



As Hurricane Season Begins: Reminders to Minimize and Report Releases

Unlike some other natural disasters, the onset of a hurricane can allow early preparations to minimize its effect on a facility. Owners/operators typically take prudent preventive action by safely shutting down processes, or otherwise operate under emergency operations procedures, before hurricane force winds and associated storm-surge flooding can damage facilities and cause uncontrolled releases of hazardous chemicals.

For complex industrial processes, shutdown operations require special care beyond normal operations. Process shutdown often involves numerous simultaneous activities and rapidly changing conditions. Of particular concern are the hazards associated with the additional human/process interactions as process parameters may be in unusual ranges and operators may have less experience controlling plant conditions during a shutdown.

Below are some reminders to help minimize chemical releases during process shutdown operations and if reporting procedures when releases occur.

Release Minimization Requirements - The Clean Air Act establishes that owners/operators have a general duty to prevent accidental releases of certain listed substances and other extremely hazardous substances and to minimize the consequences of accidental releases which do occur (see 40 C.F.R. Section 68.130 for the list of substances). This duty involves assessing the potential hazards of such releases, designing and maintaining a safe facility, and taking necessary steps to prevent accidental releases and minimize the consequences.

Facilities subject to the national emission standards for hazardous air pollutants are required to operate and maintain any affected source in a manner consistent with

safety and good air pollution control practices at all times, including periods of startup, shutdown and malfunction.

Reporting Requirements- The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) requires facilities to immediately notify the National Response Center (NRC) of any release of a hazardous substance in an amount equal to or greater than the reportable quantity for that substance. The Emergency Planning and Community Right-to-Know Act (EPCRA) also requires owners/operators to immediately notify both their respective State Emergency Response Commissions and Local Emergency Planning Committees whenever their facility has released a reportable amount of a CERCLA hazardous substance or an EPCRA extremely hazardous substance.

Federally Permitted Releases to Air- The federally permitted release exemption for release reporting requirements may apply to certain air emissions when such emissions are subject to a permit or control regulation. Permits and regulations usually do not control or limit unanticipated releases such as accidents or malfunctions. For that reason, such releases generally do not qualify for the CERCLA federally permitted release exemption.

Stationary sources subject to regulations that limit their total annual emissions should generally report their releases that are caused by accidents, malfunctions, unanticipated releases and other releases that are not part of the facility's normal operations. Additionally, if a release of a hazardous substance is not subject to emission limits or other emission controls during the startup or shutdown of an operation, then such uncontrolled release usually does not qualify for the federally permitted release exemption and the owner/operator normally would have to

comply with CERCLA and EPCRA notification requirements.

In all cases, each facility is responsible for determining whether its releases qualify for the federally permitted notification exemption.

Continuous Releases- Continuous release reporting refers to the provisions under CERCLA that allow certain facilities the qualified exemption of release notification requirements. In general, a continuous release is a release that is “stable in quantity and rate” (e.g., occurs without interruption or abatement, or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes). Shutdown operations associated with hazardous weather conditions are usually considered random, non-routine events. Thus, releases caused by hazardous weather induced process shutdown typically cannot be reported as amendments/updates to prior continuous release reports.

Operate Safely and Report Timely- Owners/operators should at all times operate and maintain safe facilities. EPA encourages all industry sectors to review their operational events during shutdown operations related to previous hazardous weather events, and make appropriate administrative/procedural, operational/process equipment and hardware/software safety improvements.

Emergency contact information for all facilities should be updated and reported to Local Emergency Planning Committees for local response purposes. In addition, facilities subject to the CAA Section 112 (r)(7) Risk Management Program must update the name, title, telephone number, 24-hour telephone number, and the e-mail address of the emergency contact in their Risk Management Plans within one month of any change. Owners/operators should consider the operability issues for

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land based or cell phone services during hazardous weather events. If the probability of operational failure is high, emergency contact numbers should be satellite service based.

Facilities that experience process shutdown-related or hazardous weather-induced releases, spills or discharges into the environment should contact the NRC and other appropriate entities immediately upon having constructive knowledge that such releases, spills or discharges exceed applicable reportable quantities. The NRC serves as the Federal Government’s point of contact for reporting all oil, chemical, radiological and biological releases in the United States ***and can be contacted at (800) 424-8802 or (202) 267-2675.*** The information provided to the NRC is critical to EPA’s ability to coordinate with other agencies and stakeholders to determine what actions are necessary, if any, to protect human health and the environment.

EPA Enforcement- EPA has and will continue to enforce against unsafe operation and failure to make timely notifications. In 1999, EPA issued and settled complaints for a total of \$168,000 in fines against four facilities in Puerto Rico for their failure to take appropriate action before and during the 1998 Hurricane Georges.

The cases included a 16,000 gallon spill of fuel oil, a 1,700 gallon caustic soda spill, the loss of nearly 50 drums of various chemical drums containing hazardous substances, and the loss of a 2,000 pound chlorine cylinder. In each case, there was a failure to timely report the incidents to the appropriate authorities. There were also findings of environmental damage and unsafe operations, such as the failure to maintain an accurate inventory before the event, failure to obtain a reliable inventory after the event, and failure to ensure correct operation of a secondary containment dike.