



U.S. Environmental Protection Agency Pacific Southwest Region Emergency Prevention and Preparedness Executive Order 13650: Improving Chemical Safety and Security October 2016 Update

RESOURCES

**EPA Region 9 24-hr hotline:
800-300-2193**

**National Response Center:
800-424-8802**

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Web links:

EPA Region 9:
<http://www.epa.gov/region9/disaster/emergency-disaster.html>

Superfund, TRI, EPCRA, RMP &
Oil Information Center:
<http://www.epa.gov/superfund/contacts>

Region 9 EO13650 Working Group (R9WG) Quarterly Webinar

December 7, 2016, 14:30-15:30 Pacific Daylight Time.

Audio: 855-852-7677 access code: 999938601122

Webinar URL: <https://epawebconferencing.acms.com/eo13650r9wg/>

We are still in the process of determining a featured speaker for the next webinar. If you have ideas for topics/speakers, please contact Bill Jones at jones.bill@epa.gov or 619-235-4776.

Western States SERC Collaborative Webinar

EPA convened SERC representatives from 14 Western States for an inaugural face-to-face meeting in San Diego last February. The participants expressed a strong preference for continuing the dialogue through quarterly webinars and an annual face-to-face meeting.

Quarterly Webinar:

November 10, 2016, 13:00-14:30 Pacific Daylight Time.

Audio: 855-852-7677 access code: 999938601122

Webinar URL: <https://epawebconferencing.acms.com/westernserc>

Western States SERC Collaborative 2017 Face-to Face Meeting

January 31-February 1, Denver, CO

Topics will include SERC State Updates and Discussion; Tier II – Innovations and Change; SERC Roundtable; Marijuana Grow Facilities - emerging issues, trends, safety concerns, and solutions; LEPC coordination and engagement; Chemical Safety Board speaker and National Updates. To register, go to: <https://westernregions.eventbrite.com>.

Industry Challenges OSHA Retail Exemption Interpretation Change

On September 23, 2016, the U.S. Court of Appeals for the DC Circuit ruled that the Occupational Safety and Health Administration (OSHA) wrongfully adopted new safety requirements for fertilizer dealers who have to comply with the Process Safety Management Standard. According to the court, OSHA improperly issued a memorandum redefining the “retail facility” exemption and did not allow fertilizer dealers to comment on the new requirements. In short, the Court has said that OSHA must do notice and comment rulemaking in order to take this action. Therefore, the old retail exemption remains in place, and Risk Management Program (RMP) covered agricultural distributors that meet OSHA’s old criteria (more than 50% of highly hazardous chemical sales directly to end users), and who do not qualify for Program 1, will remain as Program 2 until OSHA proceeds with rulemaking to change their interpretation.

<https://www.osha.gov/chemicalexecutiveorder/>

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Process Safety Management and Risk Management Plan Regulatory Requirements

During stakeholder outreach as part of EO 13650 and during OSHA's PSM SBREFA (Small Business Regulatory Enforcement Fairness Act), OSHA and EPA received multiple comments from stakeholders expressing confusion on the applicability and overlap between [OSHA's Process Safety Management \(PSM\) standard](#) and [EPA's Risk Management Plan \(RMP\) regulation](#). In the Clean Air Act Amendments of 1990, Congress required OSHA to adopt the PSM standard to protect workers and required EPA to protect the community and environment by issuing the Risk Management Plan Rule (RMP). PSM and RMP were written to complement each other in accomplishing these Congressional goals. PSM requires a program with 14 specified management system elements. The RMP rule is broken into three programs with requirements based on the threat they pose to the community and environment. Most facilities that fall under the scope of both PSM and RMP fall into RMP Program 3. Many of the requirements in RMP Programs are identical to PSM's requirements. The overlap in coverage between the two standards is close but not complete. The Working Group on Chemical Safety and Security developed a tool to help facilities understand the requirements when they are covered by both regulation. The tool also references the elements that are a part of the Center for Chemical Process Safety (CCPS) Risk Based Process Safety Guidelines. CCPS Risk Based Process Safety is not a regulatory requirement, however it does provide helpful guidance for process safety programs. https://www.osha.gov/chemicalexecutiveorder/psm_terminology.html

Reporting Mixtures on the Tier II Report

If a hazardous chemical is part of a mixture, you have the option of reporting the entire mixture or only the portion of the mixture that is a particular hazardous chemical (e.g., If a hazardous solution weighs 100 lbs. but is composed of only 5% of a particular hazardous chemical, you can indicate either 100 lbs. of the mixture or 5 lbs. of the chemical). The option used for each mixture at your facility must be consistent with the option used in your Section 311 reporting. Because Extremely Hazardous Substances (EHS) are important to local emergency planning requirement under EPCRA section 303, EHSs have lower reporting thresholds under EPCRA section 312. The amount of an EHS at a facility (both pure EHSs and EHSs in mixtures) must be aggregated for purposes of threshold determination. It is suggested that the aggregation calculation be done as a first step in determining whether a reporting threshold has been met or exceeded. Once you determine whether a threshold for an EHS has been reached, you may report the mixture or product name as it appears on the SDS. You must also report any EHSs present in the mixture. You do not need to report any non-EHSs in the mixture, but may if you wish to do so. Although you have an option to report either the mixture or the EHS, as provided in 40 CFR 370.14, you must be consistent with your EPCRA section 311 reporting. <https://www.epa.gov/epcra/tier-ii-forms-and-instructions>

Elemental Mercury Preventing Spills and Exposure at Home and in the Community

A number of folks have asked about this issue, and one of the best resources is the EPA Region 6 LEPC newsletter that was devoted to this topic. They partnered with ATSDR to provide information on mercury, suggestions for preventing elemental mercury spills and exposure in our communities, and guidance on spill cleanup and disposal. <http://www.ndsasa.org/safety%20meetings/mercury.pdf>

Upcoming Meetings/Conferences:

- California SERC, October 26, Sacramento, CA, <http://www.caloes.ca.gov>
- Region 9 RRT, November 8-10, Reno, NV, <http://www.rrt9.org/>
- Ammonia Safety Days: Phoenix, Yuma, Sacramento, Las Vegas, <https://ammonia-safety.com/events/>



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