

The Emergency Planning and Community Right-to-Know Act (EPCRA), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) were

enacted by Congress to provide citizens with information on chemicals, their uses and releases at facilities across the nation, and to provide the government with immediate notice to appropriately respond to releases. Most importantly, these laws are intended to ensure that federal, state and local emergency responders have vital information that will help them prepare for emergencies and protect the public by managing chemical risks.

Section 304 of EPCRA and Section 103 of CERCLA require facilities to immediately notify emergency responders about accidental chemical releases so that federal, state and local governments can respond to the situation. Accidental hazardous chemical releases create risk of significant, and potentially lethal, injuries. Without timely knowledge of a release, emergency responders cannot do their job—that is, working with industry to prevent or mitigate actual or potential harm to human health and the environment following a release of a hazardous chemical.

The regulated communities must do more than just give notice. Their obligation to protect citizens and the environment also requires them to continually work to prevent accidents. Prevention is always preferred to emergency response.

EPA Takes Enforcement Actions Against Noncompliers

The U.S. Environmental Protection Agency (EPA) recently took enforcement actions against 13 companies (see box page 2) for EPCRA and CERCLA violations. Altogether, the companies were penalized approximately \$765,000 for failing to notify local and state entities as required by EPCRA, and for failing to notify the U.S. Coast Guard's National Response Center (NRC) of releases of hazardous

chemicals, including chlorine, sulfuric acid, anhydrous ammonia, and xylene as required by CERCLA.

One of the 13 companies also was penalized for violating the requirements of the Clean Air Act's (CAA) accident prevention provisions (see page 3 to learn more about this requirement).

Brewer Environmental Industries (BEI), Hawaii, was cited for alleged violations resulting from a 1999 sulfuric acid spill on Oahu and for alleged violations discovered during follow-up facility inspections last year in Maui, Kauai, and Hilo. In the Oahu incident, approximately 70,000 pounds of sul-

About

Enforcement Alert

Enforcement Alert is published periodically by the Office of Regulatory Enforcement to inform and educate the public and regulated community of important environmental enforcement issues, recent trends and significant enforcement actions.

This information should help the regulated community anticipate and prevent violations of federal environmental law that could otherwise lead to enforcement action. Reproduction and wide dissemination of this publication are encouraged.

For information on how you can receive this publication electronically, see page 3.

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EPCRA, CERCLA are Based on the Principle that Citizens Must Be Full Partners in Safety, Health Decisions



The General Duty Clause ensures that industry takes all possible steps to prevent chemical releases and, if prevention fails, minimize the consequences of an accident.



furic acid were released into the environment due to a corroded flat metal disk used to isolate an unused portion of a piping network located on the underside of a 300-ton acid storage tank. BEI reported the spill late, preventing emergency responders from doing their job to protect the public.

In addition to the untimely reporting of the sulfuric acid spill, BEI was cited for failure to submit adequate risk management plans as required by the CAA (see next section), and failure to list accurately all of the hazardous

chemicals stored at BEI's facilities as required by Sections 311 and 312 of EPCRA (these lists, filed with state and local emergency responders, detail what chemicals hazards may be present at a facility).

BEI has paid a civil penalty of \$98,796 and will spend approximately \$137,000 for equipment to be donated to the county fire departments in Honolulu, Kauai, Maui and Hawaii (Big Island) as part of a supplemental environmental project. By choosing to complete the supplemental environmental project, BEI voluntarily committed to spending more than would have been required had it chosen to pay the entire

penalty in cash. BEI's decision to purchase this much-needed equipment as part of their settlement agreement will enhance the fire departments' capabilities for responding to hazardous materials incidents. Equipment to be purchased includes tank patch kits, thermal imaging devices and personal protective equipment.

In settling this case, EPA considered BEI's progress in making facility improvements including redesign of storage tank and secondary containment areas; eliminating certain toxic



Companies Recently Penalized for EPCRA/CERCLA Noncompliance

EPA Region	Company, Location	Chemical(s) Released	Contact
1	Upper Blackstone Regional Wastewater Treatment Plant, Millbury, Mass.	chlorine	Don Mackie (617) 918-1749
" "	Crompton Manufacturing Co., Inc., Naugatuck, Conn.	methylenedianiline (MDA) and o-xylene	" "
3	Hanover Foods Corporation, Lancaster, Pa.	anhydrous ammonia	Carole Dougherty (215) 814-3295
4	Metro Foods, Inc., Olive Branch, Miss.	anhydrous ammonia	Stacey Bouma (404) 562-9192
5	B.F. Goodrich Company, Akron, Ohio	1,3-butadiene	James Entzminger (312) 886-4062
" "	Union Electric Company, Venice, Ill.	ferric sulfate	" "
" "	Hoosier Warehouse Inc., Indianapolis	anhydrous ammonia	" "
" "	Illinois-American Water Company, Peoria, Ill.	chlorine	Ruth McNamara (312) 353-3193
" "	Continental Nitrogen & Resources Corporation, Rosemount, Minn.	anhydrous ammonia	" "
6	Air Liquide America, Freeport, Texas	anhydrous ammonia	Steve Mason (214) 665-2292
" "	Schwan's Sales Enterprises, Inc., Deer Park, Texas	anhydrous ammonia	" "
" "	Inland Paperboard and Packaging, Orange, Texas	methyl mercaptan	" "
9	Brewer Environmental Industries, Honolulu, HI	sulfuric acid	Michael Ardito (415) 744-2328
10	Bf Goodrich Kalama, Inc. Kalama, Wash.	benzene	Suzanne Powers (360) 753-9475



chemicals such as anhydrous ammonia from its inventory or processes; improving facility equipment such as storage tanks and piping; and providing more training for employees on risk management, inventory and release reporting requirements.

General Duty Clause: Helping to Prevent Accidental Releases

As part of the 1990 Clean Air Act Amendments, Congress enacted Section 112(r)(1), the "General Duty Clause," to help prevent accidental releases of certain hazardous chemicals.

The General Duty Clause makes it clear that facilities that handle hazardous chemicals bear the primary responsibility for ensuring safe use. This clause applies to every facility that handles any hazardous chemicals, regardless of the quantity on site.

The General Duty Clause states that:

"The owners and operators of stationary sources producing, processing, handling or storing [extremely hazardous substances] have a general duty...to identify hazards which may result from releases using appropriate hazard assessment techniques, to design and maintain a

safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases, which do occur."

In addition to every facility's obligation to operate safely, companies with large volumes of hazardous chemicals specified by EPA must also develop and implement a risk management program. The program must cover hazard assessment, prevention and response for the chemicals stored or processed on site. EPA recognizes the ongoing need to promote safe operating practices and is committed to its efforts to work with companies on the improvement of their safety management programs. Building cooperation among companies, regulatory agencies, and the community is fundamental to the success of these programs.

To learn more about EPCRA and CAA Section 112(r), visit EPA's **Chemical Emergency Preparedness and Prevention Office** website at <http://www.epa.gov/ceppo>.

In addition, the Agency's **Office of Emergency and Remedial Response** has extensive information on its website regarding the reporting requirements for episodic and continuous releases under CERCLA Section 103. For website addresses, see "Useful Compliance Assistance Resources" on this page.

For more information, contact Beth Burchard, Toxics and Pesti-

cides Enforcement Division, Office of Regulatory Enforcement, U.S. EPA, (202) 564-4177; Email: burchard.beth@epa.gov.

Useful Compliance Assistance Resources

National Response Center:
<http://www.nrc.uscg.mil/>

**Office of Solid Waste and
Emergency Response:**
<http://www.epa.gov/swerrims>

**Chemical Emergency
Preparedness and Prevention
Office:** <http://www.epa.gov/ceppo/>

Superfund Resource Center:
[http://www.epa.gov/superfund/
resources/rq/index.htm](http://www.epa.gov/superfund/resources/rq/index.htm)

**Reporting Requirements for
Continuous Releases of
Hazardous Substances, A Guide
for Facilities on Compliance:**
[http://www.epa.gov/superfund/
resources/release/faciliti.htm](http://www.epa.gov/superfund/resources/release/faciliti.htm)

**Title III Consolidated List of
Chemicals:**
[http://www.epa.gov/swercepp/ap-
otgu.htm](http://www.epa.gov/swercepp/apotgu.htm)

**RCRA, Superfund & EPCRA
Hotline: 9a.m. to 6 p.m. ET,
Monday through Friday, except
for federal holidays, at the
numbers listed below:**
National toll-free number (outside of
DC area): (800) 424-9346; Local
number within DC area: (703) 412-
9810; National toll-free for the hearing
impaired (TDD): (800) 553-7672

**Office of Enforcement and
Compliance Assurance:**
<http://www.epa.gov/oeca>

Compliance Assistance Centers:
<http://www.epa.gov/oeca/mfcac.html>

**Compliance Assistance
Clearinghouse:**
<http://cfpub.epa.gov/clearinghouse/>

Small Business Gateway:
[http://www.epa.gov/smallbusiness
major_environmental_laws.htm](http://www.epa.gov/smallbusiness
major_environmental_laws.htm)

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EPA's Office of Enforcement and Compliance Assurance, now offers an email, subscription-based information service called "OCORELINK." Subscribers to this electronic service (known as a "listserv") will receive periodic news and information about Office of Compliance products and compliance trends designed to help the regulated community meet its compliance requirements. You'll also receive important information from the Office of Regulatory Enforcement on enforcement issues, recent trends and significant enforcement actions, and will be notified when a new issue of its newsletter, *Enforcement Alert* has been posted on the web. For more information, visit <http://www.epa.gov/oeca/main/enforce/listserv.html>.



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