

# CERCLA/Superfund Section 103 Continuous Release Reports: U.S. Environmental Protection Agency Technical Amendment



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

11/17/2021

The United States Environmental Protection Agency (“EPA”) published a final rule in the November 12th Federal Register making a technical amendment related to Comprehensive Environmental Response Compensation and Liability Act (“CERCLA or Superfund”) Section 103 Continuous Release Reports. See 86 Fed. Reg. 62736.

EPA is modifying the location for submitting Continuous Release Reports.

Section 103(f)(2) of CERCLA provides a reduced reporting requirement for continuous releases of hazardous substances that exceed the reportable quantity. A continuous release is defined as a release of a hazardous substance that is continuous and stable in quantity and rate. EPA interprets “continuous” to mean a release that occurs without interruption or abatement that is routine, anticipated, and intermittent during normal operation or treatment process. “Stable in quantity and rate” means predictable and regular in amount and rate of emission.

A continuous release may be a release that occurs 24 hours a day.

An example previously cited by EPA is a radon release from a stockpile. Another cited example is a release that occurs during a certain process. This might include a benzene released during the production of polymers. Another example might be a release of a hazardous substance from a tank vent each time the tank filled.

EPA in the November 12th Federal Register Notice states it is changing the submission location for Continuous Release Reports to require that they be submitted to the appropriate EPA Headquarters office. Such reports are currently submitted to respective EPA Regional Offices.

The stated purpose of the change is to centralize the collection of the Continuous Release Reports. Further, EPA states that follow-up notifications (i.e., first anniversary reports) should also be submitted to the appropriate EPA Headquarters office.

The contents or other requirements of the submission are unchanged.

A copy of the Federal Register Notice can be downloaded [here](#).