

Comprehensive Environmental Response, Compensation, and Liability Act and Emergency Planning and Community Right-to-Know Act Release Reporting

40 C.F.R.. Part 302 Definitions

Facility means (1) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, **motor vehicle, rolling stock**, or aircraft, or (2) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel;

Farm means a facility on a tract of land devoted to the production of crops or raising of animals, including fish, which produced and sold, or normally would have produced and sold, \$1,000 or more of agricultural products during a year.

40 C.F.R. Part 355.61 Definitions

Facility means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person that controls, is controlled by, or under common control with, such person). *Facility* includes manmade structures, as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. **For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.**

Farm means a facility on a tract of land devoted to the production of crops or raising of animals, including fish, which produced and sold, or normally would have produced and sold, \$1,000 or more of agricultural products during a year.

EMERGENCY RELEASE NOTIFICATION (SECTION 304): TRANSPORTATION OWNERS AND OPERATORS

Question: What is the responsibility of transportation owners or operators in the event of a spill or release of extremely hazardous substances or CERCLA hazardous substances?

Answer: Although owners or operators of facilities in transportation or those that store substances under active shipping papers are not required to notify State and local authorities with regard to Section 302 emergency planning, they are required to report releases under Section 304. With regard to stationary facilities, Section 304 requires owners and operators to report releases to the local emergency planning committee and to the State emergency response commission. Owners and operators of facilities in transportation under Section 304 are allowed to call the 911 emergency number or in the absence of a 911 number, the operator, in lieu of calling the State commission and local committee. The rationale for this separate reporting is that transportation operators on the road most likely will not know the telephone numbers of all relevant State and local

entities on their routes. If the transportation operator is in a community which has a generic emergency number rather than 911, the generic number should be used. If the release is of a CERCLA hazardous substance, a call to the National Response Center is also required. Local committees should consider training all personnel responsible for receiving telephone notice of such a release, so that proper notification procedures will be maintained.

(Q&A June 1, 1989, #44)

EMERGENCY RELEASE NOTIFICATION (SECTION 304): TRANSPORTATION-RELATED

Question: In the case of transportation-related releases, should the emergency release notification requirements apply to the owner or the operator of the facility?

Answer: Either the owner or operator may give notice after a release. Owners and operators may make private arrangements concerning which party is to provide release notification. However, under Section 304 both owner and operator are responsible if no notification is provided.

(Q&A June 1, 1989, #46)

EMERGENCY RELEASE NOTIFICATION (SECTIONS 103 AND 304)

Question: What are the differences in the various requirements for release notification under Section 103 of CERCLA and Section 304 of Title III?

Answer: Under Section 103 of CERCLA, a release of a hazardous substance, in an amount equal to or in excess of its reportable quantity (RQ) which is not otherwise exempted under CERCLA, must be reported to the National Response Center. Section 304 of Title III provides a similar reporting requirement for releases of extremely hazardous substances, as defined under Section 103. However, reporting under Section 304 must be given by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee and to the State emergency response commission, as well as to the National Response Center for CERCLA hazardous substances. Releases from transportation incidents are also subject to the Section 304 reporting requirements. A proposed rulemaking was published on January 23, 1989 (54 FR 3388) to designate under Section 102 of CERCLA all extremely hazardous substances which are not already defined as "hazardous substances" under Section 101(14) of CERCLA. At that time, any substance requiring local and State release reporting under Section 304 of Title III will also require reporting to the National Response Center under CERCLA Section 103. In addition, the extremely hazardous substances will continue to trigger contingency planning requirements in addition to release reporting. With regard to the contents of the required notification under SARA Section 304 and CERCLA Section 103, the required contents of Section 304 emergency notification are set out in Section 355.40. Although Section 103(a) of CERCLA does not specify the contents of release notification, the information necessary under Section 103(a) for potential federal response (e.g., type of substance and nature, location, and effects of the release) should not differ for any practical purpose from content of the notice specified under Section 304. Section 304 also requires follow-up written

emergency notice to the State emergency response commissions and the local emergency planning committees that received the initial verbal notification. This reporting is not required to be sent to the NRC.

(Q&A June 1, 1989, #49)