

CHAPTER 3: FIVE-YEAR ACCIDENT HISTORY

The five-year accident history is a component of the hazard assessment and involves an examination of the effects of an accidental release of one or more of the regulated substances or other extremely hazardous substances in the five years prior to the submission of each Risk Management Plan (RMP). A five-year accident history must be developed and submitted in the RMP for each covered process, including the processes in Program 1. Program 1 processes may require accident reporting, because the accident history criteria that make a process ineligible for Program 1 (certain offsite impacts) are not the same as the criteria that trigger the five-year accident history (on-site impacts and more inclusive offsite impacts).

3.1 WHAT ACCIDENTS MUST BE REPORTED?

The five-year accident history covers only certain releases:

- The release must be from a covered process and involve a regulated substance or other extremely hazardous substance. For five-year accident reporting "extremely hazardous substance" has the same meaning as "extremely hazardous substance" in the General Duty Clause (See the Introduction).

(Note: Federal EPA guidance is to include only releases of regulated substances held above a threshold quantity in the five-year accident history)

- The release must have caused at least one of the following:
 - **On site** deaths, injuries, or significant property damage
 - Known **off-site** deaths, injuries, property damage, environmental damage, evacuations, or sheltering-in-place.

Q and A

Q. Do I have to include in my accident history every release I reported to the National Response Center (NRC) under CERCLA and EPCRA regulations?

A. No, the five-year accident history is driven by the impacts that the release caused, not by the quantity released. Many of the releases that you reported to the NRC may not be part of the accident history because they caused no impacts of concern. In addition, there will be accidents that you are not required to report to the NRC that will be included in the accident history. For example, most of the regulated flammable substances are not covered by the CERCLA and EPCRA regulations.

Q and A

Q. What does significant on-site property damage mean?

A. The CalARP and federal regulations do not define or set monetary limits for this. You must make a reasonable judgment as to what level of damage is significant for your facility.” In their Frequently Asked Questions, EPA gave this response to the question: “The owner or operator of a stationary source must determine whether on-site property damage as a result of an accidental release from a covered process was “significant”. The owner or operator should be able to document such a decision.” CCCHSD agrees with the latter response that does not set a monetary amount. CCCHSD believes you should determine whether or not damage is significant by the extent of physical damage in relation to the size covered process unit, not the monetary amount.

Q. What level of offsite property damage triggers reporting?

A. Any level of known offsite property damage means that the accident must be included in the five-year accident history. You are not required to conduct a survey to determine if such damage occurred, but if you know, or should have known (e.g., it was reported in the newspapers), that damage occurred, you must include the accident.

3.2 PROGRAM 1 CRITERION VERSUS FIVE-YEAR ACCIDENT HISTORY

The consequence criteria for accidents used in the program level screening and the five-year accident history are not the same. Program level 1 screening ensures that any covered process that needs preventative steps to protect the public is assigned to a higher Program level. The Program 1 accident history documents whether the process in question had releases of the regulated substance that resulted in offsite impacts. On-site effects, shelter-in-place and evacuation criteria are not relevant here. Sheltering-in-place and evacuation are often precautionary measures and do not necessarily indicate that the public was actually at risk.

In contrast, the five-year accident history provides data on all serious accidents from a covered process involving a regulated substance or other extremely hazardous substance. Serious on-site impacts signify safety problems that could lead to releases that could affect the public. Because the accident history is simply a reporting requirement and imposes no additional responsibilities on the stationary source, offsite impacts beyond deaths and injuries are included. Evacuation and sheltering, even if conservative, reflect a level of public concern on the part of response agencies. Any known environmental damage offsite must be reported, even if it is minor. The public has a right to know if a stationary source is having releases that affect the community.

3.3 OTHER ACCIDENT REPORTING REQUIREMENTS

You should already have much of the data required for the five-year accident history because of the reporting requirements under the Emergency Response, Compensation, and Liability Act (CERCLA), the Contra Costa County Hazardous Materials Incident Notification Policy, the Comprehensive AB2185 Business Plan, and the Occupational Safety and Health Administration (OSHA) log of occupational injuries and illnesses. This information should allow your stationary source to comply with the regulation and minimize the effort necessary to complete the accident history.

Some of the information originally reported to response agencies may have been inaccurate because it was reported during the release when a full assessment was not possible. It is imperative that you include the most accurate, up-to-date information possible in the five-year accident history. This information may not always match the original estimates from the initial reporting of the accident's effects.

The Contra Costa County notification policy requires that CCCHSD be immediately notified upon discovery of a hazardous materials release or threatened release for which exposure to the release concentration posed or results in adverse health effects other than mild transient effects. The policy defines four levels of incident severity. CCCHSD requires for the higher-level severity incidents that a written report be submitted within 72 hours and a written final report within 30 days. If the incident investigation is not completed within 30 days, the 30-day report is to be a status report and the final report is due when the investigation is complete. The policy may be obtained by requesting one from CCCHSD as specified in Appendix F.

CERCLA Section 103(a) requires you to immediately notify the National Response Center if your stationary source releases into the environment in greater than a reportable quantity (see 40 CFR part 302). Written follow-up of this notification is required per Chapter 6.95 of Division 20 of the Health and Safety Code. This written follow should be submitted to the Chemical Emergency Planning and Response Commission and to the Local Emergency Planning Committee on the OES reporting form no later than 30 days after the release. Regulated toxic substances are also CERCLA hazardous substances; most of the flammable regulated substances are not subject to CERCLA reporting. Notice, as required under CERCLA, includes the following information:

- The chemical name or identity of any substance involved in the release;
- An indication of whether the substance is on the list referred to in Section 302(a);
- An estimate of the quantity of substance that was released into the environment;
- The time and duration of the release; and,
- The medium or media into which the release occurred.

The AB2185 Business Plan requires facilities to report to the community emergency coordinator of the appropriate LEPC and SERC releases of extremely hazardous

substances to the environment in excess of reportable quantities (as set in 40CFR Part 302). All toxic regulated substances are subject to EPCRA reporting; regulated flammable substances are generally not subject to EPCRA reporting. Specifically, your stationary source is required to include:

- Chemical name or identity of all substances involved in the accident;
- An estimate of the quantity of substances released to the environment; and,
- The time and duration of the release.

The owner or operator is also required to release a Follow-up Emergency Notice as soon as possible after a release that requires notification. This notice should update the previously released information and include additional information regarding actions taken to respond to the release, any known or anticipated acute or chronic health risks associated with the release, and where appropriate, advice regarding medical attention necessary for exposed individuals.

OSHA's log of occupational injuries and illnesses, OSHA No. 200, is used for recording and classifying recordable occupational injuries and illnesses, and for noting the extent and outcome of each case. The log shows when the occupational injury or illness occurred, to whom, what the injured or ill person's regular job was at the time of the injury or illness exposure, the department in which the person was employed, the kind of injury or illness, how much time was lost, whether the case resulted in a fatality, etc. The following are the sections of the illness/ injury log that are useful in completing the accident history.

Descriptive section of the log:

- **Column B:** date of work accident which resulted in injury
- **Column C:** name of injured person
- **Column F:** description of nature of injury or illness

Injury portion of the log:

- **Column 1:** date of death is entered if an occupational injury results in a fatality
- **Column 6:** an injury occurred, but did not result in lost workdays

Illness portion of the log:

- **Column 7:** for occupational illnesses, an entry is placed in one of the columns 7a-7g, depending upon which column is applicable.

An **incident investigation** is a requirement of the CalARP regulation. For accidents from processes categorized in Program 2 or Program 3, you must investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance. A report, which includes the following information, should be prepared at the conclusion of the investigation:

- Date of incident
- Date investigation began
- Description of the incident
- Factors that contributed to the incident
- Any recommendations resulting from the investigation

Because the incident investigation report must be retained for five years, you will have a complete record that will assist in the completion of the five-year accident history.

Q and A

Q. When does the five-year period begin?

A. The five-year accident history must include all accidental releases from covered processes meeting the specified criteria that occurred within five years prior to the date of the RMP submission. For example, if an RMP is submitted on June 1, 1999, the five-year accident history must cover the period between June 1, 1994 and June 1, 1999, to the extent that information prior to August 19, 1996 (the effective date of the federal EPA regulation) is known.

Q. If a stationary source has recently changed ownership, is the new stationary source owner required to include accidents which occurred prior to the transfer within his/her accident history portion of the RMP?

A. Yes, you should include these accidents in the five-year accident history because they were accidents on the same processes, even if ownership has changed. You may want to explain that the ownership has changed in your Executive Summary.

Q. If I have a large on-site incident, but no offsite impact, would I have to report it in the five-year accident history?

A. It would depend on whether you have onsite deaths, injuries, or significant property damage. You could have a large accident without any of these (e.g., a large spill that was contained); this type of release would not trigger the five-year accident history.

Q. I had a release where several people were treated at the hospital and released; they attributed their symptoms to exposure. We do not believe that their symptoms were in fact the result of exposure to the released substance. Do we have to report these as offsite impacts?

A. Yes, you should report them in your five-year accident history. You may want to use the executive summary to state that you do not believe that the impacts can be legitimately attributed to the release and explain why.