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4 April 2025

CEMP-CE

**Environmental Quality**  
**Spill Reporting Procedures for U.S. Army Corps of Engineers Hazardous, Toxic,  
and Radioactive Waste Projects**

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FOR THE COMMANDER:

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Chief of Staff

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**Purpose.** This pamphlet supports U.S. Army Corps of Engineers policy and AR 200-1 for the prevention, control, reporting, disposal, and contingency planning for spills of oil and hazardous substances in a manner that protects the environment and public health. It serves as the U.S. Army Corps of Engineers guideline for internal spill reporting procedures. This revision provides updated references/citations, hazardous chemical reporting requirements, and clarification of spill reporting responsibilities.

**Applicability.** This pamphlet applies to US Army Corps of Engineers commands having responsibility for Hazardous, Toxic, and Radioactive Waste program activities and projects, including Formerly Used Defense Sites, Formerly Utilized Sites Remedial Action Program, Base Realignment & Closure, Installation Restoration Program, Support for Others, and the Environmental Protection Agency's Superfund program.

**Distribution Statement.** Approved for public release; distribution is unlimited.

**Proponent and Exception Authority.** The proponent of this pamphlet is the CEMP-CE. The proponent has the authority to approve exceptions or waivers to this pamphlet that are consistent with controlling law and regulations. Only the proponent of a publication or form may modify it by officially revising or rescinding it.

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\*This pamphlet supersedes EP 200-1-23, dated 31 January 2012.

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# ***SUMMARY of CHANGE***

EP 200-1-23

Spill Reporting Procedures for U.S. Army Corps of Engineers Hazardous, Toxic, and Radioactive Waste Projects

This revision, dated 4 April 2025:

- Provides updated references/citations, hazardous chemical reporting requirements, and clarification of spill reporting responsibilities.
- Identifies where the Environmental Protection Plan and the spill control notification requirements may be found in the Unified Facilities Guide Specification, Temporary Environmental Controls, Section 01 57 19.
- Explains how the Districts may develop and implement internal spill coordination and notification procedures using the lists in appendices C and D.
- Updates engineering pamphlet in the application of 40 Code of Federal Regulations 370 – Hazardous Chemical Reporting: Community Right-to-Know for gasoline and diesel fuel storage.
- Added a clarification that U.S. Army Corps of Engineers management and construction personnel will coordinate spill reporting procedures and responsibilities with the relevant parties, such as contractors and installations, before any field activities.
- Added clarification that when a contractor is assigned spill reporting responsibilities through the contract, they are expected to develop a spill reporting plan and designate an employee responsible for reporting spills, in accordance with contract requirements.
- Updated the Executive Orders and regulations throughout the engineering pamphlet.
- Updated references in appendix A.

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## **Chapter 1**

### **Introduction**

#### **1–1. Purpose**

This pamphlet supports U.S. Army Corps of Engineers (USACE) policy and AR 200-1 for the prevention, control, reporting, disposal, and contingency planning for spills of oil and hazardous substances in a manner that protects the environment and public health. It serves as the USACE guideline for internal spill reporting procedures. This revision provides updated references/citations, hazardous chemical reporting requirements, and clarification of spill reporting responsibilities.

#### **1–2. Distribution statement**

Approved for public release; distribution is unlimited.

#### **1–3. References**

See appendix A.

#### **1–4. Records Management (Recordkeeping) Requirements**

The records management requirement for all record numbers, associated forms, and reports required by this publication are addressed in the Records Retention Schedule – Army (RRS-A). Detailed information for all related record numbers is located in the Army Records Information Management System (ARIMS)/RRS-A at <https://www.arims.army.mil>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS-A, see DA Pam 25-403 for guidance.

#### **1–5. Associated Publications**

Policy associated with this pamphlet is found in ER 200-3-1, ER 200-1-4, and ER 1140-1-211.

#### **1–6. Compliance**

The EP identifies and establishes guidance for compliance with spill reporting procedures by USACE elements, and their contractors responsible for executing HTRW activities, including investigation, design, construction, and other related activities at HTRW sites. The EP focuses on reporting and notification of Federal, state, and local officials required by Federal statutes and regulations. The spill reporting and emergency release notification requirements provided in this EP will also assist USACE commands involved with military-funded facilities and activities according to AR 200-1.

a. The scope of this pamphlet was limited by HQUSACE to HTRW remediations, but certain aspects of Military Munitions Response Program (MMRP) responses might have the potential for spills of regulated substances. The spill reporting procedures established within this pamphlet would be appropriate to consider for applicability when planning and executing MMRP projects. The personnel referenced for HTRW projects are typically not identified in the same way for MMRP projects, so an appropriate USACE employee would need to be selected and designated as the spill response coordinator. Spill response actions for chemical warfare material (CWM) is beyond the scope of this document. There are special considerations for munition responses involving CWM. The CWM Design Center located at the Engineering and Support Center, Huntsville, AL should be contacted with all questions pertaining to CWM at [OEDirectorate@usace.army.mil](mailto:OEDirectorate@usace.army.mil) or (256) 895-1371.

b. Military construction (non-HTRW) is not a part of the scope for this document; however, this document could assist a contractor who is required to prepare a spill control plan as a part of the Environmental Protection Plan for military construction projects. The Environmental Protection Plan, found in paragraph 1.7 of the Unified Facilities Guide Specification (UFGS), Temporary Environmental Controls, Section 01 57 19, has notification requirements that the contractor must include in the spill control plan. The spill control plan will include the procedures, instructions, and reports to be used in the event of an unforeseen spill of a substance regulated under Federal law or regulations (such as 40 Code of Federal Regulations (CFR) 68, 40 CFR 302, 40 CFR 355) or regulated under state or local laws and regulations.

c. The USACE spill reporting requirements would not pertain to properties that are privately owned such as Formerly Used Defense Sites (FUDS) where USACE and their contractors have not undertaken any on-site activities (such as site investigations, removals, or remedial action). However, USACE employees and contractors should report any observed spills to the landowner so the landowner can promptly report and address the spill. The landowner would be responsible for notification of spills or releases on their property that were not related to a current government activity.

d. Where applicability of a requirement (such as a statute or regulation) is in question, specifically regarding the Clean Water Act (CWA) or Oil Pollution Act (OPA), the District Office of Counsel will be immediately consulted prior to any spill reporting. Likewise, Office of Counsel should be consulted for all questions related to the applicability of state or local requirements pertaining to any spill reporting requirement.

e. The discussion of applicable regulations and legal requirements in this document is only meant to make the reader aware of some of the many requirements that may potentially apply to spill reporting. This EP is not intended to stand in place of any applicable law, regulation, or standard and may not reflect the current standards. Before any action is taken, consult with Office of Counsel for current applicable laws, regulations, or standards to ensure compliance in a specific circumstance(s). USACE will comply with all applicable requirements.

*f.* The Project Management district will provide general legal services in support of FUDS and Formerly Utilized Sites Remedial Action Program (FUSRAP). For FUDS and FUSRAP projects, the determination of the laws and regulations governing environmental aspects for any specific project will be made in consultation with the Office of Counsel. In the event of any dispute with a regulator over the governing laws on a FUDS or FUSRAP project, the district providing general legal services will coordinate with Division and Headquarters Offices of Counsel. For other work performed by USACE under a different program or authority (such as Base Realignment and Closure (BRAC), Installation Restoration Program (IRP), and Work for Others), the appropriate legal representative of the sponsoring agency will be the lead counsel for all legal matters, although the USACE Office of Counsel will be available for consultation.

## **1-7. Scope and Application**

*a.* There are spill notification and emergency release reporting requirements under several Federal statutes, including, but not limited to, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Federal Water Pollution Control Act, commonly referred to as the CWA, Emergency Planning and Community Right to Know Act (EPCRA), and the Hazardous Material Transportation Act (HMTA). In addition, the CERCLA statute expands the notification requirements by defining hazardous substances to include CWA hazardous substances and toxic pollutants, Resource Conservation and Recovery Act (RCRA) hazardous wastes, Clean Air Act (CAA) hazardous air pollutants, and TSCA imminently hazardous chemical substances.

*b.* Due to the many different environmental regulations that require spill reporting and release notification to regulatory agencies, requirements may be confusing. This EP identifies the major reporting requirements based on Federal statutes and regulations and delineates reporting responsibilities but as previously stated, does not replace consultation with Office of Counsel. The EP will discuss spill reporting and emergency release notifications to state and local agencies only when required by Federal statutes or regulations but will not address any additional state statutes or regulations beyond those Federal requirements. As spill reporting is required under various environmental statutes, it is imperative that USACE personnel and their contractors are knowledgeable about spill notification and emergency release reporting requirements, as there may be multiple release reporting requirements under separate statutes or regulations that apply to a single release.

## Chapter 2

### Spill Notification and Emergency Release Reporting Requirements

#### 2-1. Introduction

There are spill notification and release reporting requirements under several Federal statutes, including, but not limited to CERCLA, CWA, EPCRA, and the HMTA. The CERCLA statute [42 USC § 9601 et seq.] expands the notification and reporting requirements by defining hazardous substances to include CWA hazardous substances and toxic pollutants, RCRA hazardous wastes, CAA hazardous air pollutants, and TSCA imminently hazardous chemical substances. Promulgated state statutes and regulations must also be consulted to confirm if there are state reporting/notification requirements more stringent than Federal Requirements. It is important to coordinate this search of the state statutes and regulations with the District Counsel office, as not all state requirements are applicable to Federal agencies. Tables 2-1 through 2-4 summarize the Federal, state, and local notification requirements based on the Federal statutes and regulations. However, this EP does not identify any reporting requirements based on state and local statutes that supplement, or are in addition to, the reporting requirements established by Federal statute or regulation.

*a.* Designation of spill reporting and emergency release notification responsibility. Construction projects typically require that the contractor develop a spill control plan that includes the procedures, instructions, and reports to be used in the event of a spill of a substance regulated by 40 CFR 68, 40 CFR 355, 40 CFR 112 or under state or local laws and regulations (See UFGS Temporary Environmental Controls - Section 01 57 19). The spill control plan supplements the requirements of EM 385-1-1 for emergency planning. An essential element of this plan is to designate an individual who will be responsible for immediately reporting any spills or releases of a hazardous substance to the Contracting Officer or designated construction representative.

*b.* The Contracting Officer or designated construction representative, in consultation with the installation environmental coordinator (if applicable), must determine if the contractor, USACE, or the installation environmental coordinator will be responsible for notifying Federal, state, and local officials. It is important to note that some USACE customers (such as Air Force or Army installation) may require the initial report or notification be made to their fire department or installation environmental coordinator, or both, and the installation will make all necessary reports or notifications to the appropriate Federal, state, and local agencies.



c. USACE will designate the spill reporting responsibilities for HTRW projects on response actions where USACE is the lead Federal agency (such as FUDS, and FUSRAP). The USACE spill response coordinator will depend on the site-specific situation and HTRW response phase. The USACE spill response coordinator might be the USACE contracting officer, construction representative, project manager, chemist, geologist, industrial hygienist, or District emergency coordinator. The duties of spill reporting may be delegated to the HTRW contractor, or it might already be established by regulation (Department of Transportation [DOT] carrier in physical possession of regulated substance). Chapter 3 of this EP will discuss reporting responsibility for the different USACE HTRW activities to ensure there is a responsible person to notify all necessary Federal, state, and local officials.

d. The USACE spill response coordinator, spill response teams, and designated representative or contractor (delegated), will notify and coordinate with Federal, state, and local agencies as prescribed by applicable laws and regulations. In the event of a release or discharge of oil or a hazardous substance, at or in excess of, its reportable quantity (RQ), notification to the National Response Center (NRC) is also required. USACE will be responsible for its own internal agency coordination in the event of a spill or release of a reportable quantity of oil, hazardous substance, or Extremely Hazardous Substance (EHS). The internal coordination and notification procedures will be developed by a designated person from the District Project Management, Engineering, Construction, or Operations Division as determined appropriate by each District. The internal coordination and notification procedures may utilize a portion of the information included in appendices C and D to develop the procedures. The USACE HTRW construction representative or a District field investigation team member, depending on the phase of the response action, would initiate the USACE internal call down process after receiving notification from the HTRW contractor or observing a RQ of a spill or release. Internal USACE coordination and call down procedures should be developed to incorporate some or all the following organizations.

- (1) Immediate supervisor and appropriate District command channels.
- (2) Readiness Management Office in District and Divisions.
- (3) Environmental Compliance Coordinator (if applicable).
- (4) Safety Office.
- (5) Public Affairs Office.
- (6) Office of Counsel (needs to be consulted).
- (7) District Executive Office.

e. Where state and local laws and regulations differ from Federal requirements, USACE facilities will comply with all applicable requirements. The District Office of Counsel will be immediately consulted about all questions on the applicability of Federal, state, and local laws and regulations, regarding the CWA or OPA, prior to any spill reporting. State and local provisions should be incorporated into call down procedures and any existing Spill Prevention, Control, and Countermeasure Plan or equivalent.

f. Where oil or a hazardous substance has been spilled in a quantity that does not equal or exceed the Federal reportable quantity, USACE facilities may still have to report the spill to state authorities. This should be coordinated with the District Office of Counsel, especially in situations where state regulations may be more stringent than Federal. In addition, DOT regulations (49 CFR 171.16) have additional incident reporting requirements for a release of any amount of hazardous waste or an unintentional release of a hazardous material. The DOT reporting requirements are discussed in paragraph 2-2g.

g. Additional technical guidance is provided in 40 CFR 110, 40 CFR 112, 40 CFR 117, 40 CFR 280, 40 CFR 302, 40 CFR 355, 40 CFR 761, 49 CFR 171, and 33 CFR 153, Subpart B.

## **2-2. Code of Federal Regulations Reporting Requirements**

### **a. 40 CFR 110—Discharge of Oil.**

(1) *Application of 40 CFR 110.* This section of the CFR applies to the discharge of oil. This includes certain discharges into or upon the navigable waters of the United States or adjoining shorelines, with the exception from a properly functioning public vessel engine.

(2) *Who is Required to Report?* Any person in charge of a vessel or of an onshore or offshore facility is responsible for reporting releases of oil to the NRC at (800) 424-8802 immediately upon becoming aware of knowledge of the release. In the Washington, DC metropolitan area the phone number is (202) 267-2675. If direct reporting to the NRC is not practical, reports may be made to the Coast Guard, or the Environmental Protection Agency (EPA)-designated On-Scene Coordinator (OSC) for the geographic area where the discharge occurs. When the report is not made directly to the NRC, they must still receive prompt notification either by the person in charge, the Coast Guard, or EPA. The USACE spill coordinator should inquire with the NRC at the earliest opportunity to verify that the initial report was relayed to them when direct reporting was not possible. The procedures for providing notice of a reportable discharge are provided in the U.S. Coast Guard regulations [33 CFR 153, Subpart B] and in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) [40 CFR 300, Subpart E].

(3) *When is Reporting Required?* Reporting to the NRC is required if the release violates an applicable water quality standard; causes a film or sheen upon or discoloration of the surface of the water; or adjoining shorelines; or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. There is an exception, however, for discharges of oil from properly functioning vessel engines, but discharges from the vessel's bilges are not exempt unless the discharge must comply with MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A and is not in violation of any water quality standards under the CWA.

*b. 40 CFR 302—Designation, Reportable Quantities, and Notification of CERCLA Hazardous Substances.*

(1) *Application of 40 CFR 302.* This section of the CFR identifies RQs for various substances, including hazardous substances, and the notification requirements for release of these substances. The list of hazardous substances and their corresponding RQ are in a table in 40 CFR 302.4. The table includes an alphabetical listing of chemicals and compounds that meet the definition of a CERCLA substance. It is important to note that radionuclides are defined by regulation as hazardous substances. Appendix B to 40 CFR 302.4 identifies the individual radionuclides with their corresponding RQ in units of curies of activity. The CERCLA statute expanded the definition of hazardous substance to include CWA hazardous substances and toxic pollutants, RCRA hazardous wastes, CAA hazardous air pollutants, and TSCA imminently hazardous chemical substances. Figure 2-1 is provided to briefly summarize the release reporting requirements for a CERCLA hazardous substance and an EPCRA EHS. The tables in 40 CFR 302.4 and Appendix A to 40 CFR 355 will need to be checked to determine if you have a CERCLA hazardous substance and/or an EPCRA EHS.

(2) *Who is Required to Report?* Any person in charge of a vessel or an offshore or an onshore facility is responsible for reporting releases of hazardous substances (other than a Federally permitted release or application of a pesticide) to the NRC at (800) 424-8802 immediately upon becoming aware of knowledge of the release. In the Washington, DC metropolitan area the phone number is (202) 267-2675. The NRC no longer has the On-Line Reporting Tool to submit incident reports. The NRC website at <https://nrc.uscg.mil> now directs the person to call the NRC hotline if they witness an oil spill, chemical release, or maritime security incident.

(3) *When is Reporting Required?* Reporting is required when a release of a reportable quantity of a hazardous substance occurs during any 24-hour period. The report must be made immediately by calling the NRC. The definition of "release" provides some specific instances when notification is not required. However, if an exception to making a notification is being considered, consult with Office of Counsel before deciding not to notify.

*c. 40 CFR 355—Emergency Planning and Notification.*

(1) *Application of 40 CFR 355.* This section of the CFR applies to any facility that produces, processes, uses, or stores an EHS in amounts equal to or greater than their threshold planning quantity (TPQ). The lists of EHSs and their threshold planning quantities are in Appendix A and B to Part 355. Executive Order (EO) 12856 Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements made all Federal agencies and facilities responsible for complying with the EPCRA, 42 USC § 11001-11050. Refer to figure 2-1 for a summary of the release reporting requirements.

(2) *Who is Required to Report?* First, the owner or operator should designate a facility emergency coordinator. The owner or operator (or facility emergency coordinator) will immediately notify the community emergency coordinator for the Local Emergency Planning Committee (LEPC) or 911 and the State Emergency Response Commission (SERC). A release of an EHS should be reported to the SERC or the LEPC established for the location where the incident occurred. To identify the appropriate SERC and LEPC, call the EPCRA Hotline at 800-424-9346 or go to the EPA website that provides a link to each SERC contact at <https://www.epa.gov/epcra/state-emergency-response-commissions-contacts>. Refer to 40 CFR 355.40 for correct immediate and written follow-up notification requirements.) Regulatory deadlines are past for Federal agencies and facilities to have made emergency planning notification to the State and local planning groups and to designate the facility emergency coordinator. For a FUDS or a FUSRAP remediation, where USACE is the lead Federal agency, the USACE Construction office will need to make the necessary spill reports or make reporting a requirement of the contractor.

(3) *When is Reporting Required?* Emergency release notification is required at any facility where a hazardous chemical is produced, used, or stored and at which there is a release of a RQ of any EHS or CERCLA hazardous substance during any 24-hour period. The immediate and follow-up emergency notification requirements can be found in 40 CFR 355.40. Notification is not necessary for any release that results in exposure to persons solely within the boundaries of the facility. The reader should be cautious when determining that notification is not required as regulators may be conservative in evaluating if the release remained on the facility site. It is important to note that an EHS may also be a CERCLA Hazardous Substance, and this may require spill reporting to the NRC, per 40 CFR 302, even though the EHS did not go beyond the boundary of the facility and would not require reporting to the SERC or LEPC.

*d. 40 CFR 370—Hazardous Chemical Reporting: Community Right-to-Know.*

(1) *Application of 40 CFR 370.* This CFR establishes reporting requirements that provide the public with important information on the hazardous chemicals in their communities for the purpose of enhancing community awareness of chemical hazards and facilitating the development of State and local emergency response plans. A federal facility is considered a “covered facility” and subject to EPCRA if it meets one or more EPCRA reporting threshold requirements.

(2) *Who is Required to Report?* Facilities are subject to reporting requirements if the facility has present at any one time: (1) EHS in amounts greater than or equal to 500 pounds or the TPQ, whichever is lower; (2) Occupational Safety and Health Administration (OSHA) hazardous chemicals in amounts greater than or equal to 10,000 pounds; (3) For gasoline (all grades combined) at a retail gas station, the threshold planning level is 75,000 gallons, if the tank(s) was stored entirely underground and was in compliance at all times during the preceding calendar year with all applicable UST requirements at 40 CFR 280 or requirements of an approved State UST program; and (4) For diesel fuel (all grades combined) at a retail gas station, the threshold level is 100,000 gallons, if the tank(s) was stored entirely underground and the tank(s) was in compliance at all times during the preceding calendar year with all applicable UST requirements at 40 CFR part 280 or requirements of an approved State UST program. This reporting requirement is not applicable to hazardous wastes or constituents. As previously stated, EO 12856 requires Federal agencies and facilities to comply with 40 CFR 370 if the facility meets the reporting thresholds.

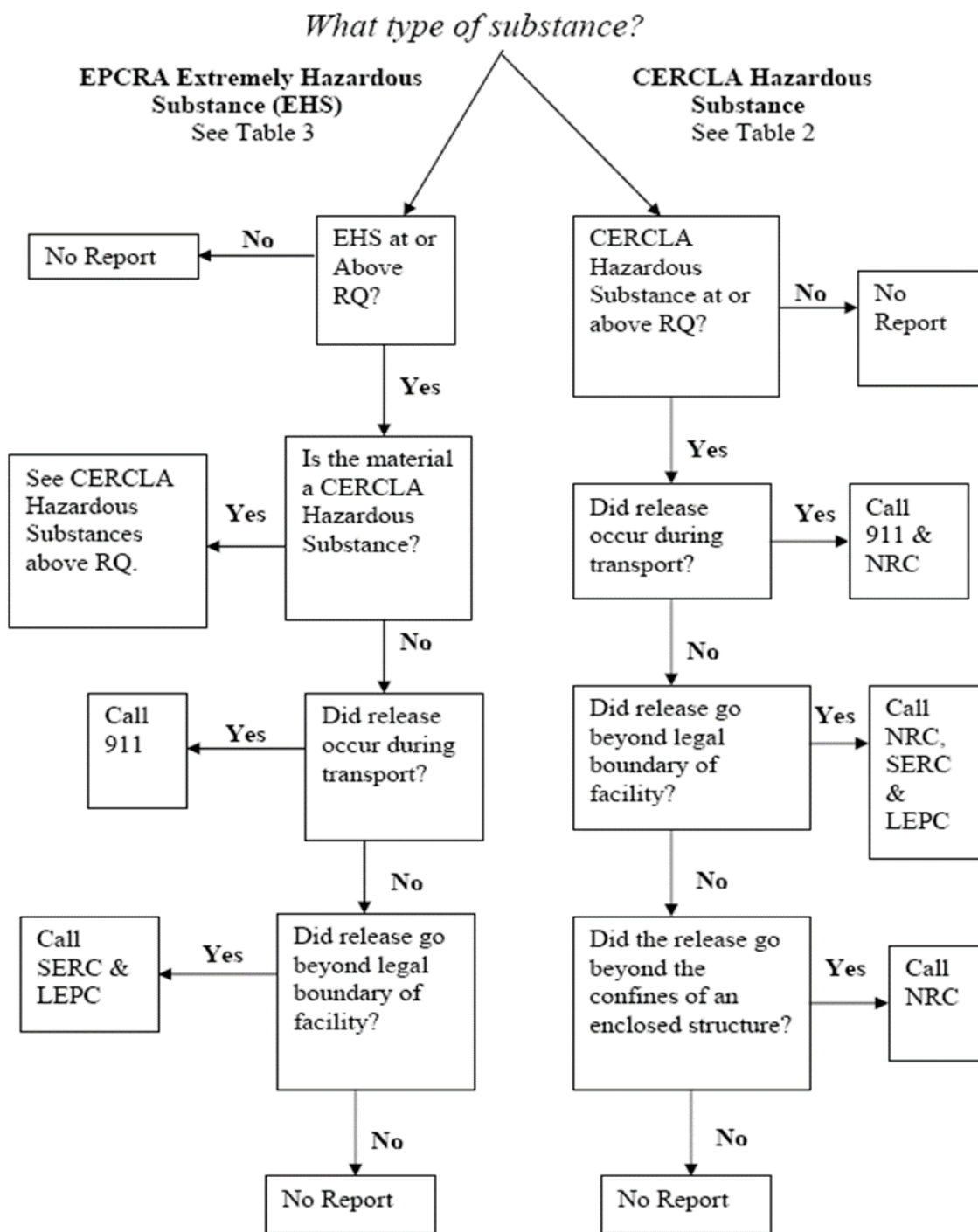
(3) *When is Reporting Required?* If a facility meets any one of these levels, the owner or operator must submit Tier I or II reports to the fire department, LEPC, and SERC by 1 March of each year. The fire department, LEPC, or SERC may require a facility to provide the more comprehensive Tier II report if the facility is subject to reporting its chemical inventory. There are also additional Safety Data Sheets (SDS) or Material Safety Data Sheet (MSDS) reporting requirements and inventory reporting requirements. Hazardous chemicals are defined to be all chemicals that pose a physical or health hazard except for hazardous waste subject to RCRA regulation, or any substance, to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the public - i.e., paint, glue, tobacco products, wood products, consumer products, etc. The facility will allow the fire department having jurisdiction over the facility to perform an on-site inspection if requested.

e. *40 CFR 372—Toxic Chemical Release Reporting: Community Right-to-Know.*

(1) *Application of 40 CFR 372.* This portion of the CFR requires the public and surrounding communities be notified of any release of toxic chemicals. There are also notification requirements for suppliers regarding distribution of mixtures. Subpart D of 40 CFR 372.65 contains a list of Toxic Chemicals.

(2) *Who is Required to Report?* Owners or operators of certain facilities are required to comply with reporting requirements to EPA and to the state in which the facility is located if the facility meets criteria established by 40 CFR 372, Subpart B. Per EO 12856, a Federal facility must submit a report if it meets the following criteria: 1) The facility must employ 10 full-time employees (including contract and part-time employees); and 2) The facility annually manufactures or processes more than 25,000 pounds, or otherwise uses over 10,000 pounds of a listed toxic chemical; or 3) The facility manufactures, processes, or otherwise uses toxic chemicals of special concern which includes persistent bioaccumulative toxic (PBT) chemicals, above specific thresholds in a calendar year.

(3) *When is Reporting Required?* Facilities in this position are required to report to EPA using EPA Toxic Chemical Release Inventory Reporting Form R. Each Form R report covers activities during a calendar year at a covered facility and must be submitted on or before 1 July of the next year. There are recordkeeping requirements in 40 CFR 372.10. EPA has included Pollution Prevention Act reporting requirements to Section 8 of the Form R, by requiring the facility to file a Toxic Chemicals Source Reduction and Recycling Report. There are some exemptions that may be applicable to Federal facilities or agencies. Routine janitorial cleaning supplies, fertilizers, and pesticides similar in type or concentration to consumer products used for janitorial and facility grounds maintenance are exempt. Chemicals used for maintenance are exempt. Chemicals used for maintaining vehicles operated at the facility are exempt if certain criteria are met (40 CFR 372.38).



**Figure 2-1. CERCLA and EPCRA Release Reporting**

*f. 40 CFR 761— Polychlorinated Biphenyls, Manufacturing, Processing, and Distribution in Commerce, and Use Prohibitions.*

(1) *Application of 40 CFR 761.* This section of the CFR regulates the use, storage, and disposal of polychlorinated biphenyls (PCBs) at concentrations of 50 parts per million (ppm) or greater. Spills containing concentrations of 50 ppm or more PCBs are regulated under this policy, as well as uncontrolled discharges of PCBs occurring after 4 May 1987.

(2) *Who is Required to Report?* Anyone responsible for the spill, having knowledge of a spill, or who discovers a spill must report as required by 40 CFR 761.125 and 40 CFR 302.6 since PCBs are a CERCLA hazardous substance.

(3) *When is Reporting Required?* Reporting requirements for PCB spills are shown in Table 2-1. Although the regulations require reporting to the appropriate EPA Regional Office within 24 hours, this may not be possible at night, on holidays, or during weekends. Keep a record of attempts to contact EPA and contact them as soon as possible.

**Table 2-1**  
**PCB Spill Reporting Summary [40 CFR 761.125(a)(1)]**

<b>Event:</b>	<b>Reporting Requirement:</b>
If 1 lb. (0.454 kg) or more of PCBs or PCB contaminated material is spilled	Notify the National Response Center (NRC) at (800)-424-8802
If any amount of PCBs or PCB material directly contaminates surface water, sewers, or drinking water supplies	Notify the appropriate EPA regional office (Office of Prevention, Pesticides and Toxic Substances Branch); and if over 1lb. (0.454 kg) notify the NRC
If any amount of PCBs or PCB material directly contaminates grazing lands or vegetable gardens	Notify the appropriate EPA regional office (Office of Prevention, Pesticides and Toxic Substances Branch); and if over 1 lb. (0.454 kg) notify the NRC
If 10 lb. (4.54 kg) or more PCBs or PCB contaminated material is spilled	Notify the appropriate EPA regional office (Office of Prevention, Pesticides and Toxic Substances Branch) and notify the NRC as it is over 1 lb. (0.454 kg)

*g. 49 CFR 171—General Information, Regulations, and Definitions.*

(1) *Application of 49 CFR 171.* This section of the CFR prescribes the requirements of the DOT governing the transportation of hazardous materials.



(2) *Who is Required to Report?* Each person in physical possession of the hazardous material (such as hazardous substances and hazardous wastes) during transportation, including the loading, unloading, and temporary storage, is required to report spills. The responsible person will notify the NRC at 800-424-8802 (toll free) or 202-267-2675 (toll call) at the earliest practical moment but no later than 12 hours from the event that triggered the reporting requirement. Also, under 40 CFR 302.6, EPA requires persons in charge of facilities (including transport vehicles, vessels, and aircraft) to report any release of a hazardous substance in a quantity equal to or greater than its reportable quantity, as soon as that person has knowledge of the release, to the NRC. The person in physical possession of a hazardous material at the time a reportable incident occurred must submit a follow-up written report with 30 days of discovery of the incident according to 49 CFR 171.16(a).

(a) *When is Reporting Required?* The person in physical possession of a hazardous material during transportation (including loading, unloading, and temporary storage) at the time any of the following incidents occur will immediately report by phone : As a direct result of the hazardous materials:

1. A person is killed or receives injuries requiring hospitalization.
2. The general public is evacuated for one or more hours.
3. One or more major transportation arteries or facilities are closed or shut down for one hour or more.
4. The operational flight pattern or routine of an aircraft is altered.

(b) Fire, breakage, spillage, or suspected contamination occurs involving shipment of:

1. Radioactive material.
2. Infectious substance other than a diagnostic or regulated medical waste.

(c) There is a release of a marine pollutant in a quantity exceeding 450 L (119 gal) for liquids or 400 kg (882 lb.) for solids.

(d) A situation exists of such a nature that, in the judgment of the carrier, it should be reported to DOT's NRC even though it does not meet the above criteria of this section.

(3) *When is a Written Report Required?* A written report (Hazardous Materials Incident Report DOT Form F 5800.1) must be submitted within 30 days by the person in physical possession of the hazardous material at the time of the reportable incident for any of the following situations.

(a) An incident that was reported by telephonic notice as outlined in paragraph 2-2g(3).

(b) An unintentional release of a hazardous material or the discharge of any quantity of hazardous waste.

(c) A cargo tank (1,000 gal. or greater) containing hazardous material suffers damage to the lading system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material.

(d) An undeclared hazardous material is discovered.

(e) A fire, violent rupture, explosion, or dangerous evolution of heat (i.e., an amount of heat sufficient to be dangerous to packaging or personal safety to include charring of packaging, melting of packaging, scorching of packaging, or other evidence) occurs as a direct result of a battery or battery-powered device.

*h. 10 CFR 71—Packaging and Transportation of Radioactive Material.*

(1) *Application of 10 CFR 71.* This section of the Nuclear Regulatory Commission (NuRC) regulation concerns the packaging and transportation of licensed radioactive material. It is important to note that shipments of radioactive material may be subject to DOT and NuRC regulations, depending on the activity and classification of the radioactive material. The NuRC requires that licensed material that is transported off-site or on public highways must comply with DOT regulations in 49 CFR 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 390, 391, 392, 393, 395, 396, and 397.

(2) *Who is Required to Report?* The reporting requirements would be identical to requirements specified in paragraph 2-2g for DOT hazardous materials.

(3) *When is Reporting Required?* The NuRC requires compliance with DOT, so it would be identical to the conditions specified in paragraph 2-2g. The listing of individual radionuclides may be found in Appendix B of 40 CFR 302.4. The RQ for radionuclides is an activity in curies or the equivalent in system international units of becquerels.

(4) *What are the Reporting Requirements for On-site Radionuclide Spills (during HTRW Remediation) but not in Transportation?* As previously stated in paragraph 2-2b, radionuclides are CERCLA hazardous substances and would need to comply with the reporting requirements of 40 CFR 302. The listing of individual radionuclides may be found in Appendix B of § 302.4. The management of radioactive spills and contingencies for NuRC licensed material are discussed in paragraph 3-5 of DA PAM 200-1. The requirements for notification of incidents involving licensed byproduct, source, or special nuclear material are provided in 10 CFR 20.2202, 10 CFR 30, 10 CFR 40, and 10 CFR 70. On military installations, the environmental office does not have lead responsibility for spills of licensed material. The installation radiation protection officer and the safety office must be immediately notified to respond. USACE and the NuRC have entered a Memorandum of Understanding (July 2001) for HTRW remediation at FUSRAP sites with licensed facilities. USACE and the NuRC have agreed to a procedure to allow the facility license or a portion of the license to be suspended while USACE takes a response action at the FUSRAP site. USACE will not be required to obtain a license for the response action and agrees to let the NuRC observe the remediation activities to ensure the response action protects human health and the environment.

*i. CERCLA § 103(c) (42 USC § 9603) Notifications of Past Releases.*

(1) It is important to remember that the NRC reporting requirement is triggered only when a reportable quantity is released during a 24-hour period under CERCLA 103(a) notification. This can usually only be established for ongoing or recent releases. For releases that are as a result of abandoned hazardous waste, USTs, leaking landfills, etc., it is difficult to determine if a RQ has been released into the environment within a 24-hour period. Contamination from past releases may have resulted from small but continuous releases over a prolonged period. Therefore, in addition to providing a mechanism for reporting current spills, CERCLA ensures that past releases are also reported.

(2) Whereas current releases must be immediately reported to the NRC under section 103(a) of CERCLA and 40 CFR 302, section 103(c) of CERCLA requires sites known or suspected to have received hazardous substances to be reported to EPA but does not specify a time. This is ordinarily covered through the consultation process, which occurs with EPA as part of the Defense Environmental Restoration Program or through submission of Preliminary Assessment Reports to EPA, or both. It will be important to coordinate any CERCLA 103(c) notifications with the District Office of Counsel prior to making any notifications to the regulator.

(3) CERCLA 103(c) does include a provision that within 180 days after December 11, 1980, any person who owns or operates or who at the time of disposal owned or operated, or who accepted hazardous substances for transport and selected, a facility at which hazardous substances are or have been stored, treated, or disposed of will, unless such facility has a permit issued under, or has been accorded interim status under, subtitle C of the Solid Waste Disposal Act (42 USC § 6921 et seq.), notify the Administrator of the (EPA) of the existence of such facility, specifying the amount and type of any hazardous substance to be found there, and any known, suspected or likely releases of such substances from such facility. CERCLA reporting requirements based on the type and amount of Hazardous Substance release are included in Table 2-2. Tables 2-3 and 2-4 provide spill reporting requirements for Oil Discharges, UST Petroleum Releases or EPCRA and Nuclear Regulatory Commission, TSCA, and DOT.

**Table 2-2**  
**Spill Notification and Emergency Release Reporting Requirements under CERCLA**

<b>Event:</b>	<b>When Reporting is Required:</b>	<b>Who Must Report:</b>	<b>Reporting is Required to:</b>	<b>CFR Source:</b>
Release of a Hazardous Substance	•Release of a RQ of a CERCLA hazardous substance occurs during any 24-hour period. See 40 CFR 302.4 for list of hazardous substances.	•Any person in charge of a vessel or an offshore or an onshore facility.	•National Response Center (NRC) at (800) 424-8802	•40 CFR 302, •CERCLA 103(a) Navigable Water (Pre-CERCLA) •40 CFR 117.21, •33 CFR 153.203
Past Releases of a Hazardous Substance	•See footnote * regarding when reporting is required	•Any person with knowledge of a release when a hazardous substance is discovered.	•EPA Administrator	•Past Releases * CERCLA 103(c) Notification

<p>Release of Radionuclides</p> <p>•CERCLA Hazardous Substance</p>	<p>Immediate notification of a release of radionuclides is required under the following circumstances:</p> <ul style="list-style-type: none"> <li>•Radionuclide releases that exceed the applicable RQ in Appendix B of § 302.4 in any 24-hour period.</li> <li>•If the identity and quantity (in curies) of each radionuclide in a released mixture or solution is known, the ratio between the quantity released (in curies) and the RQ of the radionuclide must be determined for each radionuclide. Notification is required if the sum of the ratios for all the radionuclides is equal to or greater than 1.</li> <li>•If the identity of each radionuclide is known but the quantity released (in curies) of one or more radionuclides is unknown, the only re-leases subject to notification are those that the total quantity (in curies) of the mixture or solution released is equal to or greater than the lowest RQ of any radionuclide in the mixture or solution.</li> <li>•If the identity of one or more radionuclides in a released mixture or solution is unknown (or if the identity of a radionuclide released by itself is unknown), the only releases subject to notification requirements are those in which the total quantity (in curies) is greater or equal to 1 curie or the lowest RQ of any known radionuclide in the mixture or solution, whichever is lower.</li> </ul>	<p>•Any person in charge of a vessel or an offshore or an onshore facility (includes motor vehicles and rolling stock) as soon as they have knowledge of any release.</p>	<p>•National Response Center (NRC) at (800) 424-8802</p>	<p>•40 CFR 302.4, Appendix B</p> <p>•40 CFR 302.6</p>
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\*CERCLA 103(c) notification requirements are as follows: "Within 180 days after December 11, 1980, any person who owns or operates or who at the time of disposal owned or operated, or who accepted hazardous substances for transport and selected a facility at which hazardous substances are or have been stored, treated, or disposed of will, unless such facility has a permit issued under, or has been accorded interim status under, Subtitle C of the Solid Waste Disposal Act, notify the Administrator of EPA of the existence of such facility, specifying the amount and type of any hazardous substance to be found there, and any known, suspected, or likely releases of such substances from such facility."

**Table 2-3**  
**Spill Notification and Emergency Release Reporting Requirements for Oil Discharges, UST**  
**Petroleum Releases or EPCRA**

Event:	When Reporting is Required:	Who Must Report:	Reporting is Required to:	CFR Source:
Oil Discharge (any form) <ul style="list-style-type: none"> <li>•petroleum</li> <li>•fuel oil</li> <li>•sludge</li> <li>•vegetable oil</li> <li>•used oil</li> </ul>	<ul style="list-style-type: none"> <li>•Oil Discharge (film/sheen/discoloration) to U.S. navigable waters, or shoreline, or violation of water quality standards, or cause a sludge or emulsion to be deposited beneath water surface or upon adjoining shorelines.</li> <li>•Any discharge of oil that threatens to reach navigable waters of the US</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•Discharge oil &gt;1,000 gal or 42 gal or more (3785.4 L or 159 L or more)25, twice within any 12-month period.</li> </ul>	<ul style="list-style-type: none"> <li>•Any person in charge of a vessel, or of an onshore or offshore facility.</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•Owner/operator of such facility.</li> </ul>	<ul style="list-style-type: none"> <li>•Immediately notify the appropriate Federal officials, including the NRC at (800) 424-8802. If not practical, then EPA or USCG by person in charge of vessel or facility.</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•Written notification to EPA Regional Administrator with required elements within 60-days of triggering the release.</li> </ul>	<ul style="list-style-type: none"> <li>•40 CFR 110,</li> <li>•33 CFR 153</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•40 CFR 112.4</li> </ul>
UST <ul style="list-style-type: none"> <li>•Petroleum Releases</li> <li>•CERCLA hazardous substance</li> </ul>	<ul style="list-style-type: none"> <li>•Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gal (94.6 L), or another reasonable amount specified by the implementing agency, or that causes a sheen on nearby surface water; and</li> <li>•Spill or overfill of a hazardous sub-stance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR 302).</li> </ul>	<ul style="list-style-type: none"> <li>•Any person who owns or controls the operation of a UST containing regulated substances</li> </ul>	<ul style="list-style-type: none"> <li>•Immediately notify NRC at (800) 424-8802 if re-lease results in sheen on surface water or a RQ of a CERCLA hazardous substance to the environment.</li> </ul> <p><u>AND</u></p> <ul style="list-style-type: none"> <li>•Notify implementing agency (EPA or approved State UST office) within 24-hours.</li> </ul>	<ul style="list-style-type: none"> <li>•§ 280.53 &amp; § 302</li> </ul>

EHS Chemical Reporting	<ul style="list-style-type: none"> <li>▪Release of an EHS that is also a CERCLA hazardous substance that exceeds the applicable § 302.4 RQ in any 24-hour period.</li> <li>▪Release of an EHS, that is not a CERCLA hazardous substance, in a quantity that equals or exceeds the RQ values specified in Appendix A or B in § 355 in any 24-hour period.</li> </ul>	<ul style="list-style-type: none"> <li>▪The owner or operator of a facility (or facility response coordinator).</li> </ul> <p>To identify the appropriate SERC and LEPC, contact the EPCRA Hotline at (800) 424-9346.</p>	<p>Immediately notify:</p> <ul style="list-style-type: none"> <li>▪NRC (if CERCLA Hazardous Substance).</li> <li>▪Community Emergency Coordinator for the Local Emergency Planning Committee (LEPC) <u>OR</u> 911</li> <li>▪State Emergency Response Commission (SERC)</li> </ul>	40 CFR 355,
Hazardous Chemical Reporting Community Right-to-Know	<ul style="list-style-type: none"> <li>▪Tier I/II Reports must be submitted by 1 March of each year: <u>IF</u> Facility produced, used, or stored 10,000 lb. (4,536 kg) of OSHA hazardous chemicals and/or EHS in an amount greater than or equal to 500 lb. (226.8 kg) or the Threshold Planning Quantity, which-ever is less.</li> </ul>	<ul style="list-style-type: none"> <li>▪The owner or operator of a facility (or facility response coordinator).</li> </ul>	<ul style="list-style-type: none"> <li>▪The owner/operator must submit Tier I/II reports to the fire department, LEPC and SERC.</li> </ul>	40 CFR 370,
Toxic Chemical Release Reporting	<p>Form R Report must be submitted on or before 1 July of the next year; <u>IF</u></p> <ul style="list-style-type: none"> <li>▪A facility has 10 or more full-time employees, <u>AND</u></li> <li>▪Manufactures or processes &gt;25,000 lbs. of a toxic chemical, <u>OR</u></li> <li>▪otherwise uses &gt;10,000 lbs. of a toxic chemical, <u>OR</u></li> <li>▪manufactures, processes, or otherwise uses PBT chemicals above their TPQ,</li> </ul>	<ul style="list-style-type: none"> <li>▪The owner or operator of a facility (or facility response coordinator).</li> </ul>	<ul style="list-style-type: none"> <li>▪Report to EPA using Form R. There are also recordkeeping requirements in 40 CFR 372.10.</li> </ul>	40 CFR 372,

Table 2-4

## Spill Notification and Emergency Reporting Requirements under Nuclear Regulatory Commission, TSCA, and DOT

Event:	When Reporting is Required:	Who Must Report:	Reporting is Required to:	CFR Source:
Release of Radioactive Material (licensed by NuRC) during transport	See DOT Requirements in this table. <ul style="list-style-type: none"> <li>•Licensee or carrier of licensed material who transports material offsite site or on public highways will comply with DOT regulations 49 CFR Parts 171–180, including incidents and spills.</li> </ul>	Any carrier or transporter responsible for transportation of licensed material	Immediately notify the National Response Center at (800) 424-8802	10 CFR 71.5, Packaging and Transportation of Radioactive Material
Release of PCBs	<p><i>Reporting is required for the following events:</i></p> <ul style="list-style-type: none"> <li>•Any spill equal to = 1 lb. (0.454 kg) or more of PCBs (<math>\geq 50</math> ppm).</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•Any spills into any water/water source; and if over 1 lb. (0.454 kg) notify the NRC.</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•Any spills on grazing lands or gardens; and if over 1 lb. (0.454 kg) notify the NRC.</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•Any spill equal to 10 lb. (4.54 kg) or more by weight of PCBs.</li> </ul>	Anyone responsible for the spill, having knowledge of a spill, or discovers a spill.	<p>Immediately notify the National Response Center at (800) 424-8802.</p> <p>-----</p> <ul style="list-style-type: none"> <li>•EPA Regional Office (within 24 hrs. of discovery).</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•EPA Regional Office (within 24 hrs. of discovery).</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>•National Response Center and the EPA Regional Office.</li> </ul>	40 CFR 761, Subpart G
<p><b>DOT Hazardous Materials</b></p> <ul style="list-style-type: none"> <li>•found in Hazardous Material Table in 49 CFR 172.101</li> <li>•CERCLA Hazardous Substance</li> <li>•PCBs</li> </ul>	<p><i>A telephone report is required whenever any of the following occurs during transportation in commerce (including loading, unloading, and temporary storage):</i></p> <p><i>As a direct result of hazardous material-</i></p> <ul style="list-style-type: none"> <li>•An individual is killed or sustains injuries requiring hospitalization.</li> <li>•An evacuation of the general public occurs lasting one hour or more.</li> </ul>	<i>Each person in physical possession of a hazardous material at the time that a reportable incident occurs must make the telephonic report and</i>	<p>Immediately notify the NRC at (800) 424-8802 (as soon as practical) but not later than 12 hours after the occurrence of any reportable incident.</p> <p>The designated person is to provide a detailed written report on the most current version of DOT Form F 5800.1 to DOT within 30</p>	49 CFR 171, Subchapter C – Hazardous Materials Regulations (§ 171.15 & § 171.16)



<ul style="list-style-type: none"> <li>▪RCRA Hazardous Waste</li> <li>▪Radionuclides</li> <li>▪Marine Pollutants</li> </ul>	<ul style="list-style-type: none"> <li>▪ A major road, rail line, or transportation facility is shut down for one hour or more.</li> <li>▪The flight path or normal operation of an aircraft is changed.</li> <li>▪Fire, breakage, spillage, or suspected contamination occurs involving radioactive material, or an infectious substance (other than a diagnostic specimen or regulated medical waste); or</li> <li>▪Release of a marine pollutant exceeding 450 L (119 gallons) for a liquid or 400 kg (882 lb.) for solids; or</li> <li>▪In the judgment of the carrier, a dangerous situation exists as a result of the incident that does not meet previous criteria that should be reported immediately.</li> </ul>	<p><i>follow up with a written incident report.</i></p>	<p>days of a reportable incident.</p> <p>A written report is also required for an unintentional release of a hazardous material or discharge of <b>any</b> quantity of hazardous waste; any damage to the lading system on a cargo tank with a capacity of 1,000 gallons or more; or an undeclared hazardous material is discovered.</p> <p>FAA no longer requires a separate telephonic notification when a reportable incident involves an air shipment.</p>	
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## **Chapter 3**

### **U.S. Army Corps of Engineers Spill Reporting Responsibilities**

#### **3–1. Introduction**

a. When a spill involving a release or discharge of oil or a hazardous substance occurs on a USACE HTRW remediation project in excess of its reportable quantity within any 24-hour period, the USACE representative will provide or ensure proper notification to and coordination with Federal, state, and local agencies as prescribed by applicable laws and regulations, including notification of the NRC. If the notification and coordination of spill reporting has been properly delegated to someone other than the USACE representative, this does not eliminate the responsibility of USACE to check and document that the notifications were properly reported. Unless otherwise exempted from CERCLA notification requirements, a release of a hazardous substance that equals or exceeds its RQ, during cleanup activities, must be reported to the NRC. If the release meets EPA's definition of a continuous release, the reporting may qualify for reduced reporting requirement as described in 40 CFR 302.8. The District Office of Counsel should be consulted for any questions on applicability of spill reporting requirements and responsibilities.

b. Due to USACE doing work for many different customers, the person or agency responsible for reporting spills may vary, depending upon the party having jurisdiction over or ownership of the real property or the facility. In all cases, the USACE representative must either make the applicable notifications or verify and document that spills have been reported as required by statute and regulation. Just notifying the customer does not relieve the liability of USACE or contractor personnel on-site who have knowledge of the incident. It is recommended that the USACE representative consult with the Office of Counsel about such requirements before undertaking management of a project.

c. For instance, an installation may require that all spill reports or emergency release notifications be made to the installation environmental coordinator and/or fire department in order to allow the installation to make the applicable notifications to the NRC, SERC, and LEPC. If so, USACE or its contractor will document that the notification of the spill was made immediately to the installation environmental coordinator, noting the time and details of the reportable spill. USACE or its contractor will also provide the spill information identified in appendix C to the installation environmental coordinator.

d. During the study and design phase, the USACE representative may vary among the program manager, project manager, process engineer, chemist, geologist, industrial hygienist, or other individuals the District might designate. The construction representative serves as the USACE representative during the remedial action phase. The remaining paragraphs, in chapter 3, in conjunction with table 3-1, summarize USACE reporting responsibilities for HTRW response actions.

**Table 3-1**  
**Recommended Procedures for Spill Reporting on USACE HTRW Sites**

Type of HTRW Site:	Spill Reporting Requirements:
Formerly Used Defense Site (FUDS) and Formerly Utilized Sites Remedial Action Program (FUSRAP)	<ul style="list-style-type: none"> <li>• USACE representative immediately reports all spills to the required reporting agency or agencies (such as NRC, SERC, LEPC).</li> <li>• As an alternative, contract language may require the contractor to report spills to the regulatory agency and then notify USACE in writing within one hour of notifying all the appropriate regulatory agencies.</li> </ul>
Installation Restoration Program (IRP) Site, Base Realignment and Closure (BRAC), and Military Construction	<ul style="list-style-type: none"> <li>• USACE representative will report spills as required by AR-200-1, as well as by other applicable statutes and regulations unless the installation (such as Army, Air Force) requires the USACE representative to immediately report all spills to their environmental coordinator. It is not uncommon for the installation, as the facility operator or owner, to require the installation environmental coordinator notify and make all spill reports to the Federal, state, and local agencies. The USACE representative will document the information that was provided and the time the installation environmental coordinator was notified.</li> </ul>
Environmental Support for Others (ESFO)	<ul style="list-style-type: none"> <li>• The USACE representative will report spills as required by statute and regulation. USACE will provide a written follow-up report to the customer as soon as possible.</li> <li>• The customer may request USACE or the contractor to provide the initial spill information to their designated person for reporting to all Federal, state, and local agencies. USACE or the contractor must immediately report all spills to the customer and document the applicable information was provided to the customer in a timely manner.</li> </ul>
Superfund Site	<ul style="list-style-type: none"> <li>• The USACE Representative reports spills to all the required reporting agencies for all USACE managed activities at the site. A follow-up report to the EPA OSC or Remedial Project Manager (RPM) will be made as soon as possible.</li> <li>• EPA assumes reporting responsibility via written notification prior to the start of any site work. In this case, USACE will report spills or releases to the EPA OSC or RPM by telephone and be consistent with regulations or statutory requirements. A written report will follow to EPA within 24 hours.</li> </ul>

### **3–2. Reporting Responsibilities at Formerly Used Defense Sites and Formerly Utilized Sites Remedial Action Program Response Actions**

a. In all cases, the USACE representative will report spills as required by statute and regulation or verify and document that reports have been made by the designated responsible individual if the USACE representative is not the person in charge of the facility. It is recommended that the USACE representative consult with the supporting District Office of Counsel about spill notification and emergency release reporting requirements before undertaking management of any phase of a remediation project (such as investigation, design, or construction). In a spill reporting situation, timeliness is essential and mandatory, which is why procedures need to be established before a project is begun to avoid any delays in spill reporting. The Office of Counsel should be consulted on the spill notification and emergency release reporting responsibilities.

b. Contract language may require the contractor to report all spills as the operator of the facility or be responsible for the HRTW response action. If this is the case, the contractor is then required to notify USACE within one hour of the contractor completing spill reporting requirements to the required authorities. The contract documents should identify the contractor responsibilities for spill notification and emergency release reporting. An example of this special contract language is included in paragraph 5-2. The work plans should also include the procedures that will be followed in the event of a reportable spill of oil, CERCLA hazardous substance, or an EHS. The Office of Counsel should be consulted on the proper procedures to transfer responsibility of spill reporting to the contractor. If the contractor is required to make all spill reports, the USACE representative should receive verbal notification from the contractor within 1-hour of the notification of the Federal, state, and local agencies.

### **3–3. Reporting Responsibilities at Installation/Restoration Sites under the Installation Restoration Program, Base Realignment and Closure and Military Construction**

a. In all cases, USACE employees will report spills as required by statute and regulation or verify and document that the installation environmental coordinator has been immediately notified of a reportable spill of oil, CERCLA hazardous substance, or an EHS. Notifying the installation environmental coordinator does not eliminate the liability of USACE or contractor personnel on-site who have knowledge of the incident. USACE management and construction personnel will coordinate spill reporting procedures and responsibilities with the appropriate installation office prior to any onsite activities. The spill reporting roles and responsibilities of the installation, USACE and their contractor must be clearly delineated in the site work plan prior to construction of field activities. Any legal questions on the roles and responsibilities for spill reporting by USACE or their contractor should be raised to the District Office of Counsel for resolution.

*b.* Reporting a spill of oil or a hazardous substance on Army installations will be consistent with the current version of AR 200-1. Spill reporting procedures on Air Force installations will be coordinated with the installation environmental office before on-site activities begin. The contract documents and work plans will specify the responsible individual and the appropriate procedures to follow in the event of any spill of oil, CERCLA hazardous substance, or an EHS.

### **3-4. Reporting Responsibilities under Superfund**

The USACE representative will provide written notification to the EPA OSC or Remedial Project Manager (RPM) that USACE or its contractor (if applicable) will report any reportable spills that occur on site to the required reporting agency. If the EPA OSC or RPM does not want USACE or its contractor to handle the reporting, they should be informed to notify USACE in writing, preferably prior to initiation of any site work. A memorandum of agreement may be one method to formalize this understanding of roles and responsibilities.

### **3-5. Reporting Responsibilities under Environmental Support for Other Sites**

In all cases, the USACE representative will report spills as required by Federal and state statutes and regulations. The USACE representative will provide written notification to the customer that USACE or its contractor (if applicable) will report any spills that occur on-site to the required Federal, state, or local agencies. If the customer, as the owner or operator of the facility, decides to retain the reporting responsibility, then USACE should ensure the customer is immediately notified of all reportable spills. Furthermore, it will be important to document that the customer has been notified with the necessary information provided in appendix C. Just notifying the customer does not eliminate the liability of USACE or contractor personnel on-site, who have knowledge of the incident, for failure of the spill being reported to the appropriate Federal, state, and local agencies. It is recommended that the USACE representative consult with the Office of Counsel about such requirements before undertaking management of a project. Table 3-1 provides a brief summary of spill reporting requirement on Corps of Engineers' sites.

## Chapter 4

### Report and Recordkeeping

#### 4–1. Introduction

a. The release of oil or a hazardous substance to the environment must be formally documented under several environmental regulations including, but not limited to, 40 CFR 302, 40 CFR 112, and 40 CFR 110. As much detail as possible about the release of oil, a hazardous substance, or an EHS in excess of a RQ must be compiled so that appropriate staff can determine if the NRC, SERC, or LEPC need to be notified.

b. In the event a harmful quantity of oil is released to waters of the U.S. (oil sheen/film), reporting to the NRC under 40 CFR 110 is required. In addition, if an oil spill to waters of the U.S. exceeds 1,000 gallons (3,785.4 L) or if 42 gallons (159 L) or more of oil are discharged in two separate events during any 12-month period, facilities must meet additional reporting to EPA per 40 CFR 112.4. All occurrences of spills must be documented and reflected in the Spill Prevention, Control and Countermeasure (SPCC) Plan when changes in operating procedures are dictated. When engineering controls cannot be used to minimize a reoccurrence, contingency plans should be modified to address that. An important element of when a release is reportable is whether an amount of the hazardous substance or EHS equaling or exceeding the RQ is released within any 24-hour period. Under (42 USC §11004) releases of EHSs are only reportable if they occur in a manner that requires, or would require, notification under CERCLA § 103(a) (42 USC § 9603). EPA has interpreted this provision to mean the 24-hour period policy under CERCLA is also applicable under EPCRA. This refers to the time period over which a release is to be measured, and it does not mean the responsible person has 24-hours to report. However, the District Office of Counsel should be consulted before a decision is made not to report a release.

#### 4–2. Spill Reporting

a. *Verbal.* A report of a hazardous substance release, an EHS release, an oil spill, or a DOT incident only takes a few minutes. Tables 2-2, 2-3, and 2-4 identify the appropriate Federal, state, and local agencies to immediately contact when there has been a reportable release or spill. Reporting to the NRC, SERC, LEPC or 911 (when appropriate) must occur immediately upon the discovery that an RQ has been exceeded. CERCLA § 103(a) and EPCRA § 304 require that the NRC, SERC, and LEPC be notified when there is a release of an RQ of a hazardous substance or EHS into the environment. However, EPCRA reporting to the SERC and LEPC does not apply if the release results in exposure to persons solely within the site or sites on which a facility is located. The reporter should be prepared when calling to report a spill with as much of the information identified in appendix C as possible. If the spill is an EHS, there are additional items to include in the verbal report. Appendix C has those additional items at the bottom of list of data needs.

*b. Written Reports.* A follow-up report for a release of a CERCLA hazardous substance is not required by Federal statute or regulation unless it meets EPA's definition of a continuous release (40 CFR 302.8). The District Office of Counsel and Public Affairs Office must be consulted as to public notice requirements when there has been a reportable release at a HTRW remediation project.

(1) As soon as practicable, after a release that requires notice under EPCRA § 304, the owner or operator of the facility is required to submit a written follow-up notice to the affected LEPCs and SERC [40 CFR 355.40(b)(3)]. This report must contain all the information required in the initial notification, plus any updated and additional information with respect to actions taken to respond to and contain the release, any known or anticipated acute or chronic health risks associated with the release, and, where appropriate, advice about medical attention necessary for exposed individuals.

(2) If you are the owner or operator of a facility subject 40 CFR 112, whenever your facility has discharged more than 1,000 gallons (3,785.4 L) of oil in a single discharge or discharged more than 42 gallons (159 L) of oil in each of two discharges within a 12-month period, an amendment to the SPCC plan must be submitted to the EPA Regional Administrator within 60 days. The contents of this amendment are identified in 40 CFR 112.4.

(3) A detailed hazardous materials incident report (DOT Form F 5800.1) must be prepared by each person in physical possession of a hazardous material at the time that any of the incidents identified in 49 CFR 171.15 occurs during transportation (including loading, unloading, and temporary storage). The incident report must be submitted within 30 days of discovery of the incident. In addition to any of the incidents set forth in 49 CFR 171.15(b), a report must be submitted for an unintentional release of a hazardous material or the discharge of any quantity of a hazardous waste. A report is also required for an undeclared hazardous material shipment or when a 1,000 gallons (3,785.4 L) or large cargo tank containing hazardous material suffers structural damage to the lading retention system even if there is no release of hazardous material.

#### **4-3. Recordkeeping and Documentation**

All verbal reports made to Federal, state, and local agencies should be documented and retained in the project files. Records should be retained as described in DOD, Army and USACE requirements.

## **Chapter 5**

### **Planning**

#### **5–1. Introduction**

The USACE representative is responsible for coordination of the spill reporting procedures for USACE HTRW projects. The USACE representative must ensure that the planning for and implementation of the requirements are in place before on-site activities begin at HTRW projects. Project planning must identify the roles and responsibilities of the contractor, USACE, and customer (if applicable).

#### **5–2. Special Contract Provisions**

All contracts for HTRW site remedial action will contain a section in the contract documents that outlines contractor responsibilities for spill reporting. The contract documents will identify when the USACE representative will be responsible for making all appropriate notifications or if the installation environmental coordinator will be acting on behalf of the facility owner and making all reports to the Federal, state, and local agencies. The contract documents must address the regulatory timelines for immediate reporting and details of the information that must be provided for spill reporting.

*a.* If it is decided that the contractor will be required to report all spills directly to the appropriate authorities, contract specifications must include appropriate language, such as:

“The contractor is required to make all spill notifications under state, Federal and local regulations, including, but not limited to 40 CFR 110, 302, 355, 370, 372, etc., immediately upon discovery, to appropriate regulatory authorities. Within one hour of notification to regulatory authorities, the contractor will submit a written report to the USACE Representative. Within 24 hours the contractor will submit a written report to the USACE Representative which contains the information required from the spill notification information checklist (appendix C). The contractor will develop a spill reporting plan and identify the contractor employee that will be responsible for reporting the spill. “

*b.* If it is determined that the USACE representative will report spills, the following requirement or similar language will be added to the contract:

“The contractor will notify USACE immediately upon discovery of any spill/release. The contractor will follow-up within 24 hours with a spill report which contains the information required from the spill notification information checklist (appendix C).”

*c.* The contract documents must define what constitutes immediate reporting and compliant with regulatory requirements.



### **5–3. Training Provisions**

Each District will ensure:

- a.* USACE personnel involved in on-site activities at HTRW sites are familiar with, comply with, and have obtained copies of the Spill Reporting Requirements contained in this EP.
- b.* USACE personnel have received appropriate training as required by USACE policies.
- c.* USACE staff elements and USACE commands are familiar with spill reporting procedures and that these requirements are met during investigation, remediation, and other engineering related activities at HTRW sites.

### **5–4. District Reporting Requirements**

Each District will develop and implement internal procedures:

- a.* Outlining the spill reporting requirements identified in this EP.
- b.* Delineating USACE field, District, and Division reporting chain-of-command.
- c.* Determining if it will establish a single point of contact at the District office (such as Emergency Readiness or Operations office) to coordinate the spill or release reporting or if the spill response coordinator will be the responsibility of the USACE construction representative or the HTRW contractor. The District will evaluate and designate how prevention, reporting and cleanup activities will be implemented within their District.
- d.* Requiring the following items:
  - (1) Recordkeeping of all spills and releases within the District.
  - (2) Follow up with the project site or installation to determine that the spill reporting process (including written) is completed.
  - (3) Follow up with the appropriate Federal and state agencies.
  - (4) Upward reporting to HQ USACE.
  - (5) Support or advice to the installation in the event of a spill.

## **Appendix A**

### **References**

#### **Section I**

##### **Required Publications**

Unless otherwise indicated, all U.S. Army Corps of Engineers publications are available on the USACE website at <https://publications.usace.army.mil>.

Army publications are available on the Army Publishing Directorate website at <https://armypubs.army.mil>.

DoD Publications are available on the ESD website at <https://www.esd.whs.mil>.

Code of Federal Regulations publications are available on the Code of Federal Regulations website at <https://www.ecfr.gov/>.

U.S. Code publications are available on the United States Code website at <https://uscode.house.gov/>.

##### **AR 200-1**

Environmental Protection and Enhancement (Cited in para 1-1.)

##### **DA Pam 25-403**

Guide to Recordkeeping in the Army (Cited in para 1-4.)

##### **EM 385-1-1**

Safety-Safety and Health Requirements (Cited in para 2-1.)

##### **ER 200-1-4**

Formerly Utilized Sites Remedial Action Program (Cited in para 1-3.)

##### **ER 200-3-1**

Formerly Used Defense Sites Program (Cited in para 1-3.)

##### **ER 1140-1-211**

Support for Others, Reimbursable Services (Cited in para 1-3.)

##### **EO 12856**

Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements (Available at <https://www.govinfo.gov/>) (Cited in para 2-2c.)

##### **10 CFR 20**

Standards for Protection Against Radiation (Cited in para 2-2h.)

##### **10 CFR 20.2202**

Notification of Incidents (Cited in para 2-2h.)

**10 CFR 30**

Rules of General Applicability to Domestic Licensing of Byproduct Material (Cited in para 2-2h.)

**10 CFR 40**

Domestic Licensing of Source Material (Cited in para 2-2h.)

**10 CFR 70**

Domestic Licensing of Special Nuclear Material (Cited in para 2-2h.)

**10 CFR 71**

Packaging and Transportation of Radioactive Material (Cited in para 2-2h.)

**33 CFR 151**

Vessels Carrying Oil, Noxious Liquid Substances, Garbage, Municipal or Commercial Waste, and Ballast Water (Cited in para 2-2a.)

**33 CFR 153**

Control of Pollution by Oil and Hazardous Substances, Discharge Removal (Cited in Table 2-1.)

**33 CFR 153, Subpart B**

Notice of the Discharge of Oil or a Hazardous Substance (Cited in para 2-1g.)

**33 CFR 153.203**

Procedure for the Notice of Discharge (Cited in para B-1c.)

**40 CFR 68**

Chemical Accident Prevention Provisions (Cited in para 2-1a.)

**40 CFR 110**

Discharge of Oil (Cited in para 2-1g.)

**40 CFR 110.6**

Clean Water Act. Immediate notification to NRC of a discharge of oil (Cited in para b-1c.)

**40 CFR 112**

Oil Pollution Prevention (Cited in para 2-1a.)

**40 CFR 112.4**

Clean Water Act. Amendment of SPCC Plan by Regional Administrator (Cited in Table 2-3.)

**40 CFR 117**

Clean Water Act. Determination of Reportable Quantities for Hazardous Substances (Cited in para 2-1g.)

**40 CFR 117.21**

Clean Water Act. Notice of Discharge of a Reportable Quantity (Cited in Table 2-2.)

**40 CFR 263.30**

Hazardous Waste Discharges. Immediate Action (Cited in para b-2c.)

**40 CFR 280**

Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs) (Cited in para 2-1g.)

**40 CFR 300, Subpart E**

Hazardous Substance Response (Cited in para 2-2a.)

**40 CFR 302**

Designation, Reportable Quantities, and Notification (Cited in para 2-2b.)

**40 CFR 302.4**

Designation of Hazardous Substances (Cited in para 2-2b.)

**40 CFR 302.6**

Notification Requirements (Cited in para 2-2f.)

**40 CFR 302.8**

Continuous Releases (Cited in para 3-1a.)

**40 CFR 355**

Emergency Planning and Notification (Cited in para 1-5a.)

**40 CFR 355.40**

Emergency Planning and Community Right-to-Know Act. Emergency Release Notification Requirements (Cited in para 2-2c.)

**40 CFR 370**

Hazardous Chemical Reporting: Community Right-To-Know (Cited in para 2-2d.)

**40 CFR 372**

Toxic Chemical Reporting Release Reporting: Community Right-To-Know (Cited in para 2-2e.)

**40 CFR 372.10**

Recordkeeping (Cited in para 2-2e.)

**40 CFR 372 Subpart B**

Emergency Planning, and Community Right-to-Know Act Requirements (Cited in para 2-2e.)

**40 CFR 372.38**

Exemptions (Cited in para 2-2e.)

**40 CFR 372.65**

Chemicals and Chemical Categories to which this Part Applies (Cited in para 2-2e.)

**40 CFR 761**

Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions (Cited in para 2-1g.)

**40 CFR 761 Subpart G**

PCB Spill Cleanup Policy (Cited in Table 2-4.)

**40 CFR 761.125**

Requirements for PCB Spill Cleanup (Cited in para 2-2f.)

**49 CFR 171**

General Information, Regulations and Definitions (Cited in para 2-1g.)

**49 CFR 171.15**

Immediate Notice of Certain Hazardous Material Incidents, (Cited in para 4-2b.)

**49 CFR 171.15(b)**

Reportable Incident (Cited in para b-2c.)

**49 CFR 171.16**

Detailed Hazardous Material Incident Reports (Cited in para b-3c.)

**49 CFR 172**

Hazardous Materials Table, Special Provisions, Hazardous Materials Communication, Emergency Response Information, Training Requirements, and Security Plans (Cited in para 2-2h.)

**49 CFR 172.101**

Purpose and Use of Hazardous Materials Table (Cited in Table 2-4.)

**49 CFR 173**

Shippers – General Requirements for Shipments and Packaging (Cited in para 2-2h.)

**49 CFR 174**

Carriage by Rail (Cited in para 2-2h.)

**49 CFR 175**

Carriage by Aircraft (Cited in para 2-2h.)

**49 CFR 176**

Carriage by Vessel (Cited in para 2-2h.)

**49 CFR 177**

Carriage by Public Highway (Cited in para 2-2h.)

**49 CFR 178**

Specifications for Packaging (Cited in para 2-2h.)

**49 CFR 179**

Specifications for Tank Cars (Cited in para 2-2h.)

**49 CFR 180**

Continuing Qualification and Maintenance of Packaging (Cited in para 2-2h.)

**49 CFR 390**

Federal Motor Carrier Safety Regulations; General (Cited in para 2-2h.)

**49 CFR 391**

Qualifications of Drivers and Longer Combination Vehicle River Instructions (Cited in para 2-2h.)

**49 CFR 392**

Driving of Commercial Motor Vehicles (Cited in para 2-2h.)

**49 CFR 393**

Parts and Accessories Necessary for Safe Operation (Cited in para 2-2h.)

**49 CFR 395**

Hours of Service of Drivers (Cited in para 2-2h.)

**49 CFR 396**

Inspection, Repair, and Maintenance (Cited in para 2-2h.)

**49 CFR 397**

Transportation of Hazardous Materials; Driving and Parking Rules (Cited in para 2-2h.)

**15 USC § 2601 et seq.**

Toxic Substances Control Act (Cited in para 1-6a.)

**33 USC § 1251 et seq.**

Federal Water Pollution Control Act (Cited in para 1-6a.)

**33 USC § 2701 et seq.**

Oil Pollution Act (Cited in para 1-5d.)

**42 USC § 6901 et seq.**

Resource Conservation and Recovery Act (Cited in para 1-6a.)

**42 USC § 7401 et seq.**

Clean Air Act (Cited in para 1-6a.)

**42 USC § 9601**

Comprehensive Environmental Response, Compensation, and Liability Act (Cited in para 1-6a.)

**42 USC § 9603**

CERCLA. Notification Requirements Respecting Released Substances (Cited in para 2-2i.)

**42 USC § 11001-11050**

Emergency Planning and Community Right-to-Know Act (Cited in para 2-2c.)

**U.S. Environmental Protection Agency,**

*Memorandum on Interim Strategy for Enforcement of Title III and CERCLA §103*

*Notification Requirements*, 1988, available at

<https://www.epa.gov/enforcement/guidance-enforcement-strategy-epcra-and-cercla-notification-requirements>. (Cited in Appendix C.)

**U.S. Nuclear Regulatory Commission and the U.S. Army Corps of Engineers,**

*Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the U.S. Army Corps of Engineers for Coordination on Cleanup & Decommission of the FUSRAP Sites with NRC-Licensed Facilities*, 2001, available at

<https://www.federalregister.gov>. (Cited in para 2-2h.)

**Unified Facilities Guide Specification 01 57 19,**

*Temporary Environmental Controls*, available at <https://www.wbdg.org/ffc/dod/unified-facilities-guide-specifications-ufgs>. (Cited in para 1-5b.)

**MARPOL 73/78**

*International Convention for the Prevention of Pollution from Ships*, 1973, as modified by the Protocol of 1978, Annex I, available at <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Commercial-Vessel-Compliance/Domestic-Compliance-Division/MARPOL/>. (Cited in para 2-2a.)

## **Section II**

### **Prescribed Forms**

This section contains no entries.



## Appendix B

### Examples of Spill Reporting Scenarios

#### B-1. Oil/Electrical Equipment

a. *Setting.* At a military construction project, planning has determined that a vertical construction project can be located over the footprint of an existing structure. A large network transformer containing 1,000 gal. of 11,000 ppm PCB oil (7.5 lb./gal.) will need to be taken out of service.

b. *Details.* The transformer was drained of oil. The carcass and 20 drums of PCB oil were relocated to a temporary storage area. The storage area is immediately adjacent to a small drainage swale that flows to a nameless creek (navigable water). A series of thunderstorms has required periodic drainage of precipitation from the secondary containment area over the last couple of weeks. A particularly violent thunderstorm from the previous evening requires an 0800 hours inspection visit to drain precipitation. Upon arrival, workers discovered that a large limb from a nearby tree had knocked over two drums, the bungs were inadequately closed, and the entire content of the drums was lost to the containment system. Closer observation has shown that the drain valve or plug for the containment area was not closed or replaced after the previous storm event. All 100 gal. of oil was discharged from the containment system and storm water has swept the oil to navigable waters. A short walk down the swale to the nameless creek confirms a visible film of oil where the swale empties to the creek. A quick check of records indicates that the last inspection was 1730 hours the previous evening.

c. *Reporting Requirements.*

(1) *Trigger.* Discharges of oil in such quantities as “may be harmful” under section 311(b)(4) of the CWA 40 CFR. 40 CFR 110.6 requires notification to the NRC (800-424-8802) for releases of oil that “may be harmful” (40 CFR 110.3). Responsible party - Facility owner or operator.

(2) *Trigger.* Notice of Discharge of a Reportable Quantity; NRC notification per 33 CFR 153.203 (via 40 CFR 117.21) Responsible party - Facility owner or operator.

(3) *Trigger.* 40 CFR 302.6 Notification Requirements Evaluate CERCLA RQ release (40 CFR 302.5).

(a) Time needs to be less than 24 hours (1730–0800 = 14.5 hours).

(b) PCBs designated in 40 CFR 302.4 as a Hazardous Substance (RQ = 1 lb.).

(c) 11,000 ppm /1,000,000 ppm = approximately 1%.

(d) 1% of 750 lb = approximately 7.5 lb. of PCBs OR  $(11,000 \text{ ppm PCB}) / 1,000,000 \text{ ppm} \times (7.5 \text{ lb./gal.}) \times (100 \text{ gal.}) = 8.25 \text{ lb. PCBs.}$

(e) NRC notification per 40 CFR 302.6; redundant with 33 CFR 153.203 (40 CFR 117.21) Responsible party - Any person.

(4) *Trigger.* PCB Spill Reporting 40 CFR 761.125(a)(1).

(a) NRC notification for greater than 1 lb. (RQ). [

(b) Notify EPA Regional Office for PCB (PCB material) release to surface water.

(40 CFR 761.125(a)(1)(i)). Responsible party – Owner of PCB equipment, facility, or other source of PCBs or his/her designated agent (e.g., a facility manager).

*d. Summary of NRC Reporting.*

(1) Oil Discharge, OPA (40 CFR 110) => NRC.

(2) Hazardous Substance (RQ PCB) Release to navigable waters (40 CFR 117) => NRC.

(3) Hazardous Substance (RQ PCB) release to environment (40 CFR 302) => NRC.

(4) PCBs to surface water (40 CFR 761) => EPA Region.

## **B–2. Off-site Transporter/Department of Transportation**

*a. Setting.* A CERCLA time-critical removal requires the off-site shipment of environmental media that meets the definition of a RCRA listed and characteristic hazardous waste.

*b. Details.* A construction contractor encountered an old pesticide disposal pit when excavating for the building foundation as a part of military construction project. The contents were excavated and stored to determine how to properly manage and dispose of the waste. It was established by the installation that these pesticides were not applied for their intended purpose but were the result of disposal in this unknown pit next to a former pesticide storage building that had been previously demolished. Historical records and interviews provided enough information to warrant commercial chemical product listings dichlorodiphenyltrichloroethane (DDT): U061 and Chlordane: U036. The highly contaminated material (more than 1% total pesticides) was loaded out in 10 intermediate bulk containers (IBC) of 1 m<sup>3</sup>, woven fiber “super sacks”) on a flatbed trailer for off-site incineration.

(1) Chemistry staff indicates an average concentration of both DDT and Chlordane would be 700 mg/kg for each 1200 kg sack.

(2)  $(700 \text{ mg/kg DDT}) \times (1200 \text{ kg/sack}) = 840,000 \text{ mg} = 840 \text{ g} = 0.84 \text{ kg} \times (2.2 \text{ lb./kg}) = 1.85 \text{ lb.}$  of DDT and Chlordane per sack. The CERCLA RQ for both is 1 lb.

(3) In route (by highway) to the designated treatment, storage, and disposal facility, an accident occurred, resulting in the vehicle and load ending up in the roadside ditch. Correct load securing saved all but one sack, which ended up off the truck and split. The entire contents were released from the IBC.

*c. Reporting Requirements.*

(1) *Trigger.* 40 CFR 302.6 Notification Requirements Evaluate CERCLA RQ release (40 CFR 302.5).

(a) Time needs to be less than 24 hours (instantaneous release).

(b) DDT/Chlordane designated in 40 CFR 302.4 as a Hazardous Substance (RQ = 1 lb.).

(c) See calculation in B-2b(2).

(d) Responsible party - Any person (i.e., Transporter) per 40 CFR 263.30(c)(1)]

(2) *Trigger.* 49 CFR 171.16(a) Report in writing within 30 days of discovery to DOT on DOT Form F 5800.1. Address 49 CFR 171.16(a)(1)–(a)(2) criteria (manifest, quantities). It is also important to note that if a highway was closed for one hour or more, DOT also has reporting requirements in 49 CFR 171.15(b) and has a note referring to reporting releases of hazardous substances consistent with 40 CFR 302.6

(3) *Summary.*

(a) Hazardous Substance (RQ) release to environment (40 CFR 302) => NRC.

(b) DOT Written Notification (49 CFR 171.16) => DOT.

(c) Contractual mechanism must be in place to determine the transporter has met their obligation and DOD, as the generator, is properly represented.

**B–3. Hazardous, Toxic, and Radioactive Waste Remediation at an Active Military Installation**

*a. Setting.* A HTRW remediation is in the startup phase at a military installation. The process is a groundwater pump and treat system that is using potassium permanganate in the treatment process to oxidize organics.

*b. Details.* The installation has an environmental coordinator who has informed the USACE representative and the contractor that they are not to make any direct contacts with the installation's regulators. As a part of this instruction, the coordinator also stated that in the event of an emergency (such as fire or spill), USACE or their contractor are to immediately notify the installation's fire department (emergency control center) and the installation environmental coordinator. If any emergency reporting is necessary to Federal, state, or local agencies as a result of an oil spill or release of CERCLA hazardous substance, the installation environmental coordinator will make these reports. The contractor has a supply company delivering a drum of potassium permanganate crystals to the treatment plant for use in the treatment process. As the potassium permanganate is being lowered on the tailgate lift outside of the treatment plant building, the drum falls off the end gate and breaks open spilling the entire contents of the 50-kg iron drum on the ground owing to lid failure. A quick check of the shipping papers and the MSDS indicates that the potassium permanganate is not an EPCRA EHS (verified by checking 40 CFR 302.4 and 355 Appendix A) but does have a reportable quantity of a CERCLA hazardous substance in one package (50 kg  $\times$  2.2 lb./kg = 110 lb.).

*c. Reporting Requirements.*

(1) *Trigger.* 40 CFR 302.6 Notification Requirements Evaluate CERCLA RQ release (40 CFR 302.5).

(a) Time needs to be less than 24 hours (instantaneous release to environment).

(b) Potassium permanganate designated in 40 CFR 302.4 as a hazardous substance (RQ = 100 lb.).

(c) Person in charge of facility must immediately report to NRC.

(2) *Trigger.* 49 CFR 171.16 Detailed Hazardous Materials Incident Report. Although the spill of a DOT hazardous material does not require immediate reporting to the NRC under § 171.15, a DOT Form F 5800.1 must be submitted within 30 days when there has been an unintentional release of a hazardous material.

(3) *Summary.*

(a) Hazardous Substance with RQ was released to the environment (40 CFR 302). The USACE contractor will immediately report spill information (see appendix C) to installation fire department and installation environmental coordinator. The contractor's employee designated in the spill reporting plan will also notify the USACE representative of the spill. The installation environmental coordinator, as the facility owner, will make the report to the NRC. USACE representative will verify with installation environmental coordinator that the NRC notification has been made.

(b) DOT written notification required by 49 CFR 171.16. Submit DOT Form F 5800.1 to DOT. Recommend the District Office of Counsel be notified to verify a report is necessary as the spill occurred on an active installation and it may no longer be considered in commerce. Due to this DOT incident occurring on the installation, this should be coordinated with the installation environmental office as well.

#### **B-4. Hazardous, Toxic, and Radioactive Waste Remediation at a Superfund Project**

a. *Setting.* USACE is performing a CERCLA removal action at an EPA Superfund project that requires the government to provide an alternate water supply to the community because of a significant groundwater contamination problem. A water treatment system has been constructed to supply the area residents with potable drinking water. The water is disinfected by gas chlorination before the treated water is pumped into the existing water distribution system. The chlorination system uses 1-ton gas cylinders of chlorine. An agreement between USACE and EPA has designated the responsibility for spill reporting and signing manifests to USACE. USACE has contract provisions that the contractor is responsible for all spill reporting to Federal, state, and local agencies. USACE is to be notified as soon as possible after the emergency notifications have been made.

b. *Details.* A 1-ton cylinder of chlorine gas is being delivered to the water treatment plant. The water treatment plant is located adjacent to a major highway through the community. As the chlorine gas cylinder is being unloaded from the truck, to be placed into the chlorine room, the valve is inadvertently damaged and begins to release chlorine gas. It was not possible to ascertain how much chlorine gas was escaping but the noise of the escaping chlorine gas was very loud from the damaged valve. The personnel immediately vacated the area of the leaking cylinder. The personnel knew from their training that chlorine gas was a CERCLA hazardous substance and an EPCRA EHS. The fire department was immediately called. The prevailing wind forced the closure of the highway and evacuation of residents downwind from the chlorine release for 2 hours while the fire department and contractor's personnel worked to stop the leaking chlorine cylinder.

c. *Reporting Requirements.*

(1) *Trigger.* 40 CFR 302.6 Notification Requirements Evaluate CERCLA RQ release (40 CFR 302.5).

(a) Time needs to be less than 24 hours (instantaneous release).

(b) Hazardous Substance (RQ Chlorine 10 lb.) is difficult to estimate at the site.

(2) *Trigger.* 40 CFR 355.40 Emergency Release Notification.

(a) Time needs to be less than 24 hours.

(b) Chlorine is an EPCRA EHS, 40 CFR 355, appendix A, RQ = 10 lb.

(3) *Trigger.* 49 CFR 171.15 Immediate notice of certain hazardous materials incidents.

(a) Time frame: Highway was closed, and public was evacuated for more than 1 hour.

(b) Written report to DOT required for hazardous material incident (DOT Form F 5800.1).

(4) *Summary.* The contract documents made the contractor responsible for all spill reporting. The USACE representative was responsible for informing the EPA RPM as soon as the contractor notified USACE.

(a) Hazardous Substance (RQ) release to the environment (40 CFR 302) => NRC.

(b) EHS (RQ) release beyond facility or site (40 CFR 355) => NRC, SERC, LEPC.

*Note.* There are provisions to call 911 in lieu of the SERC and LEPC where the release is transportation related and moving under active shipping papers, provided the material has not reached the consignee (40 CFR 355.40(b)(3)(ii)).

(c) DOT reportable incident because a highway was closed, and the general public was evacuated for more than 1 hour. Contact the NRC and submit file written incident report with DOT within 30 days on DOT Form F 5800.1 (49 CFR 171.15 and 171.16).

(d) The contractor notifies the NRC, SERC, LEPC, and local fire department by calling 911. The contractor provided notification to the USACE representative as soon as reasonably possible after the appropriate Federal, state, and local agencies were notified. The USACE representative in turn contacts the EPA RPM for the site to notify them of the release of the chlorine gas.

## **Appendix C**

### **U.S. Army Corps of Engineers Spill Notification Information Checklist**

To the extent possible, when a spill or release is reported, the following information should be recorded and provided to the NRC (800) 424-8802, LEPC, SERC, and District Chain of Command. Spill notification information forms should be provided in the facility spill response plan.

- Name, address, and telephone number of reporting individual.
- Date and time of day the spill was reported.
- Name of individual or agency the spill was reported to.
- Name of individual who can be contacted for further information.
- Date and time the incident occurred or was discovered.
- Name of the party or individual responsible for the incident.
- Mailing address and telephone number of the responsible party.
- Specific geographic location of the incident.
- Name of material spilled or released.
- Source of the spilled material.
- Cause of the release.
- Total quantity released.
- Whether material was released to air, ground water, or subsurface.
- Amount spilled into water.
- Weather conditions.
- Vessel name, rail car or truck number, or other identifying information.
- Name of carrier/transporter.
- Number and type of injuries or fatalities.
- Whether evacuations have occurred.
- Whether a continuing danger to life exists at the scene.
- Estimated dollar amount of property damage.
- Description of clean-up action taken and future clean-up plans.
- Other agencies that have been notified or will be immediately notified.
- Whether there is any known or anticipated acute or chronic health risks associated with the emergency, and, where appropriate, provide advice regarding medical attention necessary for exposed individuals.
- Proper precautions to take as a result of the releases during evacuation.
- Natural resources that may be affected.
- Landowner.

EPCRA reporting requirements in addition to above items:

- Chemical name or identify of the released substances.
- Whether the substance was an EHS.
- Time and duration of the release.
- Associated health risks and medical attention necessary for exposed individuals.
- Precautions to take due to the release.

For more information on the EPCRA requirements, see EPA Memorandum on Interim Strategy for Enforcement of Title III and CERCLA §103 Notification Requirements.



## **Appendix D**

### **Glossary of Terms**

#### **Section I**

#### **Abbreviations**

##### **BRAC**

Base Realignment and Closure

##### **CAA**

Clean Air Act

##### **CERCLA**

Comprehensive Environmental Response, Compensation, and Liability Act

##### **CFR**

Code of Federal Regulations

##### **CWA**

Clean Water Act

##### **CWM**

Chemical Warfare Material

##### **DOT**

Department of Transportation

##### **EHS**

Extremely Hazardous Substance

##### **EO**

Executive Order

##### **EPA**

Environmental Protection Agency

##### **EPCRA**

Emergency Planning and Community Right to Know Act

##### **ESFO**

Environmental Support for Others

**FUDS**

Formerly Used Defense Sites

**FUSRAP**

Formerly Utilized Remedial Action Program

**HMTA**

Hazardous Material Transportation Act

**HTRW**

Hazardous, Toxic, and Radioactive Waste

**IRP**

Installation Restoration Program

**LEPC**

Local Emergency Planning Committee

**MSDS**

Material Safety Data Sheet

**MMRP**

Military Munitions Response Program

**NCP**

National Oil and Hazardous Substances Pollution Contingency Plan

**NRC**

National Response Center

**NuRC**

Nuclear Regulatory Commission

**OPA**

Oil Pollution Act

**OSC**

On-Scene Coordinator

**OSHA**

Occupational Safety and Health Administration

**PBT**

Persistent Bioaccumulative Toxic

**PCBs**

Polychlorinated Biphenyls

**RCRA**

Resource Conservation and Recovery Act

**RPM**

Remedial Project Manager

**RQ**

Reportable Quantity

**RRS-A**

Records Retention Schedule

**SDS**

Safety Data Sheets

**SERC**

State Emergency Response Commission

**SPCC**

Spill Prevention, Control and Countermeasure

**TPQ**

Threshold Planning Quantity

**TSCA**

Toxic Substances Control Act

**UFGS**

Unified Facilities Guide Specifications

**USACE**

U.S. Army Corps of Engineers

**USC**

U.S. Code

**USCG**

U.S. Coast Guard

**UST**

Underground Storage Tank

**Section II****Terms****Discharge**

Means any intentional or unintentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping that is caused by events occurring within the scope or relevant operating or treatment systems.

**Environment**

Includes water, air, and land, and the interrelationship which exists among and between water, air, and land and all living things.

**Extremely Hazardous Substance**

Means a substance listed in appendixes A and B of 40 CFR 355.

**Facility**

Under CERCLA means (i) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (ii) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel. However, it would be important to coordinate this definition with Office of Counsel for other statutes and regulations.

**Hazardous Chemical**

Means any hazardous chemical as defined under section 1910.1200(c) of Title 29 of the CFR except that such term does not include the following substances. Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

**Hazardous Substance**

Means any substance designated by the CERCLA, RCRA, CWA, any pollutant listed under the CAA, or any imminently hazardous chemical substance under TSCA. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance, or natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

**MSDS or Material Safety Data Sheet**

See Safety Data Sheet.

**Navigable Waters**

Means the waters of the United States, including the territorial seas.

**NCP (40 CFR Part 300)**

Is the document designed to provide the basic blueprint for the entire CERCLA response program. The NCP reflects the latest of EPA's detailed cleanup and response policies and procedures.

**Offshore Facility**

Under CERCLA means any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind that is subject to the jurisdiction of the United States and is in, on, or under any other waters, other than a vessel or a public vessel.

**Oil**

Means oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

**Onshore Facility**

Under CERCLA means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land or non-navigable waters within the United States.

**Owner/Operator**

Means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore facility or an offshore facility, any person owning or operating such facility; and (iii) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated or otherwise controlled activities at such facility immediately beforehand.

**PCBs**

Means polychlorinated biphenyls as defined under 40 CFR 761.3. As specified under 40 CFR 761.1(b), no requirements may be avoided through dilution of the PCB concentration.

**Person**

Under CERCLA means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United State Government, State, municipality, commission, political subdivision of a state, or any interstate body. However, it would be important to coordinate this definition with Office of Counsel for other statutes and regulations.

**Release**

Means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandoning, or disposing into the environment.

**Reportable Quantity**

Means that quantity, as set forth in 40 CFR 302, the release of which requires notification to the National Response Center (NRC).

**Responsible Party**

Means, under TSCA, the owner of the PCB equipment, facility, or other source of PCBs or his/her designated agent (such as a facility manager or foreman).

**Safety Data Sheet**

Is the document containing the chemical name or the common name of each chemical plus the hazardous component of each such chemical, as well as handling and disposal information. This sheet is required under OSHA for each hazardous chemical located at a site.

**Sheen Facility**

Means an iridescent appearance on the surface of the water caused by oils, petroleum products, etc.

**Spill**

As defined by TSCA, the term means both intentional and unintentional spills, leaks, and other uncontrolled discharges where the release results in any quantity of PCBs or hazardous substances running off or about to run off the external surfaces of the equipment; or other PCB source, as well as contamination resulting from those releases.

**Spill Event**

Means a discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in harmful quantities, as defined in 40 CFR 110. According to 40 CFR 110.3, harmful quantities include discharges of oil that (i) violate applicable water quality standards, or (ii) cause a film or sheen upon or discoloration of the surfaces of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

**Sludge**

Means an aggregate of oil or oil and other matter or any kind in any form other than dredged spoil having a combined specific gravity equal to or greater than water.

**Threshold Planning Quantity (TPQ)**

Means, for a substance listed in Appendixes A and B of 40 CFR 355, the quantity listed in the column "threshold planning quantity" for that substance.

**United States**

Includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

**Vessel**

Means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.