Emergency Response Program

Planning in case something goes wrong

40 CFR 68 Subpart E Emergency Response

- Not applicable to facilities with only Program Level 1 processes
  - Processes likely covered under the Emergency Planning and Community Right-to-Know Act (EPCRA)
  - No public receptors within worst-case scenario(s)
  - No RMP-reportable accidents in past 5 years
  - Emergency response coordination has been completed per 68.12(b)(3)
- Facilities with Program 2 and Program 3 processes are required to comply

One Big Question

Does the facility rely on emergency responders to stop a release of the regulated substance(s)?

- **Yes, local first responders will stop the release.**
  - Comply with 40 CFR 68.90
  - Coordinate with local emergency planners and/or responders
  - Answer **only** questions 9.1(a), 9.1(b), 9.7(a), 9.7(b), and 9.8 on RMP
- **No, the facility's trained HAZMAT team will stop the release.**
  - Comply with 40 CFR 68.90 and 40 CFR 68.95
  - Answer **all** questions in section 9 of the RMP

Reminder

OSHA's Emergency Action Plan (EAP) is **NOT** considered an Emergency Response Plan (ERP) under the Risk Management Program regulation.

Characteristics of a Non-Responding Facility

- Employees expect community first responders to address release
- Employees instructed to evacuate when release occurs
- Facility EAP does not address response actions to releases of CAA 112(r) listed chemicals
- Employees not trained or instructed to respond to releases of CAA 112(r) listed chemicals
- No active incident command system
- Lack number of employees required to make entry team

Characteristics of a Responding Facility

- Facility has developed and trained response team(s)
- Employees instructed to respond to fires and releases of regulated substances
- Response drills conducted and critiqued; routine employee emergency response training planned and implemented
- Notification system in place to assemble employees for purpose of responding to a release
- Employees have trained with local responders in addressing releases during emergency

Non-Responding Facilities

Emergency Response Program NOT needed if

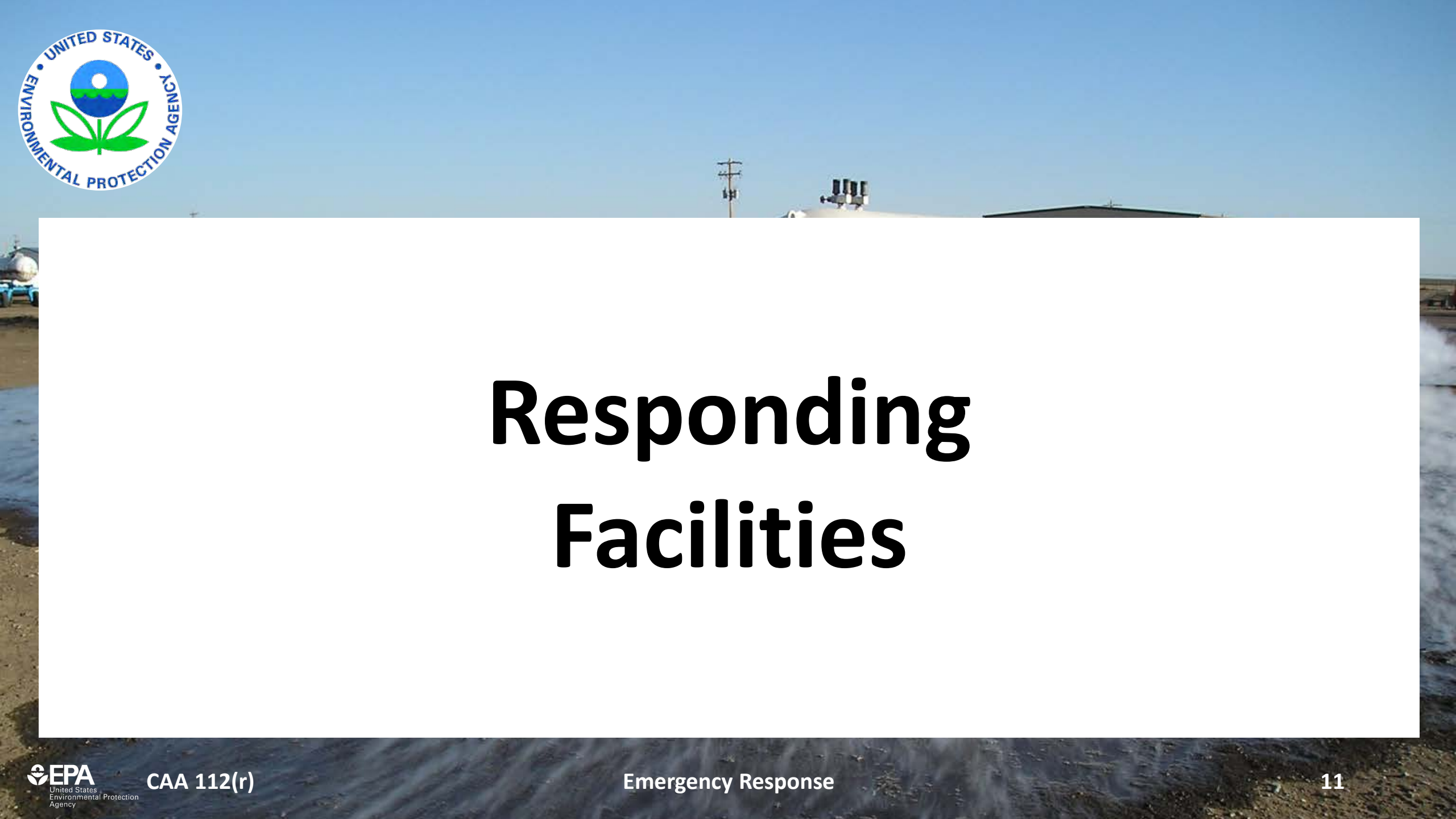
- Facility coordinates with local response agencies
  - For toxic substances *(68.90(b)(1))*
    - Include facility in Community Emergency Response Plan (CERP) under EPCRA
    - Coordination is with the Local Emergency Planning Committee (LEPC)
  - For flammable substances *(68.90(b)(2))*
    - Ensure local fire department is capable of responding to potential release and is aware of its responsibility to do so
    - Coordination is with Fire Department

Emergency Response Program NOT needed if (cont.)

- Formal notification procedure in place *(68.90(b)(3))*
  - Mechanisms in place to notify emergency responders
  - Identify emergency contact (name or organization and phone number)

RMP Submittal Questions

- If facility employees ***will not respond*** to releases of regulated substances, answer **ONLY** these emergency response elements
  - First two (9.1.a and 9.1.b)
  - Last three (9.7.a, 9.7.b, and 9.8)



Responding Facilities

Emergency Response Program

- If facility employees ***will respond*** to releases of regulated substances
  - Subject to 40 CFR 68.95
  - Must fill out all data items in Section 9 of RMP

Emergency Response Program
40 CFR 68.95

- Emergency Response Program — 40 CFR 68.95(a)
- Correlation with other plans — 40 CFR 68.95(b)
- Coordination with community emergency response plan — 40 CFR 68.95(c)

Emergency Response Program
40 CFR 68.95(a)

- Emergency Response Plan (ERP)
- Procedures for using, inspecting, testing, and maintaining emergency response equipment
- Training in relevant procedures
- Procedures for review and update of ERP

Emergency Response Plan (ERP)

- **WRITTEN** ERP contains
  - How to inform the public and local emergency responders
  - First aid and emergency medical treatment documentation
  - Procedures and measures for emergency response after an accidental release of a regulated substance
- Maintained at the facility
- Must represent current operations at facility
- Includes method of communicating any changes to plan to employees

Reminder

The emergency response plan should SPECIFICALLY address the substances regulated under the Risk Management Program.

Coordination with Emergency Response Agencies

- How does a facility request aid?
- Do local emergency response agencies have the capability to respond?

Ultimately, the facility is responsible for minimizing the consequences of accidents that do occur.

Correlation with Other Plans

- Facility can develop one emergency plan to address all federal/state/local requirements including:
  - OSHA's EAP
  - National Contingency Plan (NCP)
  - Federal Response Plan (FRP)
  - Contingency plan regulations
  - Integrated Contingency Plan
  - "One Plan"
- Ensure emergency plan includes all of the required elements found in 40 CFR Part 68.95(a)

Coordination with Community Emergency Response Plan (CERP)

- Ensure needed assistance from local responders during emergencies is coordinated thru the CERP (developed under 42 USC 11003)
  - What off-site response assistance is required by facility, and how it will be requested
  - Who is in charge of response operation
  - Delegation of authority down internal and off-site chain of command
- Upon request by LEPC or emergency response officials, **PROMPTLY** provide information needed for the community plan

Common Deficiencies

- Release reporting procedure has incorrect phone numbers for EPCRA/CERCLA reporting
- Process not designed so reports can be made “immediately”
- People operating process do not know
  - Where the emergency response/action plan is located
  - How to find current Safety Data Sheet (formerly Material Safety Data Sheet)
  - Steps for reporting releases
- Facilities incorrectly answer all questions in Section 9 of the RMP when they do not have a Risk Management emergency response program (as defined by 40 CFR 68.95)

Common Deficiencies Responding Facilities

- No first aid information in ERP for CAA 112(r) chemicals
- No evidence that plan has been reviewed and updated, even though facility indicated it would do so at regular intervals in the plan
- Detection and/or response equipment not inspected/tested, or documentation of testing does not exist

RMPs, Updates, and RMP*eSubmit

Reporting requirements, when to update, and how to submit using web-based system

Risk Management Plan (RMP)

- Record reflecting the status of facility's Risk Management Program
- Includes portions for all elements
- Also requires an executive summary

Executive Summary *(40 CFR 68.155)*

- **Must** briefly include the following elements
  - Overview of the facility, the processes, and the regulated substances used or handled
  - Description of accidental release prevention and emergency response policies at the facility
  - General description of accidental release prevention program and any chemical-specific prevention steps

Executive Summary *(40 CFR 68.155)* (cont.)

- **Must** briefly include the following elements
  - Discussion of five-year accident history
  - Overview of emergency response program
  - Description of planned changes to improve safety ***(common deficiency)***
    - Be **specific**! A general statement on safety policies does not fulfil the requirement.
- The executive summary is the only place in the RMP to describe good things occurring at the facility, or to communicate additional information. Do not miss the opportunity to tell people!

Required Reviews, Updates, and Resubmittal of RMPs

- No later than three years after a newly-regulated substance is first listed by EPA *(68.190(b)(2))*
- No later than the **date** on which a regulated **substance is first present** in an already-covered or a new process above the threshold quantity *(68.190(b)(3)-(4))*

Required Reviews, Updates, and Resubmittal of RMPs (cont.)

- Within 6 months of a change that
  - Requires a revised Hazard Review
  - Requires a revised Off-site Consequences Analysis as provided in 40 CFR 68.36
  - Alters the program level that applied to any covered process
- At least every five years from the date of the initial submission or most recent resubmission
  - Resubmissions are full updates of the RMP, not just a correction

If a Facility is No Longer Subject to this Regulation

- Submit a deregistration to EPA within 6 months indicating that the facility is no longer covered *(68.190(c))*
- Change in ownership does not necessarily change whether the facility is subject to the regulation
- Common reasons facilities deregister
  - Terminated operations
  - No longer use any regulated substance
  - Reduced inventory of all regulated substances below thresholds

Corrections to Plan

- Per 40 CFR 68.195
- Not big enough to warrant a full update
- Does not alter the 5-year anniversary date

Required Corrections to RMP

- Risk Management Program Reportable Accident
  - Update RMP within 6 months, including
    - Information pertaining to the accident as found in Section 6 of the RMP
    - Date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation
- Emergency Contact Information
  - Update within one month of any change in emergency contact information required under 40 CFR 68.160(b)(6)

RMP-Reportable Release

- From a **covered process**
- Involves a **regulated substance** that is above its threshold quantity in the process
- Report if any of the following consequences occur
  - Injury to human health above first aid (including hospitalizations and deaths)
  - Significant property damage
  - Offsite evacuations or shelter-in-place, or offsite environmental damage

RMP-Reportable Release (cont.)

- No reportable quantity
- Is NOT specific to inhalation injuries
- Burn treatment above first aid is reportable

CERCLA/EPCRA Reportable ≠ Risk Management Program Reportable

but some releases may be both

Section 6 RMP Data Includes

- Date
- Time
- Release duration
- Chemical(s)
- Quantity released
- Release event
- Release source
- Weather conditions
- On-site impacts
- Known offsite impacts
- Initiating event
- Contributing factors
- Whether offsite responders were notified
- Changes introduced as a result of the accident

Common Deficiencies

- Failure to report accidents in 5-year accident history with release quantity below the CERCLA/EPCRA reportable quantity
- Failure to include triggers that require reporting in accident history
- Failure to include accidents requiring more than first aid (when injured person went to hospital for “observation” or “preventative medicine.”)
- Failure to include offsite data (“do not know accurate number”)

Common Deficiencies (cont.)

- Failure to update RMP within 6 months to of a reportable accident
  - Add accident information found in Section 6
  - Update prevention program information in Section 8
    - Date of most recent incident investigation
    - Expected completion date of any resulting changes
- Failure to update RMP within 1 month to include new emergency contact information

Additional Thoughts

- Not all accidents in Section 6 may trigger an incident investigation (and vice versa)
- If an accident occurs which changes the program level from Program 1 to Program 2 or Program 3, the facility has 6 months to establish the new program and resubmit the RMP
- Facilities might consider adding EPCRA/CERCLA reportable events to the RMP executive summary, even if they were not RMP-reportable, as the public may remember the event and look for information. This can add to the company's credibility.

RMP*eSubmit

Web-based reporting portal

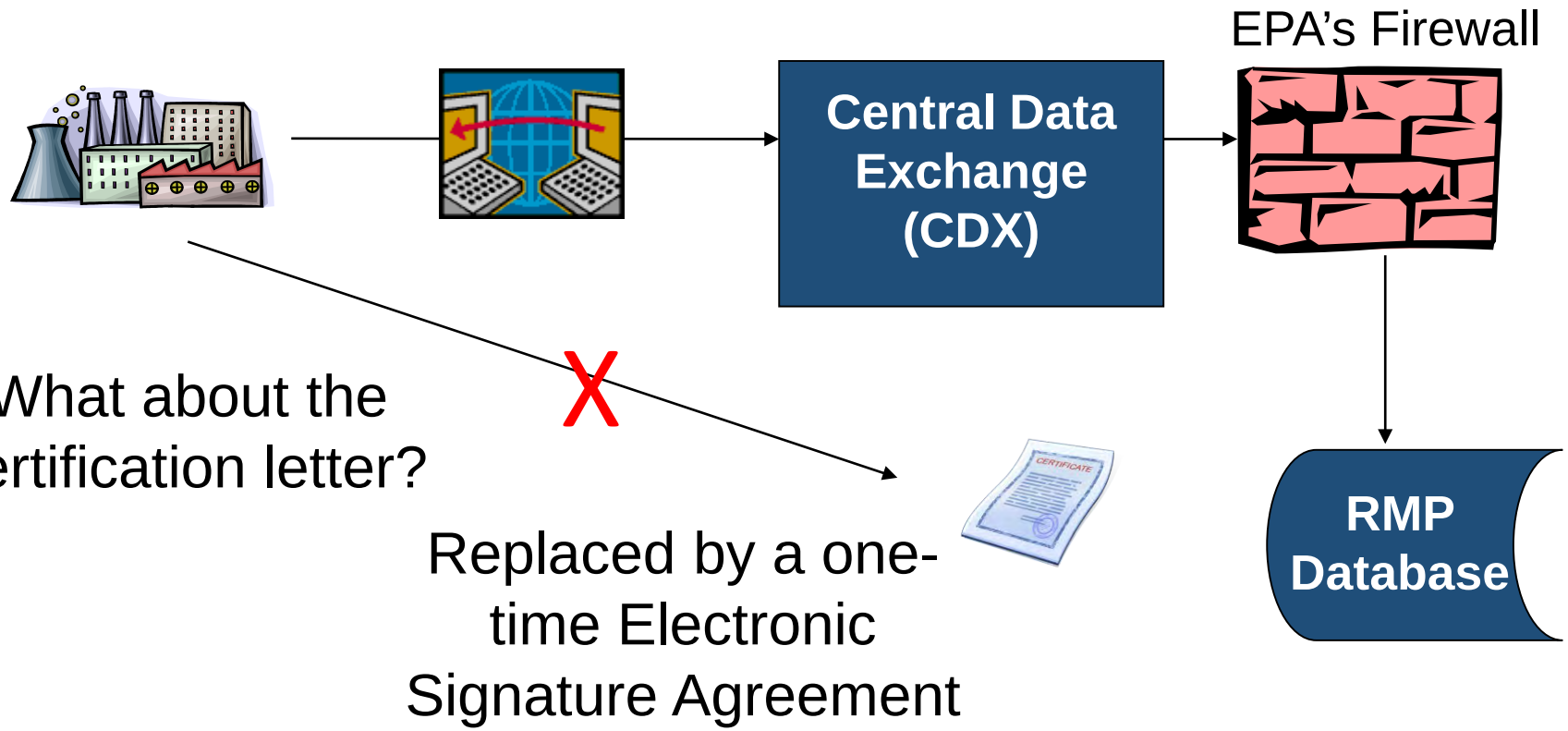
RMP*eSubmit

- New in 2009
  - By now, all Risk Management Program facilities should be using it
- Web-based portal through the Central Data Exchange (CDX)
- Streamlined process

Central Data Exchange (CDX)

- EPA's secure portal for data entry and retrieval
- Other data systems currently using CDX include
  - AQS, eBeaches, eIUR, LEAD, NEI, NESHAPS, PMN, RCRA, SDWIS, TRI-ME, TSCA, UCMR2, RMP*WebRC
- Facilities use CDX to gain access to RMP*eSubmit
- Facilities can use their existing CDX account

Overview


EPA's Firewall
Central Data Exchange (CDX)
What about the certification letter?
Replaced by a one-time Electronic Signature Agreement
RMP Database

Electronic Signature Agreement

- Certification statement
- Works like electronic signature agreement for other CDX-based systems
  - TRI-MEweb, etc.
- Allow time for the electronic signature agreement to be processed
  - It may take a couple of weeks from the time you first send in the electronic signature agreement before your facility representative is able to certify in CDX

Accessing CDX

- Open browser and navigate to

  https://cdx.epa.gov

  NOTE this is a secure internet site so https should appear in your browser

- If “Certificate Error: Navigation Blocked” screen appears, override by clicking on “Continue to this website (not recommended)”

Resources

- For more information on setting up an RMP*eSubmit account, or to see if there is an upcoming webinar on eSubmit, go to
  - https://www.epa.gov/rmp/rmpesubmit
  - For reporting issues, contact the **RMP Reporting Center**
    - ☎ (703) 227-7650 (M-F, 8 am to 5:30 pm eastern time)
    - RMPRC@epacdx.net
    - ✉ ***Current Mailing Address***

      RMP Reporting Center
      P.O. Box 10162
      Fairfax, VA 22038

      Courier & Overnight Delivery

      CGI Federal, Inc.
      c/o RMP Reporting Center
      12601 Fair Lakes Circle
      Fairfax, VA 22033

Common Deficiencies

- Emergency contact not updated within 1 month of change
- Missing accidents
- 5-year update late
- Facility changes ownership and no discussion about RMP occurs; instead of filing change of ownership, former owner deregisters and new owner fails to register

Reminders

- Do NOT wait until the last minute to resubmit an RMP
- Ensure that the individual assigned to certify has an electronic signature agreement on file
- Check that the right people have certifying official and preparer status
- Remember, the certifying official must make the actual submittal