



# Notification Requirements for Continuous Releases of Hazardous Substances

Office of Emergency and Remedial Response  
Emergency Response Division OS-210

Quick Reference Fact Sheet

Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund), and EPA's implementing regulations (40 CFR 302.8), require the person in charge of a facility or vessel to notify government authorities immediately whenever a reportable quantity (RQ) of a hazardous substance is released into the environment, so that government response officials can evaluate the need for a response action. In addition to these CERCLA reporting requirements, section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III)), and EPA's implementing regulations (40 CFR 355.40), requires the owner or operator of a facility to notify state and local authorities immediately of any releases of CERCLA hazardous substances and extremely hazardous substances in amounts that equal or exceed an RQ. Finally, CERCLA section 103(f)(2) provides relief from the immediate reporting requirements of CERCLA section 103(a) for releases of hazardous substances from facilities or vessels that are continuous and stable in quantity and rate. **This fact sheet discusses the requirements of the continuous release reporting regulations and addresses many key questions concerning their scope and applicability.** (For additional information, please see Reporting Requirements for Continuous Releases of Hazardous Substances: A Guide for Facilities and Vessels on Compliance (Office of Emergency and Remedial Response, October 1990 EPA/540/G-91/003).)

## Introduction

On July 24, 1990 (see 55 FR 30166, 40 CFR 302.8), the U.S. Environmental Protection Agency (EPA) promulgated regulations specifying requirements for reporting continuous releases of hazardous substances. The continuous release reporting regulation allows reduced reporting for facilities or vessels that release hazardous substances in a continuous and stable manner. This reporting relief applies to the notification requirements under CERCLA section 103(a) and SARA Title III, section 304.

CERCLA section 103(a) requires the person in charge of a facility or vessel to notify the National Response Center (NRC) immediately if

that person has knowledge that the amount of a hazardous substance released into the environment from a facility or vessel over a 24-hour period equals or exceeds an RQ. The environment includes the ambient air, land, surface water, and ground water. The primary purpose of these notification requirements is to alert government officials to releases of hazardous substances that may require a timely response action to prevent or mitigate damage to human health or welfare or the environment.

SARA Title III, section 304 requires the owner or operator of a facility to notify State and local authorities immediately of releases of CERCLA hazardous substances and extremely

hazardous substances in amounts that equal or exceed an RQ.

### Highlight #1

#### DEFINITIONS

**Continuous.** A continuous release is a release that occurs without interruption or abatement, or that is routine, anticipated, intermittent, and incidental to normal operations or treatment processes.

**Routine.** A routine release is a release that occurs during normal operating procedures or processes.

**Stable in quantity and rate.** A release that is stable in quantity and rate is a release that is predictable and regular in the amount and rate of emission.

The purpose of CERCLA section 103(f)(2) is to reduce unnecessary release notifications for releases of hazardous substances that are continuous and stable in quantity and rate. Neither the statute nor the continuous release reporting regulation, however, eliminates the requirement to report altogether. Continuous releases are not necessarily harmless or risk-free, and government response officials need to receive information about continuous releases of hazardous substances that equal or exceed an RQ in order to evaluate the need for a Federal response action.

#### ELIGIBILITY FOR REDUCED REPORTING UNDER THE CONTINUOUS RELEASE NOTIFICATION REQUIREMENTS

Facilities or vessels with continuous releases of hazardous substances may be eligible for reduced reporting under CERCLA section 103(f)(2) and the continuous release reporting regulation. A continuous release is a release of a hazardous substance that is "continuous" and "stable in quantity and rate" under the regulatory definitions codified at 40 CFR 302.8(b).

A continuous release may be a release that occurs 24 hours a day, such as a radon release from a stock pile, or a release that occurs during a certain process, such as benzene released during the production of polymers, or a release of a hazardous substance from a tank vent each time the tank is filled. Some releases resulting from malfunctions also may qualify for reduced reporting as continuous releases under section 103(f)(2) if they are incidental to normal plant operations or treatment processes, are stable in quantity and rate, and either (1) occur without interruption or abatement or (2) are routine, anticipated, and intermittent. For example, releases from malfunctions that may qualify for reduced reporting include fugitive emissions from valves that occur at different rates over the course of a production cycle.

### Highlight #2

The term facility has different regulatory definitions under CERCLA and SARA Title III; for continuous release reporting, the CERCLA definitions apply.

**Facility:** A facility is defined as any building structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located. [See CERCLA section 101(9) and 40 CFR 302.3.]

**Vessel:** Vessel is defined as every description of watercraft or artificial conveyance used, or capable of being used, as a means of transportation on water. [See CERCLA section 101(28) and 40 CFR 302.3.]

The source of a continuous release can be from a facility or a vessel. If you are releasing a hazardous substance from several sources at a facility or vessel simultaneously, you must aggregate the release of the hazardous substance

across all sources to determine whether an RQ or more of the hazardous substance has been released.

### REPORTING REQUIREMENTS FOR CONTINUOUS RELEASES

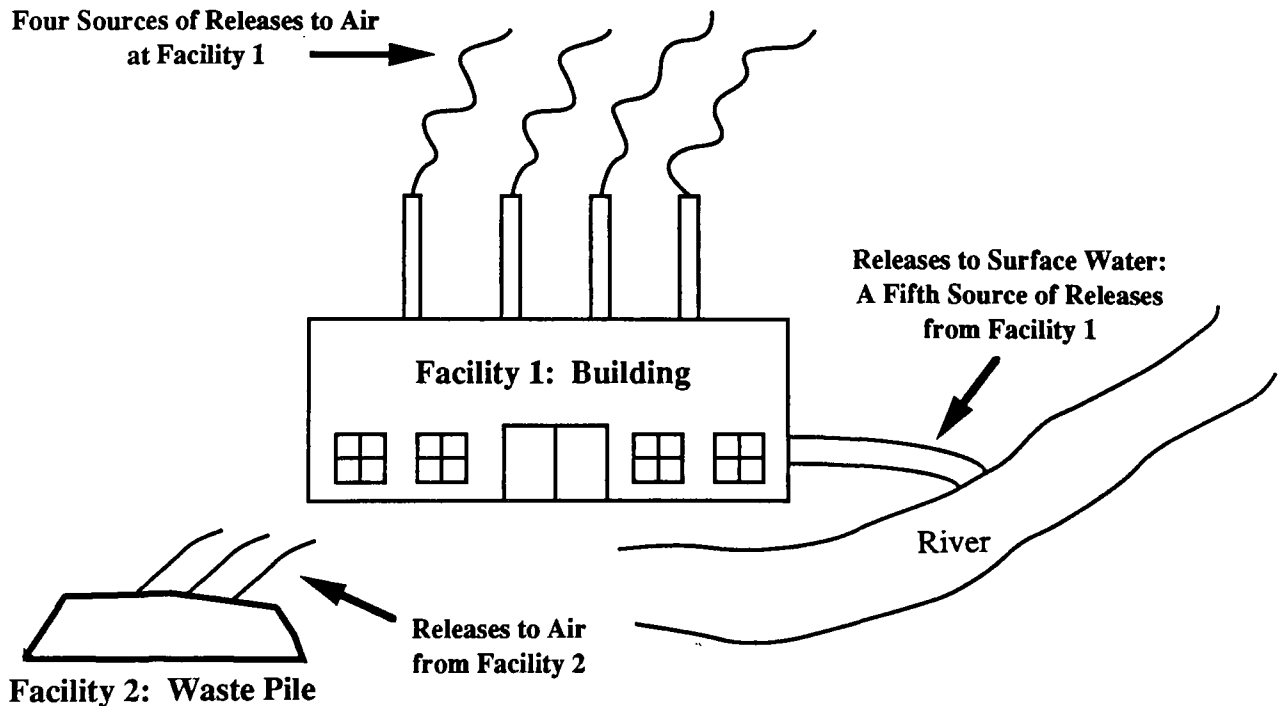
There is a three step process to reporting continuous releases under CERCLA and SARA Title III. In addition, further notification may be required if statistically significant increases in the quantity of a hazardous substance released or other changes in the release occur.

#### Initial Telephone Notification

You must make an initial telephone call to three separate government authorities: the NRC, the State Emergency Response Commission (SERC), and the Local Emergency Response Committee (LEPC). The initial telephone call will alert authorities to your intent to report a release

as a continuous release; be certain your intent is clear to those receiving your telephone call. When you make the initial telephone notification, the NRC will assign a case number to your release report. This case number will become the identifier for your facility or vessel, and is called the Continuous Release-Emergency Response Notification System (CR-ERNS) number. You must use this CR-ERNS number on all future release reports or correspondence related to continuous releases from your facility or vessel. If a substance is being released from a number of different facilities at a site, the person in charge has the option of submitting one report for the entire site under one CR-ERNS number, or a separate report for each facility at the site. If the latter option is chosen, a separate CR-ERNS number should identify each separate facility. See Figure 1 for an illustration of several release sources from one facility.

**Figure 1**  
**Examples of Multiple Release Sources from a Single Facility**



## Initial Written Notification

Within 30 days of the initial telephone notification, you are required to submit an initial written report to the appropriate EPA Regional Office. The purpose of this report is to confirm your intent to report your release as a continuous release under the requirements of section 103(f)(2), and to provide officials with sufficient information about the release to enable them to determine if the release qualifies as a continuous release and to identify the potential risks associated with the release. In addition to this requirement, releases of CERCLA hazardous substances are also subject to the provisions of SARA, Title III section 304, and EPA's implementing regulations codified at 40 CFR Part 355, which require initial telephone and written notifications of continuous release to be submitted to the appropriate SERC and LEPC.

### **Highlight #3**

#### **REPORTING REQUIREMENTS**

*40 CFR 302.8(c) and 355.40(b)*

The reporting requirements for continuous releases of CERCLA hazardous substances are:

- (1) Initial notification by telephone to the NRC, SERC, and LEPC; and initial written notification to the EPA Regional Office, SERC, and LEPC;
- (2) A one-time written follow-up report, one year later, to the appropriate EPA Regional Office;
- (3) Immediate telephone notification of a statistically significant increase in the quantity of a release to the NRC, SERC, and LEPC; and
- (4) Written notification within 30 days to the appropriate EPA Regional Office, SERC and LEPC of any other changes in the release.

The initial written report is divided into three sections. The first section contains general information about the facility or site, and the population around the site. In the second section, the owner of the facility provides information pertaining to the source, type, and amount of hazardous substance released, and the environmental medium to which the hazardous substance is being released. The final section determines the trigger for reporting statistically significant increases (SSI) in the hazardous substance release.

The initial written notification must contain information about the identity and quantity of the hazardous substances released from the source(s) at a facility. In particular, you must identify the upper and lower bounds of the normal range of each release and the total annual quantity released from each source during the previous year.

### **Highlight #4:**

#### **DEFINITION OF NORMAL RANGE**

*40 CFR 302.8(b)*

The normal range of a continuous release includes all releases of a hazardous substance (in pounds or kilograms) reported or occurring during any 24-hour period under normal operating conditions during the previous year. Only releases that are both continuous and stable in quantity and rate may be included in the normal range.

## Follow-Up Report

Within 30 days of the first anniversary date of the initial written notification, you are required to reassess all reported continuous releases of CERCLA hazardous substances and to submit a one time, written follow-up report to the appropriate EPA Regional Office. The information required in the follow-up report is identical to that required in the initial written notification, but it should be based on release data

and information gathered over the previous year (i.e., during the period since the submission of the initial written report). Thereafter, the continuous release must be reassessed annually to assure that information previously submitted has not changed.

#### Reports of Changed Release

You must notify the EPA Regional Office if there are any changes in a continuous release. If there is a change in the source or composition of a continuous release, the release is considered a "new" release and the reporting process must begin anew with a telephone call to the NRC and State and local authorities, and written reports to the appropriate EPA Region, SERC, and LEPC. A change in the source(s) or composition of a release may be caused by such factors as equipment modifications or process changes.

Changes other than those affecting the composition and source of the release must be reported to the EPA Regional Office in writing within 30 days of determining that the information previously submitted is no longer accurate. All notifications of changes in releases must include the original CR-ERNS number assigned to the facility or vessel by the NRC in the initial telephone notification.

#### Statistically Significant Increase Reports

A statistically significant increase (SSI) is any release of a hazardous substance that exceeds the upper bound of the normal range. An SSI in a continuous release of a hazardous substance must be reported to the NRC, SERC, and LEPC as soon as the person in charge is aware that the release exceeds the upper bound of the normal range. SSIs are a type of episodic release and are treated as such by the NRC. When reporting an SSI, therefore, the caller should anticipate that the NRC will ask for information that is similar to what is asked when a person reports any other episodic release incident. Be sure to identify the release as an SSI and provide the NRC with the CR-ERNS number previously assigned to your facility or vessel.

#### Recordkeeping Requirements

Supporting materials must be kept on file for a period of one year and should substantiate

the normal range of the release, the basis for asserting that the release is continuous and stable in quantity and rate, and the other information included in the initial written report, the follow-up report, and the most recent annual evaluation.

#### **EPA RESPONSE TO CONTINUOUS RELEASE REPORTS**

When EPA receives a facility's continuous release information, the Agency will establish a record and create a file for your facility or vessel and enter the information into the Continuous Release-Emergency Response Notification System (CR-ERNS). EPA also will enter into CR-ERNS the information you submit in the initial written report and the follow-up report, any SSI reports, and any change notifications. Information in CR-ERNS will be stored both at the EPA Regional level and at the Transportation Systems Center in Cambridge, MA.

#### Assessment

EPA will use CR-ERNS to perform a preliminary assessment to determine if there is a threat to human health or the environment due to each continuous release of a hazardous substance. The potential threat posed by a continuous release is determined by assessing its toxicity, the quantity and frequency of the release, its fate and transport in the environment, and the proximity and nature of the potentially exposed population.

#### Regulatory Actions

EPA has the authority to respond to releases of hazardous substances under CERCLA sections 104 and 106. If EPA has any doubts that the release is not continuous, the Agency may request additional information or require that the person in charge of the facility establish that the release is continuous by reporting it as an episodic release under CERCLA section 103(a) for a specified length of time.

EPA also may alert a permit program office or other office that a release from your facility or vessel merits further evaluation. Finally, EPA may decide to perform a site inspection or field response at your facility or vessel.

## REPORTING WITH THE CR-ERNS INDUSTRY DISKETTE

EPA has made available a software package, the CR-ERNS Industry Diskette, that allows the person in charge of a facility to submit initial written notifications on-diskette to appropriate agencies. In addition, the CR-ERNS software allows the user to submit follow-up reports, SSI reports, and change of release notifications.

CR-ERNS is "user friendly" and requires an IBM-compatible personal computer system to operate. The CR-ERNS Industry Diskette is available in either 3-1/2" or 5-1/4" floppy disks. Besides being user friendly, CR-ERNS offers several advantages in comparison to submitting hard- or typed-written notifications to EPA. Some of the advantages are provided below:

- CR-ERNS is structured so that more than one release may be recorded at a site;
- Its use can simplify the recordkeeping requirements for the person in charge of the facility; and
- CR-ERNS includes a detailed chemical database to assist users in the input of hazardous substance data.

Even if you use the Industry Diskette, however, you also must provide a signed printed version of your report to the EPA Region. To obtain a copy of the CR-ERNS Industry Diskette, call the National Technical Information Service.

### Section V: Sources of Information

For more detailed information on how to comply with the continuous release reporting requirements, consult the following documents:

55 Federal Register 30166; July 24, 1990

U.S. EPA, "Reporting Requirements for Continuous Releases of Hazardous Substances: A Guide for Facilities and Vessels on Compliance," Office of Emergency and Remedial Response, OSWER Directive 9360.7-01, October 1990.

U.S. EPA, "Continuous Release Emergency Response Notification System: User's Manual for Industry," Office of Emergency and Remedial Response, OSWER Directive 9360.7-02, October, 1990.

To obtain the above documents or a copy of the CR-ERNS Industry Diskette, contact your EPA Region.

For initial telephone notifications, call:

National Response Center (NRC)  
(800) 424-8802  
(202) 267-2675 (Washington DC)  
  
(TDD) (800) 424-8802

Submit written continuous release notifications to the EPA Regional Office in your area.

For information on the addresses and telephone numbers of SERCs and LEPCs, contact:

Emergency Planning and Community  
Right-to-Know Hotline  
(800) 535-0202  
(703) 920-9877 (Washington DC area)  
  
(TDD) (800) 553-7672  
(TDD) 486-3383 (Washington DC area)

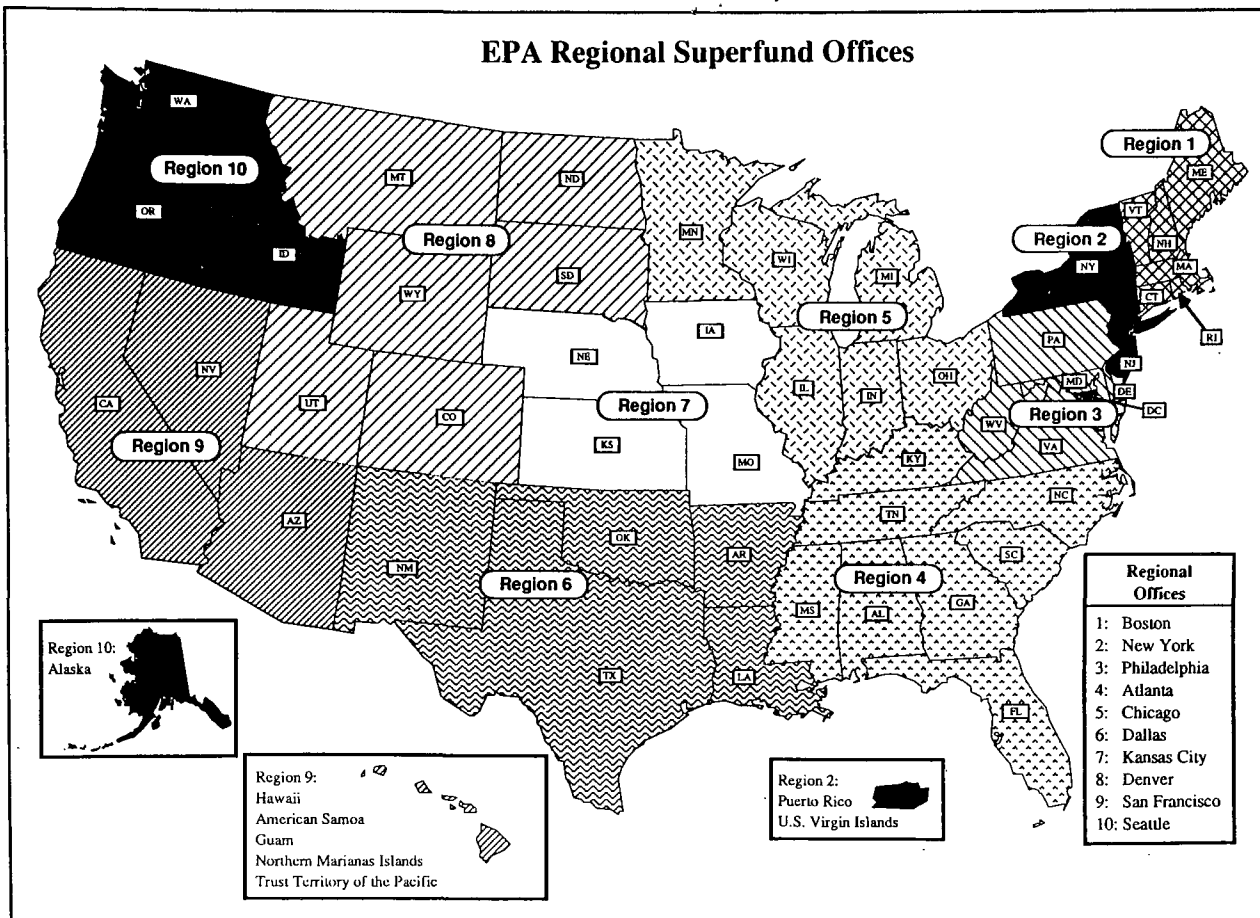
For general information on the reporting requirements for continuous releases of hazardous substances, contact:

CR-ERNS Coordinator  
Emergency Response Division  
13th Floor, Mail Code: OS-210  
1235 Jefferson Davis Highway  
Arlington, VA 22202

For telephone inquiries regarding general information on continuous release reporting, call:

RCRA/Superfund Hotline  
(800) 424-9346  
(703) 920-9810 (Washington, DC area)  
  
(TDD) (800) 553-7672  
(TDD) 486-3383 (Washington, DC area)

## EPA Regional Superfund Offices



-- EPA, Region 1  
 Chief, Toxic Substances Control Section  
 60 Westview Street  
 New England Regional Laboratory  
 Lexington, MA 02173  
 (617) 565-3744

-- EPA, Region 2  
 Chief, Response and Prevention Branch  
 Woodbridge Avenue  
 Edison, NJ 08837  
 (201) 321-6656

-- EPA, Region 3 (3HW-30)  
 Supervisor, Superfund Removal Branch  
 841 Chestnut Street  
 Philadelphia, PA 19107  
 (215) 597-0992

-- EPA, Region 4  
 Chief, Title III Section  
 345 Courtland Street, N.E.  
 Atlanta, GA 30365  
 (404) 347-1033

-- EPA, Region 5  
 Continuous Release Coordinator  
 Emergency & Remedial Response Section  
 230 South Dearborn Street  
 Chicago, IL 60604  
 (312) 353-2000

-- EPA, Region 6  
 Chief, Emergency Response Branch  
 1445 Ross Avenue  
 9th Floor  
 Dallas, Tx 75202  
 (214) 655-6444

-- EPA, Region 7  
 Chief, Emergency Response & Spill  
 Branch  
 25 Funston Road  
 Kansas City, KS 66115  
 (913) 236-3881

-- EPA Region 8  
 Continuous Release Coordinator  
 Emergency Response Branch  
 One Denver Place  
 999 18th Street (8HWN-ER)  
 Denver, CO 80202-2413  
 (303) 294-7534

-- EPA, Region 9 (H-8-3)  
 Continuous Release Coordinator  
 Emergency Response Branch  
 75 Hawthorne Street  
 San Francisco, CA 94105  
 (415) 744-2296

-- EPA, Region 10  
 Chief, Superfund Response and  
 Investigation Section  
 1200 6th Avenue  
 Seattle, WA 98101  
 (206) 442-1196