

which any hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of such department, agency or instrumentality must include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

[60 FR 33915, June 29, 1995]

§ 373.2 Applicability.

(a) Except as otherwise provided in this section, the notice required by 40 CFR 373.1 applies whenever the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more, known to have been released, or disposed of.

(b) The notice required by 40 CFR 373.1 for the storage for one year or more of hazardous substances applies only when hazardous substances are or have been stored in quantities greater than or equal to 1000 kilograms or the hazardous substance's CERCLA reportable quantity found at 40 CFR 302.4, whichever is greater. Hazardous substances that are also listed under 40 CFR 261.30 as acutely hazardous wastes, and that are stored for one year or more, are subject to the notice requirement when stored in quantities greater than or equal to one kilogram.

(c) The notice required by 40 CFR 373.1 for the known release of hazardous substances applies only when hazardous substances are or have been released in quantities greater than or equal to the substance's CERCLA reportable quantity found at 40 CFR 302.4.

§ 373.3 Content of notice.

The notice required by 40 CFR 373.1 must contain the following information:

(a) The name of the hazardous substance; the Chemical Abstracts Services Registry Number (CASRN) where applicable; the regulatory synonym for the hazardous substance, as listed in 40 CFR 302.4, where applicable; the RCRA hazardous waste number specified in 40

CFR 261.30, where applicable; the quantity in kilograms and pounds of the hazardous substance that has been stored for one year or more, or known to have been released, or disposed of, on the property, and the date(s) that such storage, release, or disposal took place.

(b) The following statement, prominently displayed: "The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or "Superfund") 42 U.S.C. section 9620(h)."

§ 373.4 Definitions.

For the purposes of implementing this regulation, the following definitions apply:

(a) *Hazardous substances* means that group of substances defined as hazardous under CERCLA 101(14), and that appear at 40 CFR 302.4.

(b) *Storage* means the holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.

(c) *Release* is defined as specified by CERCLA 101(22).

(d) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

PART 374—PRIOR NOTICE OF CITIZEN SUITS

Sec.	
374.1	Purpose.
374.2	Service of notice.
374.3	Contents of notice.
374.4	Timing of notice.
374.5	Copy of complaint.
374.6	Addresses.

AUTHORITY: 42 U.S.C. 9659.

SOURCE: 57 FR 55040, Nov. 23, 1992, unless otherwise noted.

§ 374.1

40 CFR Ch. I (7-1-06 Edition)

§ 374.1 Purpose.

Section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), authorizes civil actions by any person to enforce the Act. These civil actions may be brought against any person (including the United States, and any other governmental instrumentality or agency, to the extent permitted by the Eleventh Amendment to the Constitution), that is alleged to become effective pursuant to the Act (including any provision of an agreement under section 120 of the Act, relating to Federal facilities); and against the President or any other officer of the United States (including the Administrator of the Environmental Protection Agency and the Administrator of the Agency for Toxic Substances and Disease Registry) where there is alleged a failure to perform any act or duty under this Act, which is not discretionary with the President or such other officer, including an act or duty under section 120 of the Act (relating to Federal facilities), but not including any act or duty under section 311 of the Act (relating to research, development, and demonstration). These civil actions under section 310 of the Act are to be filed in accordance with the rules of the district court in which the action is instituted. The purpose of this part is to prescribe procedures governing the notice requirements of subsections (d) and (e) of section 310 of the Act as a prerequisite to the commencement of such actions.

§ 374.2 Service of notice.

(a) *Violation of standard, regulation, condition, requirement, or order.* Notice of intent to file suit under subsection 310(a)(1) of the Act shall be served by personal service upon, or by certified mail, return receipt requested, addressed to the alleged violator of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act in the following manner:

(1) If the alleged violator is a private individual or corporation, notice shall be served by personal service upon, or by certified mail, return receipt re-

quested, addressed to the person alleged to be in violation. If the alleged violator is a corporation, a copy of the notice shall also be served by personal service upon or by certified mail, return receipt requested, addressed to the registered agent, if any, of that corporation in the State in which the violation is alleged to have occurred. A copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the United States Attorney General; to the Attorney General of the State in which the violation is alleged to have occurred; and to the head of the Federal agency with delegated responsibility for the CERCLA provision allegedly violated, pursuant to Executive Order 12580, 3 CFR, 1987 Comp., p. 193, as amended by Executive Order 12777, 3 CFR, 1991 Comp., p. 351. If the Environmental Protection Agency has responsibility for the CERCLA provision allegedly violated, then a copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the Administrator of the Environmental Protection Agency, and to the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred. A list of addresses that may be useful in providing notice of citizen suits is provided at § 374.6. Note that these addresses are subject to change and must be verified prior to use.

(2) If the alleged violator is a State or local agency, notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the head of that agency. A copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the United States Attorney General; to the Attorney General of the State in which the violation is alleged to have occurred; and to the head of the Federal agency with delegated responsibility, pursuant to Executive Order 12580, for the CERCLA provision allegedly violated. If the Environmental Protection Agency has the delegated responsibility for the CERCLA provision allegedly violated, then a copy of the notice shall be served by