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Title 40 —Protection of Environment

Chapter VI —Chemical Safety and Hazard Investigation Board

Part 1604 Reporting of Accidental Releases

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PART 1604—REPORTING OF ACCIDENTAL RELEASES

Authority: 42 U.S.C. 7412(r)(6)(C)(iii); 42 U.S.C. 7412(r)(6)(N).

Source: 85 FR 10094, Feb. 21, 2020, unless otherwise noted.

§ 1604.1 Purpose.

The enabling legislation of the Chemical Safety and Hazard Investigation Board (CSB) provides that the CSB shall establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigative jurisdiction. 42 U.S.C. 7412(r)(6)(C)(iii). This part establishes the rule required by the enabling legislation. The purpose of this part is to require prompt notification of any accidental release within the CSB's investigatory jurisdiction.

§ 1604.2 Definitions.

As used in this part, the following definitions apply:

Accidental release means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

Ambient air means any portion of the atmosphere inside or outside a stationary source.

Extremely hazardous substance means any substance which may cause death, serious injury, or substantial property damage, including but not limited to, any “regulated substance” at or below any threshold quantity set by the Environmental Protection Agency (EPA) Administrator under 42 U.S.C. 7412(r)(5).

General public means any person except for:

- (1) Workers, employees, or contractors working for (or on behalf of) the owner or operator of a stationary source from which an accidental release has occurred; and

- (2) Any person acting in the capacity of an emergency responder to an accidental release from a stationary source.

Inpatient hospitalization means a formal admission to the inpatient service of a hospital or clinic for care.

Owner or operator means any person or entity who owns, leases, operates, controls, or supervises a stationary source.

Property damage means damage to or the destruction of tangible public or private property, including loss of use of that property.

Regulated substance means any substance listed pursuant to the authority of 42 U.S.C. 7412(r)(3).

Serious injury means any injury or illness that results in death or inpatient hospitalization.

Stationary source means any buildings, structures, equipment, installations, or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

Substantial property damage means estimated property damage at or outside the stationary source equal to or greater than \$1,000,000.

§ 1604.3 Reporting an accidental release.

- (a) The owner or operator of a stationary source must report in accordance with paragraph (b) or (c) of this section, any accidental release resulting in a fatality, serious injury, or substantial property damage.
- (b) If the owner or operator has submitted a report to the National Response Center (NRC) pursuant to 40 CFR 302.6, the CSB reporting requirement may be satisfied by submitting the NRC identification number to the CSB within 30 minutes of submitting a report to the NRC.
- (c) If the owner or operator has not submitted a report to the NRC and notified the CSB under paragraph (b) of this section, the owner/operator must submit a report directly to the CSB within eight hours of the accidental release and must include the required information listed in § 1604.4. A report may be made by email to: report@csb.gov, or by telephone at 202-261-7600.
- (d) For the purpose of efficiency, multiple owner/operators may agree in advance or at the time of release to a single, consolidated report on behalf of one or more parties who are responsible for reporting an accidental release from a stationary source. However, any consolidated report must include all pertinent information required under § 1604.4.
- (e) Notwithstanding paragraphs (a) through (d) of this section, an owner or operator of a stationary source, without penalty, may revise and/or update information reported to the NRC or CSB by sending a notification with revisions by email to: report@csb.gov, or by correspondence to: Chemical Safety Board (CSB) 1750 Pennsylvania Ave. NW, Suite 910, Washington, DC 20006, within 30 days following the submission of a report to the NRC or CSB. If applicable, the notification must reference the original NRC identification number. No update or revisions should be sent to the NRC. In addition to the opportunity to revise and/or update information within 30 days, an owner or operator may also submit a revised report to the Board within 60 additional days if the submitter explains why the revised report could not have been submitted within the first 30 days.

§ 1604.4 Information required in an accidental release report.

The report required under § 1604.3(c) must include the following information regarding an accidental release as applicable:

- (a) The name of, and contact information for, the owner/operator;
- (b) The name of, and contact information for, the person making the report;
- (c) The location information and facility identifier;
- (d) The approximate time of the accidental release;
- (e) A brief description of the accidental release;
- (f) An indication whether one or more of the following has occurred:
 - (1) Fire;
 - (2) Explosion;
 - (3) Death;
 - (4) Serious injury; or
 - (5) Property damage;
- (g) The name of the material(s) involved in the accidental release, the Chemical Abstract Service (CAS) number(s), or other appropriate identifiers;
- (h) If known, the amount of the release;
- (i) If known, the number of fatalities;
- (j) If known, the number of serious injuries;
- (k) Estimated property damage at or outside the stationary source; and
- (l) Whether the accidental release has resulted in an evacuation order impacting members of the general public and others, and, if known:
 - (1) The number of persons evacuated;
 - (2) Approximate radius of the evacuation zone; and
 - (3) The type of person subject to the evacuation order (*i.e.*, employees, members of the general public, or both).

§ 1604.5 Failure to report an accidental release.

- (a) It is unlawful for any person to fail to make reports required under this part, and suspected violations of this part will be forwarded to the Administrator of the EPA for appropriate enforcement action.
- (b) Violation of this part is subject to enforcement pursuant to the authorities of 42 U.S.C. 7413 and 42 U.S.C. 7414, which may include—
 - (1) Administrative penalties;
 - (2) Civil action; or

(3) Criminal action.

§ 1604.6 Public availability of accidental release records.

Accidental release records collected by the CSB under this part may be obtained by making a request in accordance with 40 CFR part 1601, the CSB's procedures for the disclosure of records under the Freedom of Information Act. The CSB will process requests, and if appropriate, disclose such records, in accordance with 40 CFR part 1601 and relevant Federal information disclosure laws.