

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

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III. Preamble for Reportable Quantity Adjustments for Carbamates and Carbamate-Related Hazardous Waste Streams; Reportable Quantity Adjustment for Inorganic Chemical Manufacturing Processes Waste (K178)

A. Overview

1. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, gives the Federal government broad authority to respond to releases or threats of releases of hazardous substances from vessels and facilities. The term "hazardous substance" is defined in section 101(14) of CERCLA by referencing various Federal environmental statutes. For example, the term includes "any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act * * *," also known as the Resource Conservation and Recovery Act (RCRA).

Section 102(b) of CERCLA establishes reportable quantities (RQs) of one pound ("statutory RQs") for releases of most CERCLA hazardous substances. Under section 102(a) of CERCLA, the Administrator of EPA has the authority to adjust these RQs by regulation ("adjusted RQs").

Under CERCLA section 103(a), the person in charge of a vessel or facility from which a CERCLA hazardous substance has been released in a quantity that equals or exceeds its RQ must immediately notify the National Response Center (NRC) of the release. A release is reportable if an RQ or more is released within a 24-hour period (see 40 CFR 302.6). This reporting requirement serves as a trigger for informing the government of a release so that Federal personnel can evaluate the need for a Federal removal or remedial action and undertake any necessary action in a timely fashion.

In addition to the reporting requirements under CERCLA section 103, section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11001 *et seq.*, requires owners or operators of certain facilities to report releases of extremely hazardous substances (EHSs) and CERCLA hazardous substances to State and local authorities (see 40 CFR 355.40). After the release of a hazardous substance in a quantity equal to or greater than its RQ, facility owners or operators must immediately notify the community emergency coordinator for each local

emergency planning committee for any area likely to be affected by the release, and the State emergency response commission of any State likely to be affected by the release.

2. Does This Proposed Rule Apply to Me?

The person in charge of a vessel or facility from which a CERCLA hazardous substance is released in a quantity that equals or exceeds its RQ must notify appropriate authorities who can evaluate whether a government response is needed. Therefore, this proposed rule may affect the following entities: (1) Persons in charge of vessels or facilities that may release CERCLA hazardous substances (as identified in this proposal) and owners or operators of facilities that may release EHSs or CERCLA hazardous substances (as identified in this proposal) into the environment; and (2) entities that plan for or respond to such releases.

3. What Types of Releases Are Exempt From the Reporting Requirements?

In determining whether you must report the release of a carbamate that equals or exceeds its RQ, it should be noted that section 103(e) of CERCLA exempts from the notification provisions of CERCLA section 103(a): "* * * the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or * * * the handling and storage of such a pesticide product by an agricultural producer." The legislative history of CERCLA suggests that Congress intended this exemption to apply to the application of a pesticide generally in accordance with the pesticide's purpose.

In addition, if a release of a CERCLA hazardous substance meets the criteria under CERCLA section 103(e) for an exemption from reporting to the NRC, the same release is also exempt from reporting to State and local authorities under EPCRA section 304. In the context of today's proposed rule, EPA believes that the CERCLA section 103(e) reporting exemption provides a potential source of reporting relief under both CERCLA and EPCRA for certain releases of carbamate pesticides.

As EPA previously noted in an April 4, 1985 final rule (50 FR 13464), we do not consider the spill of a pesticide to be an application of the pesticide, nor do we consider a pesticide spill to be in accordance with the pesticide's purpose. Consequently, spills of a carbamate pesticide that equal or exceed an RQ must be reported to the NRC under CERCLA section 103 and to the