



## CERCLA/EPCRA Administrative Reporting Exemption for Farms

Final Rule Status  
Lynn Beasley, EPA/OEM  
October 26, 2010

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### Overview

- Background
  - What the Final Rule Says
  - EPCRA Obligations
  - Litigation
- Final Rule Status
- SERC/LEPC Participation in the Rulemaking Process
- Appendix – Draft Forms

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### Background

- What the Final Rule Says
  - Full CERCLA Exemption
    - Basis – Would not Respond to Such Reports
  - Partial EPCRA Exemption
    - Basis – Public is Concerned about Emissions
- EPCRA Obligations
  - Thresholds
    - Intent to review
  - Public Availability of Reports

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## Background – Notification Basics

Two options for making notifications under the Emergency Planning and Community Right-To-Know Act (EPCRA) regulations. The first option (40 CFR 355.40) is for reporting episodic releases (i.e., one-time reports on emergencies). The second option (40 CFR 355.52) is for reporting continuous releases.

**EPICRAC (This is primarily a telephone notification with a written follow-up. There are no forms for this type of report.)**

**40 CFR 355.40. What information must I provide?**

*You must make the appropriate notification to comply with the emergency release notification requirements of the Act, on a continuous basis, and as soon as practicable thereafter, in accordance with emergency notification, or more appropriate business, available.*

**(a) Immediate notification.** The notice required under this section shall include at least of the following information known at the time. However, the retrieval of this information should not cause a delay in the notification on the emergency response.

*(1) The chemical name or identity of the substance involved in the release.*

*(2) Indicate whether the substance is on EPC.*

*(3) Provide an estimate of the quantity of the substance that was released into the environment.*

*(4) State the time and duration of the release.*

*(5) The medium or media into which the release occurred.*

*(6) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.*

*(7) Proper precautions to take as a result of the release, including evacuation routes such information is readily available.*

*(8) The name and telephone number of the individual (or individuals) to be contacted for further information on emergency notification. Except for releases that occur during transportation or from storage incident to transportation, you must provide a written follow-up emergency notice (or notices or more information) immediately, or as soon as practicable after the release. In the written follow-up emergency notice, you must provide and update the information reported in the immediate notification and include additional information with respect to all of the following:*

*(i) How the release is being contained and controlled.*

*(ii) How the release is being cleaned up or otherwise health risks associated with the release are being eliminated.*

*(iii) Where appropriate, advice regarding medical attention necessary for exposed individuals.*

*(iv) You are not required to submit a written follow-up notification for a release that occurred during transportation or from storage incident to transportation. See 40 CFR 355.42(b) for requirements for reporting such releases.*

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## Background – Notification Basics

OR

*Presumption that air releases from animal waste are ongoing and may be reported as a continuous release.*

**CONTINUOUS (Recommended): Use EPA Form 4506-09, Continuous Release Reporting the Form 40 CFR 355.52. Which emergency release notification requirements apply to continuous releases?**

*If the release of an EPC or CERCLA hazardous substance is continuous and stable in quantity and rate at your facility as defined in 40 CFR 302.3(b), then the release qualifies for reduced reporting requirements under this report. Under these reduced reporting requirements, you do not need to provide the notification required under 40 CFR 355.40. However, in addition to the notifications required under 40 CFR 302.3, you must submit to the following notification to the community emergency coordinator for the LEPC for any area likely to be affected by the release and to the LEPC of any State likely to be affected by the release:*

*(a) Initial notification as specified in 40 CFR 302.3(d) and (e).*

*(b) Notification of "Statistically significant increase," defined in 40 CFR 302.3(d) as any increase above the upper bound of the reported normal range.*

*(c) Notification of a "New release" as specified in 40 CFR 302.3(d)(1).*

*(d) Notification of a change in the normal range of the release as specified under 40 CFR 302.3(d)(2).*

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## Background

- Litigation
  - January 2009, Petition for Review of Final Rule (Waterkeeper, et. al.)
  - February 2009, Poultry Industry moved to Intervene on behalf of EPA.
  - March 2009, Petition for Review of Final Rule (National Pork Producers Council)
  - August 2009, Parties jointly moved to hold case in abeyance to participate in D.C. Circuit Mediation Program.

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## Background

- Litigation
  - August 2010, Mediation did not resolve all issues so EPA moved for voluntary remand without vacatur.
  - October 2010, DC Circuit Court of Appeals granted the motion for voluntary remand without vacatur. Gave seven days for timely petition for rehearing.
    - EPA is moving forward with its intended review and revision of the final rule.

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## Final Rule Status

- Revisit Final Rule
  - As stated in the preamble of the Final Rule.
  - Initial stages of proposed rulemaking.
- EPA will evaluate several options
  - Potential to Increase EPCRA Reporting and therefore SERC/LEPC Receipt of Reports.
- Current Burden Calculation for SERCs/LEPCs
  - Based on receipt of EPCRA section 304(c) follow-up reports.
  - Estimated 15 minutes clerical time to file reports so they are available to the public.
- Draft Continuous Release Reporting Forms – See Appendix for Draft Versions
  - i. General
  - ii. Custom for Farm Reporting

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## SERC/LEPC Participation in the Rulemaking Process

- Review and Comment on Continuous Release Forms
- Review and Comment on Burden Analysis
- General and Specific Comment on the Usefulness of Reports and Public Interest

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## Questions?



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## Contact

- Lynn Beasley
  - [Beasley.lynn@epa.gov](mailto:Beasley.lynn@epa.gov)
  - 202-564-1965

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## Appendix

### Draft Continuous Release Reporting Forms - General

**CHECKLIST OF INFORMATION REQUIRED BY FEDERAL AND FOLLOWUP WRITTEN REPORTS**

**Section I: General Information**

**A. Facility Identification**

- Do I have a permit to discharge to the water body?
- Do I have a permit to discharge to the ground water?
- Do I have a permit to discharge to the air?
- Do I have a permit to discharge to the land?

**B. Reporting Period**

- Do I have a permit to discharge to the water body?
- Do I have a permit to discharge to the ground water?
- Do I have a permit to discharge to the air?
- Do I have a permit to discharge to the land?

**Section II: Discharge Information**


**A. Discharge Identification**

- Do I have a permit to discharge to the water body?
- Do I have a permit to discharge to the ground water?
- Do I have a permit to discharge to the air?
- Do I have a permit to discharge to the land?

**Section III: Discharge Data**

**A. Discharge Data**

- Do I have a permit to discharge to the water body?
- Do I have a permit to discharge to the ground water?
- Do I have a permit to discharge to the air?
- Do I have a permit to discharge to the land?



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## Appendix Draft Continuous Release Reporting Forms - General

Form Approved OASIS 10-3599-0105

SECTION II: SOURCE INFORMATION

CBERS# Number: \_\_\_\_\_

**Part C: Identity and Quantity of Each Hazardous Substance or Mixture Released From Each Source**  
Please provide a C.P. 602.27 label for each source.

Name of Source: \_\_\_\_\_

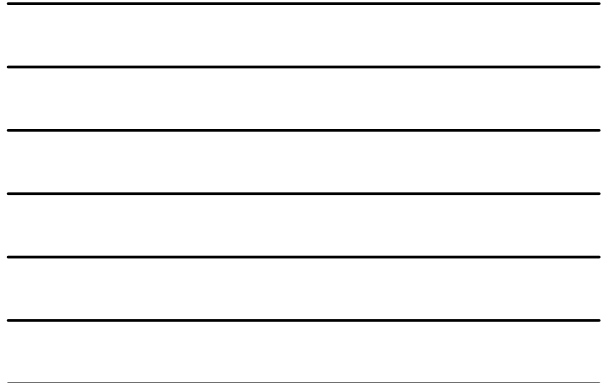
List each hazardous substance released from the source identified above and provide the following information. Indicate with check appropriate information in rows (2).

Name of Hazardous Substance	CAS#	Quantity		Number of Days Released	Total Quantity Released in Previous Year (lb, kg, or metric ton)	Period of the Report
		Weight (lb, kg, or metric ton)	Volume (gals, cu ft, or cu yd)			

List each mixture released from the unit or identified above and provide the following information. Indicate with check appropriate information in rows (3).

Name of Mixture	CAS#	Composition				Number of Days Released	Total Quantity Released in Previous Year (lb, kg, or metric ton)	Period of the Report
		Weight (lb, kg, or metric ton)	Volume (gals, cu ft, or cu yd)	Volume (gals, cu ft, or cu yd)	Volume (gals, cu ft, or cu yd)			

EPA Form 3100-10: Continuous Release Reporting Form Page \_\_\_\_\_



## Appendix Draft Continuous Release Reporting Forms - General

**EXAMPLES OF REPORTING SINGLE HAZARDOUS SUBSTANCES**

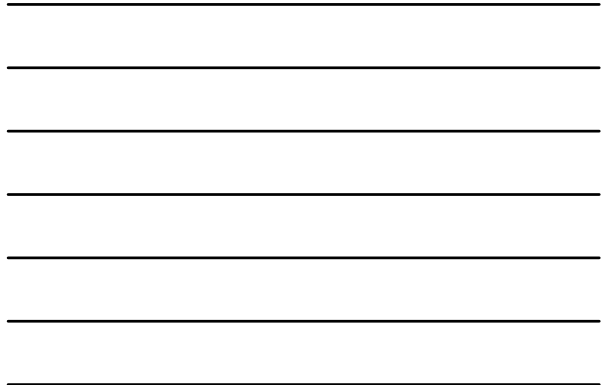
In this example, your facility has a storage tank that is regularly emptied in a continuous release. The hazardous substance released from the identified source (Stock #4) is an inorganic chloride (74733) and is liquid at room temperature (75007).

Name of Hazardous Substance	CAS#	Weight (lb, kg, or metric ton)	Volume (gals, cu ft, or cu yd)	Number of Days Released	Total Quantity Released in Previous Year (lb, kg, or metric ton)	Period of the Report
Inorganic Chloride (74733)	74733	3,940 lbs	1.7 gals	1	11,500 lbs	Report: Year
Inorganic Fluoride (507)	766493	4,000 lbs	1.7	1	11,000	All 12 months

**EXAMPLE OF REPORTING A MIXTURE**

In this example, your facility wishes to report the identity and quantity of hazardous substances that consist of each component of the mixture for hazardous substances and total hazardous mixture for weight. For example, for the releasing of liquid, you can provide the following information about the composition: whether solids, volatile, and all components.

Name of Mixture	CAS#	Quantity		Number of Days Released	Total Quantity Released in Previous Year (lb, kg, or metric ton)	Period of the Report
		Weight (lb, kg, or metric ton)	Volume (gals, cu ft, or cu yd)			
2		580 lbs	10%	10%	0.9%	
2		7528	10%	10%	0.9%	
2		10720	10%	10%	0.9%	
2		83378	20%	20%	0.9%	



## Appendix Draft Continuous Release Reporting Forms - General

**INSTRUCTIONS**  
**SECTION II: SOURCE INFORMATION**

**Part C:**

**CBERS# Number:**      This CBERS# number will become the identifier for your facility. Your CBERS# number will be assigned to the facility you are reporting on. This CBERS# number will be used to identify you in this CBERS# database.

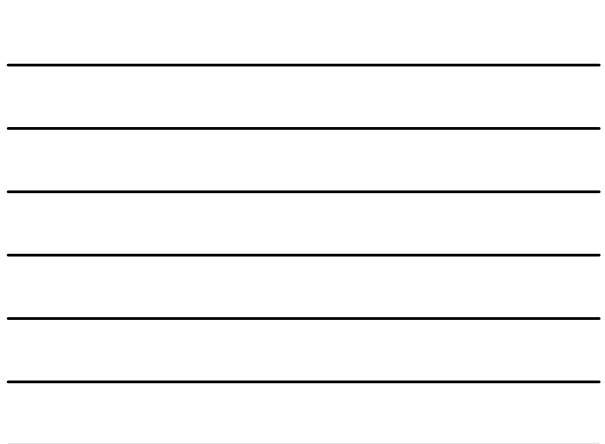
**Part C: Identity and Quantity of Each Hazardous Substance or Mixture Released**

List each hazardous substance released from the source identified above and provide the following information. Indicate with check appropriate information in rows (2). This information is required to determine the normal range of the release. This helps establish the normal range by using engineering estimates of releases under normal operating conditions, knowledge of the operating history of the facility, experience with engineering professional judgments, or any other method that has a sound technical basis. EPA will use the upper bound of the normal range to determine if there is human health and/or environmental risk. The hazardous substance release is a single hazardous substance or a mixture of hazardous substances.

List each mixture released from the unit or identified above and provide the following information. Indicate with check appropriate information in rows (3). This information is required to determine the normal range of the release. This helps establish the normal range by using engineering estimates of releases under normal operating conditions, knowledge of the operating history of the facility, experience with engineering professional judgments, or any other method that has a sound technical basis. EPA will use the upper bound of the normal range to determine if there is human health and/or environmental risk. The hazardous substance release is a single hazardous substance or a mixture of hazardous substances.

For each mixture, please list the following information:

- 1. Name of the hazardous substance (see Part C: Identification and Inventory of Hazardous Materials, Appendix C: Reporting Requirements for more information on how to identify hazardous substances)
- 2. List the chemical composition of the mixture (provide the chemical name of the major component, including the chemical formula, the CAS number, and the weight percentage of each component)
- 3. List the physical and chemical properties of the mixture (provide the boiling point, melting point, vapor pressure, and other relevant properties)
- 4. List the hazard classification of the mixture (provide the GHS hazard statements and pictograms for the mixture)
- 5. List the hazard identification of the mixture (provide the hazard category and hazard level for the mixture)
- 6. List the hazard communication of the mixture (provide the hazard communication information for the mixture)
- 7. List the hazard management of the mixture (provide the hazard management information for the mixture)
- 8. List the hazard prevention of the mixture (provide the hazard prevention information for the mixture)
- 9. List the hazard response of the mixture (provide the hazard response information for the mixture)



### Appendix Draft Continuous Release Reporting Forms - General

**Continuation Release Reporting Form**

**SECTION II: REFERENCE INFORMATION**

Calculation of the IIR Range

Part A - Farm Information

Part B - Population Information

Part C - Release Information

**SECTION III: INSTRUCTIONS**

4. IIR Range

5. IIR Range

6. IIR Range

7. This method for calculating the IIR range for the location will be used to calculate the IIR range for all releases from this location.

**SECTION II: REFERENCE INFORMATION**

4. IIR Range

5. IIR Range

6. IIR Range

7. This method for calculating the IIR range for the location will be used to calculate the IIR range for all releases from this location.

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### Appendix Draft Continuous Release Reporting Forms - Farms

**CHECKLIST OF INFORMATION REQUIRED IN INITIAL AND FOLLOWUP WRITTEN REPORTS**

Part A - General Information

Part B - Animal Welfare Release Information

Part C - Release Information

**SECTION II: INSTRUCTIONS**

1. IIR Range

2. IIR Range

3. IIR Range

4. IIR Range

5. IIR Range

**SECTION II: INSTRUCTIONS**

1. IIR Range

2. IIR Range

3. IIR Range

4. IIR Range

5. IIR Range

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### Appendix Draft Continuous Release Reporting Forms - Farms

**Continuation Release Reporting Form**

**SECTION II: REFERENCE INFORMATION**

Part A - Farm Information

Part B - Population Information

Part C - Release Information

**SECTION III: INSTRUCTIONS**

1. IIR Range

2. IIR Range

3. IIR Range

4. IIR Range

5. IIR Range

**SECTION II: REFERENCE INFORMATION**

1. IIR Range

2. IIR Range

3. IIR Range

4. IIR Range

5. IIR Range

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### Appendix

Draft Continuous Release Reporting Forms - Farms

**Continuum Release Reporting By Farm**  
**SECTION B: ANIMAL WASTE SOURCE INFORMATION**

Part B Specific Information on the Animal Waste Source

Name of Animal Waste Source: \_\_\_\_\_

Check One:  Is this source a confined animal feeding operation?  Is this source a feedlot?  Is this source a slaughterhouse?

Number of Animal Waste Sources on this Farm: \_\_\_\_\_

Is this source a confined animal feeding operation?  Yes  No

Is this source a feedlot?  Yes  No

Is this source a slaughterhouse?  Yes  No

**INSTRUCTIONS**  
**SECTION B: ANIMAL WASTE SOURCE INFORMATION (Part B)**

The CAFRS system is designed to collect information on animal waste sources that are sources of animal waste that is discharged to surface waters. This information is used to assess the potential for animal waste to contribute to water quality degradation. This information is used to assess the potential for animal waste to contribute to water quality degradation.

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### Appendix

Draft Continuous Release Reporting Forms - Farms

**Continuum Release Reporting By Farm**  
**SECTION B: ANIMAL WASTE SOURCE INFORMATION**

Part B Specific Information on the Animal Waste Source

Name of Animal Waste Source: \_\_\_\_\_

Check One:  Is this source a confined animal feeding operation?  Is this source a feedlot?  Is this source a slaughterhouse?

Number of Animal Waste Sources on this Farm: \_\_\_\_\_

Is this source a confined animal feeding operation?  Yes  No

Is this source a feedlot?  Yes  No

Is this source a slaughterhouse?  Yes  No

**INSTRUCTIONS**  
**SECTION B: ANIMAL WASTE SOURCE INFORMATION (Part B)**

The CAFRS system is designed to collect information on animal waste sources that are sources of animal waste that is discharged to surface waters. This information is used to assess the potential for animal waste to contribute to water quality degradation. This information is used to assess the potential for animal waste to contribute to water quality degradation.

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### Appendix

Draft Continuous Release Reporting Forms - Farms

**Continuum Release Reporting By Farm**  
**SECTION B: ANIMAL WASTE SOURCE INFORMATION**

Part B Specific Information on the Animal Waste Source

Name of Animal Waste Source: \_\_\_\_\_

Check One:  Is this source a confined animal feeding operation?  Is this source a feedlot?  Is this source a slaughterhouse?

Number of Animal Waste Sources on this Farm: \_\_\_\_\_

Is this source a confined animal feeding operation?  Yes  No

Is this source a feedlot?  Yes  No

Is this source a slaughterhouse?  Yes  No

**INSTRUCTIONS**  
**SECTION B: ANIMAL WASTE SOURCE INFORMATION (Part B)**

The CAFRS system is designed to collect information on animal waste sources that are sources of animal waste that is discharged to surface waters. This information is used to assess the potential for animal waste to contribute to water quality degradation. This information is used to assess the potential for animal waste to contribute to water quality degradation.

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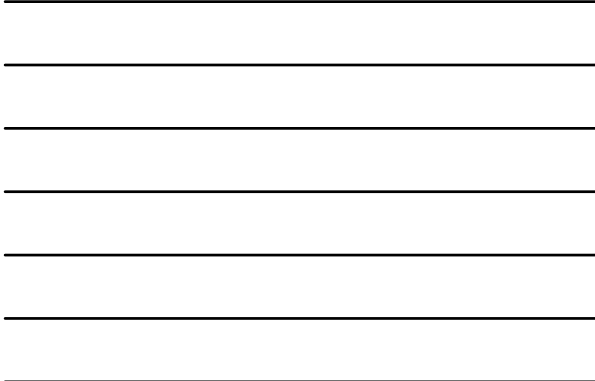
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### Appendix Draft Continuous Release Reporting Forms - Farms

Form Approved by EPA	
SECTION A: GENERAL INFORMATION	
Continuation Release Reporting for Farms	
Calculation of the 100 Tons	
SECTION B: SUBSTANCE INFORMATION	
SECTION C: SUBSTANCE INFORMATION	



### Appendix Draft Continuous Release Reporting Forms - Farms

Form Approved by EPA	
SECTION A: GENERAL INFORMATION	
Continuation Release Reporting for Farms	
Calculation of the 100 Tons	
SECTION B: SUBSTANCE INFORMATION	
SECTION C: SUBSTANCE INFORMATION	

