

Harrowing Tales of Non-Compliance



The Silence of the Fines

A resource by **ENCAMP**

It was a dark and stormy night...

Ok, it really wasn't. But imagine it's nightfall, and you're sitting around a campfire telling stories about... EHS compliance and Tier II & EPCRA nightmares. Or worse, missed deadlines and non-compliance.

When these stories are true, they can scare the #*^+ out of you.

Apologies to Clarice Starling and Hannibal Lecter, but when a business fails to comply with Tier II and EPCRA regulations, the consequences can be severe. For just one non-compliance enforcement action, punitive fines can be as much as \$100,000. If violations are multiple or considered serious, the cost is higher. And if a company is operating a non-compliant commercial site, that's just plain illegal.

Fines alone can devastate your business. Greater losses from associated violations or potential civil suits by consumers and the government could make it go silent.

A horror story

EPCRA violations: A company manufactures dye and pigments for foods and beverages, cosmetics, and specialty inks and colors. They're established, respected and generally above board. But an EPA inspection uncovered reporting violations of local EPCRA regulations. Turns out, the company manufactured certain chemicals that exceeded threshold quantiles. The company's EHS team then failed to file the appropriate Toxic Release Inventory (TRI) reporting Form R and Form A for the chemicals — for three successive reporting years. The repeat offenses resulted in a higher fine.

While the fine was "only" \$24,255, the cost of the violation was even higher. The EPA forced the company to purchase the site of a former affiliated plating company, remove contaminated soil, perform asbestos abatement in an existing building, and restore and enhance the site's green space. Costly!

Face your fears

Follow these measures for Tier II and EPCRA reporting to avoid fines:

Is a chemical “hazardous”?

- This means any chemical categorized as a physical hazard or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or a hazard not otherwise classified.
- Extremely hazardous substances (EHSs) — more than 350 chemicals are considered EHSs. Find the list in Appendices A and B of 40 CFR 355.

Is the chemical in a quantity that equals or exceeds an established threshold?

- The threshold for non-EHS hazardous chemicals is 10,000 pounds.
- If the chemical is an EHS, the threshold is 500 pounds or the threshold planning quantity (TPQ), whichever is less. TPQs are also included on the EHS list in 40 CFR 355.
- Thresholds vary when a fire department or emergency planning agency requests information.

Was the chemical present at your facility at any time during the year?

- There is no time threshold. If a hazardous chemical or EHS is present at your facility above an applicable threshold for even one day, it must be included on the Tier II report.

(Source: EHS Daily Advisor)

No more nightmares

Use **Encamp’s compliance management platform** to access up-to-date state and federal EHS compliance forms and information. EHS teams get info that’s easily understood, and know exactly which facilities must stay accountable. They also kiss the threat of confusing government websites — and fines — good-bye.

