

EP 200-1-23  
31 January 2012



US Army Corps  
of Engineers®

ENVIRONMENTAL QUALITY

---

# **SPILL REPORTING PROCEDURES FOR USACE HAZARDOUS, TOXIC AND RADIOACTIVE WASTE PROJECTS**

**ENGINEER PAMPHLET**

## **AVAILABILITY**

Electronic copies of this and other U.S. Army Corps of Engineers (USACE) publications are available on the Internet at <http://140.194.76.129/publications/index.html>. This site is the only repository for all official USACE engineer regulations, circulars, manuals, and other documents originating from HQUSACE. Publications are provided in portable document format (PDF).

CEMP-RA

Pamphlet  
No. 200-1-23

31 January 2012

Environmental Quality  
SPILL REPORTING PROCEDURES FOR USACE HAZARDOUS, TOXIC AND  
RADIOACTIVE WASTE (HTRW) PROJECTS

TABLE OF CONTENTS

	Paragraph	Page
Chapter 1. Introduction		
Purpose .....	1-1	1-1
Applicability .....	1-2	1-1
References .....	1-3	1-2
Distribution Statement .....	1-4	1-2
Discussion.....	1-5	1-3
Chapter 2. Spill Notification and Emergency Release Reporting Requirements		
Introduction .....	2-1	2-1
Code of Federal Regulations Reporting Requirements.....	2-2	2-3
Chapter 3. USACE Spill Reporting Responsibilities		
Introduction .....	3-1	3-1
Reporting Responsibilities at Formerly Used Defense Sites (FUDS) and Formerly Utilized Sites Remedial Action Program (FUSRAP)		
Response Actions .....	3-2	3-2
Reporting Responsibilities at Installation/Restoration Sites under the Installation Restoration Program (IRP), Base Realignment and Closure (BRAC) and Military Construction (MILCON) .....	3-3	3-3
Reporting Responsibilities under Superfund .....	3-4	3-3
Reporting Responsibilities under Environmental Support for Others Sites (ESFO).....	3-5	3-4
Chapter 4. Report and Recordkeeping		
Introduction .....	4-1	4-1
Spill Reporting .....	4-2	4-1
Recordkeeping and Documentation .....	4-3	4-2

	Paragraph	Page
Chapter 5. Planning		
Introduction.....	5-1	5-1
Special Contract Provisions .....	5-2	5-1
Training Provisions .....	5-3	5-1
District Reporting Requirements .....	5-4	5-2
Appendix A - References.....		A-1
Appendix B - Examples of Spill Reporting Scenarios .....		B-1
Appendix C - U.S. Army Corps of Engineers Spill Notification Information List.....		C-1
Appendix D - U.S. Army Corps of Engineers Spill Notification Checklist.....		D-1
Glossary		
Section I. Acronyms.....		Glossary-1
Section II. Terms.....		Glossary-3
Figures and Tables		
Figure 2-1. CERCLA and EPCRA Release Reporting.....		2-7
Table 2-1. PCB Spill Reporting Summary [40 CFR 761.125(a)(1)] .....		2-8
Table 2-2. Spill Notification and Emergency Release Reporting Requirements under CERCLA.....		2-12
Table 2-3. Spill Notification and Emergency Release Reporting Requirements for Oil Discharges, UST Petroleum Releases or EPCRA.....		2-13
Table 2-4. Spill Notification and Emergency Reporting Requirements under Nuclear Regulatory Commission, TSCA, and DOT .....		2-14
Table 3-1. Recommended Procedures for Spill Reporting on Corps of Engineers HTRW Sites .....		3-2

## CHAPTER 1 Introduction

1-1. Purpose. This pamphlet is intended to support: (i) the USACE policy for the prevention, control, reporting, and contingency planning for spills of oil and hazardous substances; and (ii) the USACE goal to use, generate, transport, store, handle, and dispose of oil and hazardous substances in a manner that protects the environment and public health. The USACE policy is consistent with the Army policy to prevent spills of oil and hazardous substances and maintain readiness to rapidly respond to spills of oil or a hazardous substance (AR 200-1).

1-2. Applicability. This pamphlet applies to USACE commands having responsibility for Hazardous, Toxic and Radioactive Waste (HTRW) Program activities and projects, including Formerly Used Defense Sites (FUDS), Formerly Utilized Sites Remedial Action Program (FUSRAP), Base Realignment and Closure (BRAC), Installation Restoration Program (IRP), Support for Others (SFO), and Environmental Protection Agency Superfund. Under the direction of HQUSACE, this Engineer Pamphlet (EP) will not apply to USACE commands having responsibility for civil works facilities and activities, including floating plants that are addressed under ER 200-2-3. 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 to be in compliance with 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 materials is beyond the scope of this document. For guidance on spills and response activities for chemical warfare materials see SAIE(ESOH) Memorandum: *Interim Guidance for Chemical Warfare Material (CWM) Responses*, 1 April 2009 and Enclosure 1.

b. Military construction (non-HTRW) was not a part of the original 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, *Environmental Protection*, Section 015720, has notification requirements that the contractor must include in the spill control plan. The spill control plan shall 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 (e.g., 40 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 FUDS properties where USACE and their contractors have not undertaken any on-site activities (e.g., 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 Federal or state statute or regulation is in question, in particular regarding the CWA or Oil Pollution Act (OPA), the District Office of Counsel shall be immediately consulted prior to any spill reporting. Likewise, the Office of Counsel should be consulted for all questions related to whether there has been a waiver of Sovereign Immunity under a specific statute or regulation 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 embodied in law and regulation. Statutes and regulations are the controlling rule of law and should always be consulted to determine how they apply to a particular set of circumstances to assure compliance before action is taken. USACE will comply with all applicable laws and regulations. The PM district will provide general legal services in support of FUDS and 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 represent the agency in negotiations or adversary proceedings. For other work performed by USACE under a different program or authority (i.e., BRAC, IRP, 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.

1-3. References. Required and related references are at Appendix A.

1-4. Distribution Statement. Approved for public release, distribution is unlimited.

1-5. Discussion.

*a.* There are spill notification and emergency release reporting requirements under several Federal statutes, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (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 Toxic Substances Control Act (TSCA) imminently hazardous chemical substances. Over the past decade, CEMP-RT Memorandum *Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects*, dated 20 July 1995, served as the USACE guideline for internal spill reporting procedures. This Engineer Pamphlet updates the spill notification and emergency release reporting requirements and supersedes the CEMP-RT memorandum.

*b.* Because there are 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. The EP will discuss spill reporting and emergency release notifications to state and local agencies that are required by Federal statutes or regulations but will not address any individual state statutes or regulations that might supplement the Federal statutes or regulations. 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.

THIS PAGE INTENTIONALLY LEFT BLANK

## 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 U.S.C.A. § 9601] 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. In addition, state statutes and regulations must be consulted to ensure that there are no additional or more stringent reporting or notification requirements (e.g., California, Michigan, and Utah) promulgated under state statute. It would be important to coordinate this search of the state statutes and regulations with the District Counsel office. Tables 2-1 through 2-4 summarize the Federal, state and local notification requirements based on the Federal statutes and regulations. However, the 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 302, 40 CFR 355, 40 CFR 112 or under state or local laws and regulations (See UFGS *Environmental Protection*—Section 015720). The spill control plan supplements the requirements of EM 385-1-1. 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. 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 (e.g., 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. USACE shall designate the spill reporting responsibilities for HTRW projects on response actions where USACE is the lead Federal agency (e.g., 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 (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.

31 Jan 12

b. 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, including notification of the National Response Center (NRC) in the event of a release or discharge of oil or a hazardous substance, at or in excess of, its reportable quantity (RQ). 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. The USACE HTRW construction representative 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 of the following organizations.

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

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

d. 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.

*e.* 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 off-shore facility is responsible for reporting releases of oil to the National Response Center (NRC) at (800) 424-8802 as soon as he or she has knowledge of the release. If direct reporting to the NRC is not practical, reports may be made to the Coast Guard or the EPA-designated On-Scene Coordinator (OSC) for the geographic area where the discharge occurs. The NRC must still receive prompt notification either by the person in charge, the Coast Guard, or EPA when the report is not made directly to the NRC. 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 causes a film or sheen on 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.)

### *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 reportable quantities (RQ) for various substances, including hazardous substances, and the notification requirements for release of these substances. The list of hazardous substances and their corresponding reportable quantities are in a table in 40 CFR 302.4. The table includes an alphabetical listing of chemicals and entries for all hazardous wastes. It is important to note that radionuclides are defined by regulation as hazardous substances. Appendix B to § 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 extremely hazardous substance. The tables in 40 CFR 302.4 and Appendix A to § Part 355 will need to be checked to determine if you have a CERCLA hazardous substance and an EPCRA extremely hazardous substance.

(2) *Who is Required to Report?* Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he or she has knowledge of the release (other than a Federally permitted release or application of a pesticide) should immediately notify the National Response Center (NRC) at (800) 424-8802—in Washington D.C. (202) 467-2675; facsimile (202) 267-1332. The NRC has deployed an On-Line Reporting Tool to easily submit incident reports for internet users. The On-Line Reporting Tool is located at <http://www.nrc.uscg.mil/nrchp.html>.

(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 exceptions to when notification is not required. However, if an exception to making a notification were being considered, it would be advisable to 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 extremely hazardous substance (EHS) in amounts equal to or in excess of their threshold planning quantity (TPQ). The lists of extremely hazardous substances and their threshold planning quantities are in Appendix A and B to Part 355. Executive Order 12856 *Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements*, made all Federal agencies and facilities responsible for complying with the Emergency Planning and Community Right-to-Know Act (EPCRA) (§§ 355, 370, 372). Refer to Figure 2-1 for a brief summary of the release reporting requirements.

(2) *Who is Required to Report?* First, the owner or operator should designate an emergency coordinator. The owner or operator (or facility response 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 extremely hazardous substance should be reported to the SERC or the LEPC established for the location where the incident occurred. To identify the appropriate SERC and LEPC, the EPCRA Hotline at 800-424-9346 should be contacted. (Refer to 40 CFR 355.40 (b) for correct 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 Formerly Used Defense Site (FUDS) or a Formerly Utilized Sites Remedial Action Program (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 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 is cautioned to be careful 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, in accordance with 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 development of State and local emergency response plans.

(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 or equal to 500 pounds or the threshold planning quantity (TPQ), whichever is lower; and (2) OSHA hazardous substances in amounts greater or equal to 10,000 pounds. This reporting requirement is not applicable to hazardous wastes or constituents. As previously stated, Executive Order 12856 requires Federal agencies and facilities to comply with § 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 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, 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 general public - i.e., paint, glue, tobacco products, wood products, consumer products, etc.) Items such as gasoline, oils, heating oils, diesel fuel, and solvents would be covered under this part. The facility shall 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 that the general 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. A Federal facility, in accordance with EO 12856, 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 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 Prevent Act (PPA) 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).

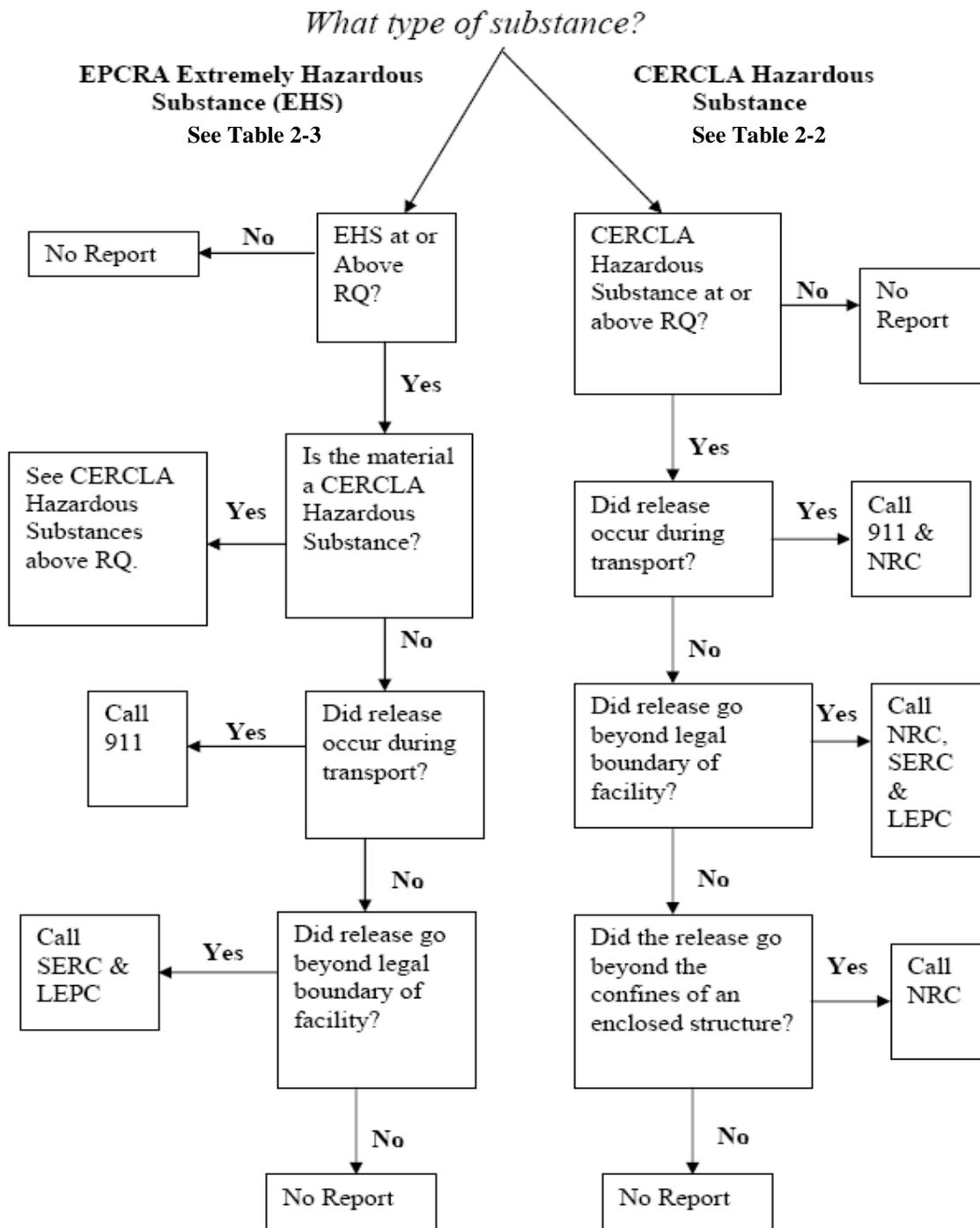


Figure 2-1. CERCLA and EPCRA Release Reporting.

*f. 40 CFR 761—Polychlorinated Biphenyls (PCBs), 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 PCBs at concentrations of 50 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. Spills occurring before this date should follow the existing regional standards.

(2) *Who is Required to Report?* Anyone responsible for the spill, having knowledge of a spill, or who discovers a spill must report in accordance with § 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)]

If 1 lb. 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 1 lb., 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., notify the NRC
If 10 lb. 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.

*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 Department of Transportation (DOT) governing the transportation of hazardous materials.

(2) *Who is Required to Report?* Each person in physical possession of the hazardous material (e.g., hazardous substances and hazardous wastes) during transportation, including the loading, unloading, and temporary storage, is required to report spills. The responsible

person shall notify the DOT (800-424-8802) at the earliest practical moment but no later than 12 hours from the event that triggered the reporting requirement. Notice involving etiologic agents may be given to the Center for Disease Control (800-232-0124) in place of notice to DOT. 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 within 30 days of discovery of the incident 49 CFR 171.16(a).

(3) *When is Reporting Required?* The carrier shall immediately report when, during the course of transportation:

(a) As a direct result of the hazardous materials:

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

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

- Radioactive material.
- 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 National Response Center even though it does not meet the above criteria of this section.

(4) *When is a Written Report Required?* A written 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).

31 Jan 12

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

(c) A cargo tank (1000 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.

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

(1) *Application of 10 CFR 71.* This section of the Nuclear Regulatory Commission (NRC) 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 NRC regulations, depending on the activity and classification of the radioactive material. The NRC requires that licensed material that is transported off-site or on public highways must comply with DOT regulations in 49 CFR 170 through 189.

(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 NRC 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 § 302.4. The RQ for radionuclides is an activity in curies.

(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 NRC 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 (RPO) and the safety office must be immediately notified to respond. USACE and the NRC have entered into a Memorandum of Understanding (July 2001) for HTRW remediation at FUSRAP sites with licensed facilities. USACE and the NRC 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 NRC observe the remediation activities to ensure the response action protects human health and the environment.

*i. CERCLA 103(c) Notifications of Past Releases.* 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 fairly 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 of time. Therefore, in addition to providing a mechanism for reporting current spills, CERCLA ensures that past releases are also reported. Whereas current releases must be immediately reported to the National Response Center 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 (DERP), 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. 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 shall, 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 the Environmental Protection Agency 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 2-2  
Spill Notification and Emergency Release Reporting Requirements under CERCLA

Event:	When Reporting is Required:	Who Must Report:	Reporting is Required to:	CFR Source:
Release of a Hazardous Substance	<ul style="list-style-type: none"> <li>•Release of a reportable quantity (RQ) of a CERCLA hazardous substance occurs during any 24-hour period. See 40 CFR 302.4 for list of hazardous substances.</li> </ul>	<ul style="list-style-type: none"> <li>•Any person in charge of a vessel or an off-shore or an onshore facility.</li> </ul>	<ul style="list-style-type: none"> <li>•National Response Center (NRC) at (800) 424-8802</li> </ul>	<ul style="list-style-type: none"> <li>•40 CFR 302, 103(a)</li> <li>•CERCLA 103(a) <i>Navigable Water (Pre-CERCLA)</i></li> <li>•40 CFR 117.21,</li> <li>•33 CFR 153.203</li> </ul>
Past Releases of a Hazardous Substance	<ul style="list-style-type: none"> <li>•See footnote * regarding when reporting is required</li> </ul>	<ul style="list-style-type: none"> <li>•Any person with knowledge of a release when a hazardous substance is discovered.</li> </ul>	<ul style="list-style-type: none"> <li>•EPA Administrator</li> </ul>	<ul style="list-style-type: none"> <li>•Past Releases * CERCLA 103(c) Notification</li> </ul>
Release of Radionuclides <ul style="list-style-type: none"> <li>•CERCLA Hazardous Substance</li> </ul>	<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 releases 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>	<ul style="list-style-type: none"> <li>•Any person in charge of a vessel or an off-shore or an onshore facility (includes motor vehicles and rolling stock) as soon as they have knowledge of any release.</li> </ul>	<ul style="list-style-type: none"> <li>•National Response Center (NRC) at (800) 424-8802</li> </ul>	<ul style="list-style-type: none"> <li>•40 CFR 302.4, Appendix B</li> <li>•40 CFR 302.6</li> </ul>

**\*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 shall, 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 U.S.</li> </ul> <hr/> <ul style="list-style-type: none"> <li>•Discharge oil &gt;1,000 gal. <b>or</b> 42 gal. or more, 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 on-shore or offshore facility.</li> </ul> <hr/> <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> <hr/> <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> <hr/> <ul style="list-style-type: none"> <li>•40 CFR 112.4</li> </ul>
Underground Storage Tank (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. 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 substance 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 release results in sheen on surface water or a RQ of a CERCLA hazardous substance to the environment. <b>AND</b></li> <li>•Notify implementing agency (EPA or approved State UST office) within 24-hours.</li> </ul>	<ul style="list-style-type: none"> <li>•40 CFR 280.53</li> <li>•§ 280.53 &amp; § 302</li> </ul>
Extremely Hazardous Substance (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 HS);</li> <li>•Community Emergency Coordinator for the Local Emergency Planning Committee (LEPC) <b>OR</b> 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; <b>IF</b> Facility produced, used or stored 10,000 lb. of OSHA hazardous chemicals and/ or EHS in an amount greater than or equal to 500 lb. or the Threshold Planning Quantity, whichever 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; <b>IF</b></p> <ul style="list-style-type: none"> <li>•A facility has 10 or more full-time employees, <b>AND</b></li> <li>•Manufactures or processes &gt;25,000 lbs of a toxic chemical; <b>OR</b></li> <li>•otherwise uses &gt;10,000lbs of a toxic chemical; <b>OR</b></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 NRC) 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 shall comply with DOT regulations 49 CFR Parts 170–189, 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 Polychlorinated Biphenyls (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 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. 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., notify the NRC.</li> </ul> <p>-----</p> <ul style="list-style-type: none"> <li>▪Any spill equal to 10 lb 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> <li>▪RCRA Hazardous Waste</li> <li>▪Radionuclides</li> <li>▪Marine Pollutants</li> </ul>	<p><i>A telephone report is required whenever any of the following occurs during the course of 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> <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 pounds) 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>Each person in physical possession of a hazardous material at the time that a reportable incident occurs must make the telephonic report and follow up with a written incident report.</i></p>	<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 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>	49 CFR 171, Subchapter C – Hazardous Materials Regulations (§ 171.15 & § 171.16)

## CHAPTER 3

### USACE 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 National Response Center (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.* Because USACE does 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. The 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 shall 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. This coordination should be documented on a form similar to the one provided in Appendix D, with the exception that the notification of the spill was made to the installation environmental coordinator instead of the NRC and other regulatory agencies.

*c.* 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 following

paragraphs, in conjunction with Table 3-1, summarize USACE reporting responsibilities for HTRW response actions.

**Table 3-1  
Recommended Procedures for Spill Reporting On Corps of Engineers HTRW Sites**

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 (e.g., 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 1 hour of notifying all the appropriate regulatory agencies.</li> </ul>
Installation Restoration Site (IRP), 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 (e.g., 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 shall 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 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 (FUDS) and Formerly Utilized Sites Remedial Action Program (FUSRAP) Response Actions.**

*a.* In all cases, the USACE representative will report spills as required by statute and regulation or verify and document that 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 his or her District Office of Counsel about spill notification and emergency release reporting requirements before undertaking management of any phase of a remediation project (e.g., 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 for FUSRAP sites that are not owned by the Federal government.

*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 shall then be required to notify USACE within 1 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 (IRP), Base Realignment and Closure (BRAC) and Military Construction (MILCON).

*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 completely eliminate the liability of USACE or contractor personnel on-site who have knowledge of the incident. It is recommended that USACE management and construction personnel consult with the Office of Counsel about such requirements before executing a project to clearly delineate the spill reporting roles and responsibilities.

*b.* Reporting a spill of oil or a hazardous substance on Army installations will be in accordance with the current version of AR 200-1, *Environmental Protection and Enhancement*, Chapter 3, *Oil and Hazardous Substances Spills*. Spill reporting procedures on Air Force installations shall be coordinated with the installation environmental office before on-site activities commence. The contract documents and work plans shall 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 On Scene Coordinator (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 (MOA) may be one method to formalize this understanding of roles and responsibilities.

3-5. Reporting Responsibilities under Environmental Support for Others Sites (ESFO). 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, than 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 Appendices C and D. 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 National Response Center (NRC), SERC, or LEPC need to be notified.

*b.* In the event that 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 1000 gal. or if 42 gal. or more of oil are discharged in two separate events during any 12-month period, facilities must meet additional reporting to EPA in accordance with 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 EPCRA § 304(a), releases of EHSs are only reportable if they occur in a manner that requires, or would require, notification under CERCLA § 103(a). 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 PAO 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 1000 gal. of oil in a single discharge or discharged more than 42 gal. 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 § 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 1000 gal. 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 in accordance with 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 shall contain a section in the contract documents that outlines contractor responsibilities for spill reporting. The contract documents shall identify when the USACE representative shall 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 shall 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 shall submit a written report to the USACE Representative. Within 24 hours the contractor shall submit a written report to the USACE Representative which contains the information required from the spill notification information list (Appendix C) and spill notification checklist (Appendix D).”

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

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

The contract documents must define what constitutes immediate reporting and be in compliance with regulatory requirements.

5-3. Training Provisions. Each District shall 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.

EP 200-1-23  
31 Jan 12

*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 shall prepare and approve a written policy:

*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 (e.g. 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.

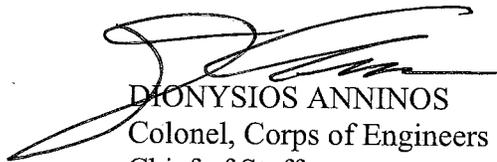
(3) Follow up with the appropriate Federal and state agencies.

(4) Upward reporting to HQ USACE.

(5) Support or advice to the installation in the event of a spill.

FOR THE COMMANDER:

4 Appendices  
(See Table of Contents)

  
DIONYSIOS ANNINOS  
Colonel, Corps of Engineers  
Chief of Staff

## APPENDIX A

### References

#### A-1. Public Laws and Regulations:

10 CFR 71

Packaging and Transportation of Radioactive Material.

33 CFR 153, Subpart B

Notice of the Discharge of Oil or a Hazardous Substance.

40 CFR 68

Chemical Accident Prevention Provisions.

40 CFR 110

Discharge of Oil.

40 CFR 110.6

Clean Water Act. Immediate notification to NRC of a discharge of oil.

40 CFR 112

Oil Pollution Prevention.

40 CFR 112.4

Clean Water Act. Amendment of SPCC Plan by Regional Administrator.

40 CFR 117

Clean Water Act. Determination of Reportable Quantities for Hazardous Substances.

40 CFR 117.21

Clean Water Act. Notice of Discharge of a Reportable Quantity.

40 CFR 122.41

Clean Water Act. Conditions applicable to all NPDES permits.

40 CFR 263.30

Hazardous Waste Discharges. Immediate Action.

40 CFR 280.53

Reporting and Cleanup of Spills and Overfills.

EP 200-1-23  
31 Jan 12

40 CFR 302.6(a)  
Designation, Reportable Quantities, and Notification. Notification requirements of a hazardous substance release (equal to or greater than RQ).

40 CFR 355.40  
Emergency Planning and Community Right-to-Know Act. Release of SARA extremely hazardous substance or CERCLA hazardous substance equal to or greater than RQ.

40 CFR 761.120, 761.126  
Toxic Substance Control Act. PCB Spill (equal to or greater than 50 ppm) with release to surface water/drinking water supplies sewers/grazing lands, etc.

40 CFR 280  
Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs).

40 CFR 302  
Designation, Reportable Quantities, and Notification.

40 CFR 355  
Emergency Planning and Notification.

40 CFR 370  
Hazardous Chemical Reporting: Community Right-To-Know.

40 CFR 372  
Toxic Chemical Reporting Release Reporting: Community Right-To-Know.

40 CFR 761  
Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

49 CFR 171  
General Information, Regulations and Definitions.

49 CFR 171.15, 171.16  
Hazardous Material Transportation Act. Governs the immediate notice of certain hazardous material incidents and detailed hazardous material incident reports.

A-2. Executive Orders:

Executive Order 12856  
Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.

A-3. Department of the Army:

AR 200-1  
Environmental Protection and Enhancement.

DA Pam 200-1  
Environmental Protection and Enhancement.

A-4. U.S. Army Corps of Engineers:

ER 200-2-3  
Environmental Quality-Environmental Compliance Policies.

EM 385-1-1  
Safety-Safety and Health Requirements.

UFC 015720  
Unified Facilities Guide Specification, *Environmental Protection*, Section 015720.

CEMP-RT Memorandum  
Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects, dated 20 July 1995.

SAIE(ESOH) Memorandum  
Interim Guidance for Chemical Warfare Material (CWM) Responses, 1 April 2009 and Enclosure 1.

A-5. Other Federal Agencies:

EPA Emergency Response Program  
<http://www.epa.gov/oem/programs.htm>

EPCRA Emergency Planning Requirements  
[http://www.epa.gov/osweroe1/content/epcra/epcra\\_plan.htm](http://www.epa.gov/osweroe1/content/epcra/epcra_plan.htm)

EPA State Emergency Response Commission  
[http://www.epa.gov/osweroe1/content/epcra/serc\\_contacts.htm](http://www.epa.gov/osweroe1/content/epcra/serc_contacts.htm)

EPA Local Emergency Planning Committee  
<http://yosemite.epa.gov/oswer/lepcdb.nsf/HomePage?openForm>

THIS PAGE INTENTIONALLY LEFT BLANK

## 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 1000 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 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 for the containment area was not 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 the previous evening.

#### *c. Reporting Requirements.*

(1) *Trigger.* Discharges of oil in such quantities as “may be harmful” pursuant to section 311(b)(4) of the Act [FWPCA or CWA] 40 CFR 110.6 requires notification to the NRC (800-424-8802) for releases of oil that “may be harmful” (40 CFR 110.3). [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) [see immediately below] [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).

EP 200-1-23  
31 Jan 12

(c)  $11,000 \text{ ppm} / 1,000,000 \text{ ppm} = \text{approximately } 1\%$ .

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

(e) NRC notification per 40 CFR 302.6; redundant with 33 CFR 153.203 (40 CFR 117.21) [Any person].

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

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

(b) Notify EPA Regional Office for PCB (PCB material) release to surface water (40 CFR 761.125(a)(1)(i)). [Responsible party].

*d. Summary of NRC Reporting.*

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

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

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

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

## B-2. Off-site Transporter/DOT.

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

*b. Details.* A construction contractor excavated an old pesticide disposal pit. Historical informal records and interviews provided enough information to warrant commercial chemical product listings (DDT: U061 and Chlordane: U036). The highly contaminated material (more than 1% total pesticides) was loaded out in 10 intermediate bulk containers of 1 m<sup>3</sup> (IBC, woven fiber “super sacks”) on a flat bed 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 TSDF, 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) [Any person, i.e., Transporter, 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).

(3) *Summary.*

(a) HS (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. HTRW 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 (e.g., 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

EP 200-1-23  
31 Jan 12

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 extremely hazardous substance (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 ( $50 \text{ kg} \times 2.2 \text{ lb/kg} = 110 \text{ lb}$ ).

*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) HS (RQ) released to environment (40 CFR 302) => USACE contractor shall immediately report spill information (see Appendix C) to installation fire department and environmental coordinator. The installation environmental coordinator, as the facility owner, shall make the report to the NRC. USACE representative shall verify with installation environmental coordinator that the NRC notification has been made.

(b) DOT written notification (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. Because this DOT incident occurred on the installation, this should be coordinated with the installation environmental office as well.

B-4. HTRW 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 extremely hazardous substance. 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) HS (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 extremely hazardous substance, 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.

EP 200-1-23  
31 Jan 12

(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) HS (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. => NRC and 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 List

*To the extent possible*, when a spill or release is reported, the following information should be recorded and provided to the National Response Center (NRC) (800) 424-8802.

- 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.

EP 200-1-23  
31 Jan 12

- Associated health risks and medical attention necessary for exposed individuals.
- Precautions to take due to the release.

Reference: <http://www.epa.gov/superfund/programs/er/triggers/haztrigs/whatinfo.htm>

*Example Spill Notification Form:*

- a. Name of Reporting Person: \_\_\_\_\_
  - b. Address of Reporting Person: \_\_\_\_\_
  - c. Telephone number of reporting individual: \_\_\_\_\_
- a. Date Spill reported: \_\_\_\_\_
  - b. Time Spill Reported: \_\_\_\_\_ AM/PM \_\_\_\_\_ EST/CST/MST (circle one)
3. Name of individual and/or agency the spill was reported to:  
\_\_\_\_\_
4. Name of individual who can be contacted for further information:  
\_\_\_\_\_
5. Incident occurred or was discovered:
  - a. Date: \_\_\_\_\_
  - b. Time: \_\_\_\_\_ AM/PM \_\_\_\_\_ EST/CST/MST (circle one)
6. Name of the party or individual responsible for the incident:  
\_\_\_\_\_
7. Mailing address and telephone number of the responsible party:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Specific geographic location of the incident: \_\_\_\_\_  
\_\_\_\_\_
9. Name of material spilled or released: \_\_\_\_\_
10. Source of the spilled material: \_\_\_\_\_

11. Cause of the release: \_\_\_\_\_  
\_\_\_\_\_

12. Total quantity released: \_\_\_\_\_ (Identify Units)

13. Identify whether material was released to air, ground water, or subsurface or combination:  
\_\_\_\_\_

14. Amount spilled into water: \_\_\_\_\_ (Identify Units)

15. Weather conditions: \_\_\_\_\_

16. Vessel name, rail car/truck number  
or other identifying information: \_\_\_\_\_

17. Name of carrier/transporter: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

18. Number and type of injuries or fatalities: \_\_\_\_\_

19. Identify and describe any evacuations  
that have occurred: \_\_\_\_\_  
\_\_\_\_\_

20. Identify whether a continuing danger  
to life exists at the scene: \_\_\_\_\_  
\_\_\_\_\_

21. Estimated dollar amount of property damage: \_\_\_\_\_

22. Describe clean-up action(s) taken and  
future clean up plans: \_\_\_\_\_  
\_\_\_\_\_

23. Identify other agencies that have been notified  
or will be immediately notified: \_\_\_\_\_  
\_\_\_\_\_

24. Identify whether there is any known or anticipated acute or chronic health risks associated  
with the emergency, and, where appropriate, advice regarding medical attention necessary for  
exposed individuals.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EP 200-1-23  
31 Jan 12

25. Describe proper precautions to take as a result of the releases during evacuation:

---

---

---

26. Identify natural resources that may be affected:

---

---

---

27. Landowner:

---

EPCRA reporting requirements in addition to above items:

28. Chemical name or identify of the released substance(s)

---

---

29. Identify whether the substance was an Extremely Hazardous Substance: \_\_\_\_\_

30. Time and duration of the release: \_\_\_\_\_

31. Associated health risks and medical attention necessary for exposed individuals:

---

---

---

32. Precautions to take due to the release:

---

---

APPENDIX D

U.S. Army Corps of Engineers Spill Notification Checklist

- \_\_\_\_\_ ▪ Discharge/Spill Observed  
Date: \_\_\_\_\_  
Location: \_\_\_\_\_  
Recorder: \_\_\_\_\_
  
- \_\_\_\_\_ ▪ Call National Response Center (800) 424-8802 or submit incident report via On-Line Reporting Tool located at <http://www.nrc.uscg.mil/nrchp.html>  
*Note: If direct reporting to the NRC is not practicable, reports may be made to the EPA Regional Office*  
  
EPA Regional Emergency Number: \_\_\_\_\_  
Notification to NRC made by: \_\_\_\_\_  
Time of Notification: \_\_\_\_\_  
Date of Notification: \_\_\_\_\_  
Name of Person at LEPC: \_\_\_\_\_
  
- \_\_\_\_\_ ▪ Call the Local Emergency Planning Committee (LEPC)  
Telephone number of LEPC: \_\_\_\_\_  
Notification to LEPC made by: \_\_\_\_\_  
Time of Notification: \_\_\_\_\_  
Date of Notification: \_\_\_\_\_  
Name of Person at LEPC: \_\_\_\_\_
  
- \_\_\_\_\_ ▪ Call the State Emergency Response Commission (SERC)  
Telephone number of SERC: \_\_\_\_\_  
Notification of SERC made by: \_\_\_\_\_  
Time of Notification: \_\_\_\_\_  
Date of Notification: \_\_\_\_\_  
Name of Person at SERC: \_\_\_\_\_  
*Note: Notice to the LEPC and SERC are necessitated by SARA Title III.*
  
- \_\_\_\_\_ ▪ Call your District Chain-of-Command Office  
Telephone number of office: \_\_\_\_\_  
Notification made by: \_\_\_\_\_  
Time of Notification: \_\_\_\_\_  
Date of Notification: \_\_\_\_\_  
Name of Person at District Office: \_\_\_\_\_

THIS PAGE INTENTIONALLY LEFT BLANK

## GLOSSARY

### Abbreviations and Terms

#### Section I Acronyms

CAA	Clean Air Act
CEMP	Corps of Engineers Directorate of Military Programs
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
DERP	Defense Environmental Restoration Program
DOT	Department of Transportation
ECC	Environmental Compliance Coordinator
EHS	Extremely Hazardous Substance
EP	Engineering Pamphlet
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
ER	Engineering Regulation
ESFO	Environment Support for Others
FUSRAP	Formerly Utilized Sites Remedial Action Program
FUDS	Formerly Used Defense Sites
HMTA	Hazardous Material Transportation Act
HTRW	Hazardous, Toxic, Radioactive Waste
HQUSACE	Headquarters, U.S. Army Corps of Engineers

EP 200-1-23  
31 Jan 12

IOSC	Installation On-Scene Coordinator
IRP	Installation Restoration Program
LEPC	Local Emergency Planning Committee
MSDS	Material Safety Data Sheet
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NRC	National Response Center
NRC	Nuclear Regulatory Commission (when dealing with radioactive materials)
OSC	On-Scene Coordinator
OSHA	Occupational Safety and Health Administration
OPA	Oil Pollution Act
PBT	Persistent Bioaccumulative Toxic
PCBs	Polychlorinated Biphenyl
PRP	Primary Responsible Party
RA	Regional Administrator
RA	Remedial Action
RCRA	Resource Conservation and Recovery Act
RPM	Remedial Project Manager
RPO	Radiation Protection Officer
RQ	Reportable Quantity
SERC	State Emergency Response Commission
SPCC	Spill Prevention, Control and Countermeasure

TPQ	Threshold Planning Quantities
TSCA	Toxic Substances Control Act
USACE	U.S. Army Corp of Engineers
USCG	United States 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 Appendices A and B of 40 CFR 355, Emergency Planning and Notification.

*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 Code of Federal Regulations, 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 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation Recovery Act (RCRA), Clean Water Act (CWA), any pollutant listed under the Clean Air Act (CAA), or any imminently hazardous chemical substance under Toxic Substances Control Act (TSCA). The term does not include petroleum, including crude oil

EP 200-1-23

31 Jan 12

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* - 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.

*Navigable Waters* - means the waters of the United States, including the territorial seas.

*National Contingency Plan, or the National Oil and Hazardous Substances Pollution Contingency Plan (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 located 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 off-shore 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 as 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 (e.g., a facility manager or foreman).

*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 Appendices 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.

