

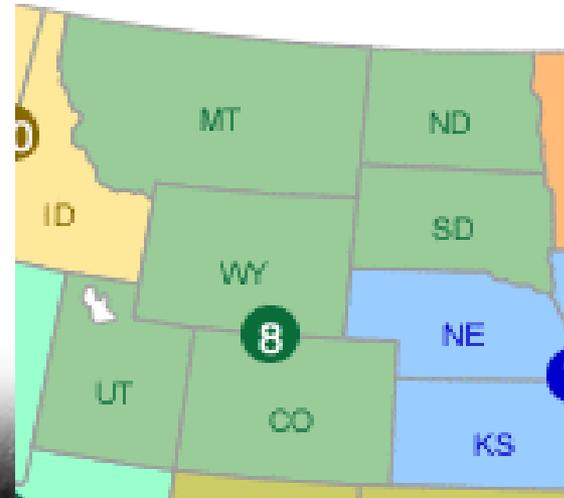


# The Inspection Process for CAA 112(r), EPCRA, and CERCLA 103 (EPA Region 8, ECAD)



# What is ECAD?

- Enforcement and Compliance Assurance Division
- Develop and implement enforcement and compliance assurance programs in Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, and Region 8 tribes



# What is ECAD?

- Responsible for compliance monitoring and compliance assistance activities regarding CAA 112(r), EPCRA, and CERCLA 103
- This involves conducting *inspections*

# Inspection Planning and Targeting

- Inspections focus on:

- Accidents
- Risk to community
- Tips and complaints
- Enforcement history
- Lack of inspection history
- Chemical Accident Risk Reduction National Compliance Initiative (CARR NCI)



# CARR National Compliance Initiative

- Industry sectors with repeat accidents
  - Ammonia Refrigeration
  - Fertilizer Distribution
  - Natural Gas Processing
  - Petroleum Refining
  - Chemical Manufacturing



**Pre-Inspection**

**Pre-Inspection**

# Notice of Inspection

- May be announced or unannounced



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region08](http://www.epa.gov/region08)

Ref: 8ENF-AT-TP

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Re: Inspection of Clean Air Act (CAA) section 112(r), Emergency Planning and Community Right-to-Know Act (EPCRA), and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 103

Dear Facility Representative:

The U.S. Environmental Protection Agency will conduct an inspection at your facility. Compliance with the requirements of CAA section 112(r), EPCRA, and CERCLA section 103 will be evaluated.

# Notice of Inspection

- Employees and their representatives have a right to participate
- Inspections typically range from 1-5 days
- Can involve one or multiple inspectors

# Notice of Inspection

- Documents may be requested for review prior to inspection
- Operations, maintenance, and management staff should be present for the inspection

**The Inspection**

# **The Inspection**

# The Inspection

- What to expect:
  1. Opening conference
  2. Briefing on facility operations
  - 3. Visual inspection of facility**
  - 4. Records review**
  5. Closing conference

# The Inspection

1. Opening conference:
  - Presentation of credentials
  - Introductions
  - Inspection logistics

# The Inspection

2. Briefing on facility operations:
  - Facility safety overview
  - Nature of business
  - Chemical usage, storage, releases, etc.

# The Inspection

## 3. Visual inspection of facility:

- Focus on covered processes or chemicals
- Chemical storage and usage
- Implementation of industry standards



# The Inspection

## 3. Visual inspection of facility:



# The Inspection

## 3. Visual inspection of facility:



### 1. AMMONIA PIPING ABBREVIATION & COMPONENTS

DESCRIPTION	ABBREV.	DESCRIPTION	ABBREV.
BOOSTER DISCHARGE	BD	HIGH TEMPERATURE RECIRCULATED LIQUID	HTRL
CONDENSER DRAIN	CD	HIGH TEMPERATURE RECIRCULATED SUCTION	HTRS
DEFROST CONDENSATE	DC	LOW TEMPERATURE RECIRCULATED LIQUID	LTRL
ECONOMIZER SUCTION	ES	LOW TEMPERATURE RECIRCULATED SUCTION	LTRS
HOT GAS DEFROST	HGD	LIQUID INJECTION COOLING	LIC
HIGH PRESSURE LIQUID	HPL	LOW STAGE SUCTION	LSS
HIGH STAGE DISCHARGE	HSD	THERMOSYPHON RETURN	TSR
HIGH STAGE SUCTION	HSS	THERMOSYPHON SUPPLY	TSS
RELIEF VENT	RV		

### 2. PHYSICAL STATE BAND

This band is used to indicate the physical state of the ammonia refrigerant.  
LIQ = Liquid (Black letters on Orange Background)  
VAP = (Black letters on Blue Background)

### 3. AMMONIA

Black letters on Yellow Background used to indicate part of the ammonia system.

### 4. PRESSURE BAND

The pressure level of the ammonia refrigerant classified as being high or low.  
High = High Pressure (greater than 70 psi) indicated with black letters on red background.  
Low = Low Pressure (less than 70 psi) indicated with black letters on green background.

### 5. DIRECTIONAL ARROW

Indicates the direction of the flow of ammonia refrigerant.



# The Inspection

## 4. Records review for CAA 112(r)(7):

- Data supporting the Risk Management Plan submission:
  - a) Management policies;
  - b) offsite consequence analysis;
  - c) 5-year accident history;
  - d) process safety information: P&ID, maximum intended inventory, safe limits, et al.;
  - e) original process hazard analysis and last update or revalidation;
  - f) operating procedures;
  - g) training records;

# The Inspection

## 4. Records review for CAA 112(r)(7):

– Data supporting the Risk Management Plan submission:

- h) mechanical integrity policy, procedures and records;
- i) management of change policy and records;
- j) compliance audits, two most recent reports;
- k) incident investigation policy and reports;
- l) employee participation policy and records;
- m) hot work permits;
- n) contractors policy and records; and,
- o) emergency response program.

# The Inspection

## 4. Records review for CAA 112(r)(7):

– Data supporting the Risk Management Plan submission:

g) training records;

**g) “shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training”**

# The Inspection

## 4. Records review for CAA 112(r)(7):

– Data supporting the Risk Management Plan submission:

h) mechanical integrity policy, procedures and records;

**h) “shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test”**

# The Inspection

## 4. Records review for EPCRA:

- Safety Data Sheets (SDS) for the hazardous chemicals stored on site
- If applicable, a copy of the EPCRA Tier II Chemical Inventory report for the last 5 years
- The methodology and calculations used to determine the amount of each EPCRA 312 chemical that was present at any time at the facility for the last 5 years

# The Inspection

## 4. Records review for EPCRA:

- You received one large shipment of a solvent mixture last year. The shipment filled five 5,000-gallon storage tanks. You know that the solvent contains 10% benzene, which is a hazardous chemical. You figure that 10% of 25,000 gallons is 2,500 gallons. You also know that the density of benzene is 7.29 pounds per gallon, so you multiply 2,500 gallons by 7.29 pounds per gallon to get a weight of 18,225 pounds.

# The Inspection

## 4. Records review for EPCRA:

- Calculations and supporting documents used to determine threshold quantities, releases, transfers, and waste management for all EPCRA 313 TRI chemicals for the last 5 years

# The Inspection

## 4. Records review for EPCRA:

- Release reporting documentation for any EPCRA 304 releases within the last 5 years with date and time of release, calculated release quantity, and logs of date and time of communication with SERC & LEPC and any required follow-up

# The Inspection

4. Records review for CERCLA 103:
  - Release reporting documentation for any CERCLA 103 releases within the last 5 years with date and time of release, calculated release quantity, and logs of date and time of communication with NRC and any required follow-up

# The Inspection

## 5. Closing conference:

- Summary of observations
- Additional requested documents
- Next steps of the enforcement process

# The Inspection

- **NOTE:** Documents which are not made available to the inspector during the inspection will be presumed not to exist at that time. If documents are provided to EPA after the inspection, the facility has the burden of establishing that they existed prior to the inspection.

# The Inspection

- **Criminal Provisions:**

- A person knowingly makes false material statement, representation, or certification in/omits material information from/alters, conceals or fails to file or maintain a document filed or required to be maintained under the CAA



**Post-Inspection**

**Post-Inspection**

# Post-Inspection

- **Statutory Maximum Civil Penalties:**
  - CAA: \$48,192/day
  - EPCRA: \$58,328/day
  - CERCLA: \$58,328/day



# Post-Inspection

- **Civil Penalty Policies:**
  - **Final Combined Enforcement Policy for Clean Air Act (CAA) Sections 112(r)(1), 112(r)(7):**  
<https://www.epa.gov/enforcement/final-combined-enforcement-policy-clean-air-act-cao-sections-112r1112r7>

# Post-Inspection

- **Civil Penalty Policies:**

- **Enforcement Response Policy: EPCRA Sections 304, 311, 312, and CERCLA Section 103**

<https://www.epa.gov/enforcement/enforcement-response-policy-epcra-sections-304-311-312-and-cercla-section-103>

# Post-Inspection

- **Civil Penalty Policies:**

- **Enforcement Response Policy for Section 313 of the Emergency Planning Community Right-To-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990), February 24, 2017 (Amended):**

<https://www.epa.gov/enforcement/enforcement-response-policy-section-313-emergency-planning-community-right-know-act-1986>

# eDisclosure



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# EPA's eDisclosure

# eDisclosure

- EPA launched the eDisclosure system to continue the benefits of self-disclosure policies and provide penalty mitigation and other incentives for companies that self-police, disclose, correct and prevent violations
- Accessed via EPA's Central Data Exchange (CDX) system

# eDisclosure

- Incentives:
  - Significant penalty reductions
    - 75-100% of gravity-based penalties
  - No recommendation for criminal prosecution for entities that disclose criminal violations

# eDisclosure

- Conditions for Penalty Mitigation:
  - Voluntary discovery
  - Prompt disclosure
  - Independent discovery and disclosure
  - Correction and remediation
  - Prevent recurrence
  - Repeat violations are ineligible
  - Certain types of violations are ineligible
  - Cooperation

# Questions?

## EMERGENCIES



Report oil or  
chemical spills at:  
800-424-8802

[Learn more >](#)