

## MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects

1. Purpose: This memorandum identifies and establishes guidance for compliance regarding 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.
2. Applicability. This memorandum applies to HQUSACE elements executing HTRW, major subordinate commands, districts, laboratories, and field operating activities performing or contracting HTRW site activities.

This document is not intended to replace substantive regulatory requirements, but only to summarize certain key reporting provisions. The reader is cautioned to read the applicable regulations in conjunction with the use of this document. For Civil Works Spill Reporting Procedures, refer to USACE Operated Facilities Environmental Compliance Guidance Letter No. 2, Spill Planning and Response, which is under revision.

3. References - See Appendix A.
4. Key Definitions - See Appendix B.
5. CFR Reporting Requirements - See Appendix C.
6. Background.

a. Over the past several years, there has not been a standard internal spill reporting procedure. As the HTRW program expands and the diversity of programs and customers continues, it is important to establish a standard internal spill reporting procedure for HTRW work.

b. As discussed herein, there are many different environmental regulations that require spill reporting and notification to regulatory agencies. The requirements vary and are somewhat confusing in nature. The purpose of this policy is to outline the major reporting requirements and delineate reporting responsibilities based on our customer's needs.

c. As spill reporting is required under various environmental statutes, it is imperative that Corps personnel are knowledgeable about the spill reporting requirements, and that the Corps standardizes reporting procedures.

CEPM-RT (200-1a)

SUBJECT: Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects

7. Spill Reporting Requirements. - The following table provides a brief summary of the spill reporting requirements:

**Table 1 - Notification Requirements**

<b>Event:</b>	<b>Who Must Report:</b>	<b>Reporting is Required to:</b>	<b>When is Reporting Required?</b>	<b>CFR Source:</b>
<b>Oil Discharge</b>	<b>Any person in charge of a vessel, or of an onshore or offshore facility.</b>	<b>National Response Center (NRC) at 1-800-424-8802</b>	<b>Oil has been released into the waters of the United States</b>	<b>40 CFR 110, Discharge of Oil</b>
<b>Release of a Hazardous Substance</b>	<b>Any person in charge of a vessel or an offshore or an onshore facility.</b>	<b>National Response Center (NRC) at 1-800-424-8802</b>	<b>Release of a reportable quantity (RA) of a hazardous substance occurs during any 24 hours period. See 40 CFR 302 for list.</b>	<b>40 CFR 302, Designation, Reportable Quantities and Notification 103(a)</b>
<b>Past Releases of a Hazardous Substance</b>	<b>Any person with knowledge of a release when a hazardous substance is discovered.</b>	<b>EPA Administrator</b>	<b>* See footnote regarding when reporting is required</b>	<b>Past Releases CERCLA 103 (c) Notification</b>
<b>Hazardous Substance or Extremely Hazardous Substance Chemical Reporting</b>	<b>The owner or operator of a facility (or facility response coordinator).</b>	<b>Immediately notify the Community Emergency Coordinator for the Local Emergency Planning Committee (LEPC) OR 911 and the State Emergency Response Commission (SERC)</b>	<b>Release of a reportable quantity of a CERCLA hazardous substance or an extremely hazardous substance (EHS) during any 24 hour period.</b>	<b>40 CFR 355, Emergency Planning and Notification for Extremely Hazardous Substances</b>

<p><b>Hazardous Chemical Reporting Community Right-to-Know</b></p>	<p>Any facility that produces, uses or stores 10,000 lbs of OSHA hazardous chemicals and/or EHS in an amount greater than or equal to 500 lbs or the TPQ, whichever is less.</p>	<p>The owner/operator must submit Tier I/II reports to the fire department, LEPC and SERC</p>	<p>Tier I/II Reports must be submitted by 1 March of each year.</p>	<p>40 CFR 370, Hazardous Chemical Reporting Community Right-to-Know</p>
<p><b>Toxic Chemical Release Reporting</b></p>	<p>If there are 10+ employees at that facility and 10,000 lbs or more of a toxic chemical used or stored there, the owner/operator of the facility reports to EPA, and also the state the facility is located in.</p>	<p>Report to EPA using Form R. There are also recordkeeping requirements in 40 CFR 372.10.</p>	<p>Form R Report must be submitted on or before 1 July of the next year.</p>	<p>40 CFR 372, Toxic Chemical Release Reporting: Community Right-to-Know</p>
<p><b>Poly-chlorinated Biphenyls (PCBs)</b></p>	<p>Anyone responsible for the spill, having knowledge of a spill, or discovers a spill.</p>	<ul style="list-style-type: none"> <li>. National Response Center at 1-800-424-8802</li> <li>. EPA Regional Ofc (within 24 hrs of discovery)</li> <li>. EPA Regional Ofc (within 24 hrs of discovery)</li> <li>. NRC &amp; EPA Regional Ofc</li> </ul>	<ul style="list-style-type: none"> <li>. Any spill equal to 1 pound or more of PCBs</li> <li>. Any spills into any water/water source; and if over 1 lb, notify the NRC.</li> <li>. Any spills on grazing lands or gardens; and if over 1 lb, notify the NRC</li> <li>. Any spill equal to 10 pounds or more by weight of PCBs.</li> </ul>	<p>40 CFR 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions</p>

<p><b>DOT Hazardous Materials Trans- portation</b></p>	<p><b>Any carrier/ Transporter responsible for the transportation of hazardous materials.</b></p>	<p><b>Dept of Transportation at 1-800-424-8802</b></p>	<ul style="list-style-type: none"> <li>- <b>Death or personal injury requiring hospitalization</b></li> <li>- <b>Property damage over \$50,000</b></li> <li>- <b>Public evacuation, major transportation arteries or facilities affected for one or more hours</b></li> <li>- <b>Aircraft flight patterns altered</b></li> <li>- <b>Fire, breakage, spillage, or contamination involving radioactive material (&gt;70 Bq/g) or etiologic agents</b></li> <li>- <b>Release of a marine pollutant exceeding 119 gallons for liquid or 882 pounds for solids</b></li> <li>- <b>Dangerous situation exists as a result of the incident that does not meet previous criteria</b></li> </ul>	<p><b>40 CFR 171, Subchapter C - Hazardous Materials Regulations</b></p>
--	---	--	--	--

\*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"

8. USACE Spill Reporting Responsibilities. - Since the Corps of Engineers 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, as that term is broadly defined in CERCLA, or statutory and regulatory requirements involved. In all cases, USACE employees will report spills as required by statute and regulation. Just notifying the customer does not relieve the liability of the Corps or contractor personnel on

CEMP-RT (200-1a)

SUBJECT: Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects

site who have knowledge of the incident. It is recommended that USACE personnel consult with the Office of Counsel regarding such requirements prior to undertaking management of a project.

During the study and design phase the Corps Representative may be the program manager, chemist, geologist, industrial hygienist, or other individual representing the Corps during this phase of work. During the remediation phase, the Construction Representative serves as the Corps Representative. Below is the USACE Spill Reporting Responsibility Matrix for HTRW work. A summary table is provided at Table 2.

a. Formerly Used Defense Sites (FUDS).

(1) In all cases, USACE employees will report spills as required by statute and regulation. It is recommended that USACE personnel consult with the Office of Counsel regarding such requirements prior to undertaking management of a project.

(2) Contract language may require the contractor to report all spills as the operator of the facility. If this is the case, the contractor shall then be required to notify the Corps within one hour of the contractor completing spill reporting requirements to the required authorities.

b. Installation/Restoration of Sites under the Installation Restoration Program (IRP).

(1) In all cases, USACE employees will report spills as required by statute and regulation. Just notifying the installation on-scene coordinator (IOSC) does not relieve the liability of the Corps or contractor personnel on site who have knowledge of the incident. It is recommended that USACE personnel consult with the Office of Counsel regarding such requirements prior to undertaking management of a project.

(2) Reporting a spill of oil or a hazardous substance on Army installations will be in accordance with Chapter 8, Oil and Hazardous Substances Spill Contingency Planning, Control, and Emergency Response, AR 200-1, Environmental Enhancement and Protection.

c. Environmental Support for Others Sites (ESFO). In all cases, USACE employees will report spills as required by statute and regulation. The Corps Representative will provide written notification to the customer that the Corps will report any spills that occur on site to the required reporting agency. Just notifying the customer does not relieve the liability of the Corps or contractor personnel on site who have knowledge of the incident. It is recommended that USACE personnel consult with the Office of Counsel regarding such requirements prior to undertaking management of a project.

CEMP-RT (200-1a)

SUBJECT: Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects

d. Superfund Sites. The Corps Representative will provide written notification to the EPA On Scene Coordinator (OSC) or Regional Project Manager (RPM) that the Corps will report any spills that occur on site to the required reporting agency. If the EPA OSC or RPM does not want the Corps to handle notification, they are to notify the Corps in writing, preferably prior to initiation of any site work.

e. The following table provides a brief summary of spill reporting requirements on Corps of Engineers sites.

**Table 2. Spill Reporting on Corps of Engineers Sites**

<b>Formerly Used Defense Site (FUDS) and Formerly Utilized Sites Remedial Action Program (FUSRAP) {added 7/99}</b>	<ul style="list-style-type: none"><li>. Corps Representative reports all spills to the required reporting agency</li><li>. As an alternative, contract language may require the contractor to report spills to the regulatory agency and then notify the Corps in writing within one hour of making notification.</li></ul>
<b>Installation Restoration Site (IRP)</b>	<ul style="list-style-type: none"><li>. Corps employees will report spills as required by AR 200-1, Environmental Enhancement and Protection, as well as by other applicable statutes and regulations.</li></ul>
<b>Environmental Support for Others (ESFO)</b>	<ul style="list-style-type: none"><li>. Corps employees will report spills as required by statute and regulation.</li></ul>
<b>Superfund Site</b>	<ul style="list-style-type: none"><li>. The Corps representative reports spills to the required reporting agency for all Corps 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 initiation of any site work. In this case, the Corps will report spills or releases to the EPA OSC or RPM telephonically, and consistent with regulations or statutory requirements. A written report will follow to EPA within 24 hours.</li></ul>

CEMP-RT (200-1a)

SUBJECT: Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects

9. Actions to be Taken.

a. Special Contract Provisions.

(1) All contract specifications for HTRW site remedial actions shall contain a section which outlines contractor responsibilities regarding spill reporting requirements.

(2) 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 verbally notify the Corps Representative. Within 24 hours the contractor shall submit a written report to the Corps Representative which contains the information required from the spill notification information list (Enclosure 1) and spill notification checklist (Enclosure 2)."

(3) If it is determined that the Corps Representative shall report spills, the following requirement or similar language shall be added to the contract:

"The contractor will notify the Corps immediately upon discovery of any spill/release. The contractor shall follow-up within 24 hours with a spill report. A spill report shall contain at a minimum the lines required in enclosure 1."

b. Training Provisions.

(1) Each district shall ensure that all USACE personnel involved in on-site activities at HTRW sites (including State-Lead and PRP-Lead for oversight activities) are familiar with, comply with, and have obtained copies of the Spill Reporting Requirements contained in this memorandum.

(2) Ensure, in coordination with other USACE Command functional activities, (i.e., engineering, personnel, etc.), that involved USACE personnel have received appropriate training as required by USACE policies.

(3) Ensure that USACE staff elements and USACE Commands are familiar with spill reporting procedures and these requirements are met during investigation, remediation and other engineering related activities at HTRW sites.

CEMP-RT (200-1a)

SUBJECT: Spill Reporting Procedures for USACE Personnel Involved in HTRW Projects

c. District Reporting Requirements.

(1) Each district shall prepare and approve a written policy outlining the spill reporting requirements identified in this policy.

(2) The policy shall further delineate the Corps field, district, and division reporting chain-of-command.

10. Our POC is Brian Peckins, CEMP-RT at (202) 761-4707.

FOR THE DIRECTOR OF MILITARY PROGRAMS:

2 Encls

/s/  
CARY JONES  
Chief, Environmental Restoration Division

DISTRIBUTION:

CEMP  
CECW  
Commanders,  
MSCs  
Districts

## **Appendix A - References**

- a. 40 CFR 110, Discharge of Oil
- b. 40 CFR 302, Designation, Reportable Quantities and CERCLA 103(a) Notification
- c. CERCLA 103(c) Notification for Past Releases
- d. 40 CFR 355, Emergency Planning and Notification
- e. 40 CFR 370, Hazardous Chemical Reporting: Community Right-to-Know
- f. 40 CFR 372, Toxic Chemical Release Reporting: Community Right-to-Know
- g. 40 CFR 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions
- h. 49 CFR 171, Subchapter C, Department of Transportation Hazardous Materials Regulations

## Appendix B - Key Definitions

a. The term "Discharge" means any intentional or unintentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping that is caused by events occurring within the scope of relevant operating or treatment systems.

b. The term "Environment" includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

c. The term "Extremely Hazardous Substance" means a substance listed in Appendices A and B of 40 CFR 355, Emergency Planning and Notification.

d. The term "Facility" 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.

e. The term "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.

f. The term "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 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 or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance, or natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

g. "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.

h. The term "Navigable Waters" means the waters of the United States, including the territorial seas.

i. The "National 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.

j. The term "Offshore Facility" 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.

k. The term "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.

l. The term "Onshore Facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land or nonnavigable waters within the United States.

m. The term "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.

n. "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.

o. The term "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United State Government, State, municipality, commission, political subdivision of a State, or any interstate body.

p. The term "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandoning, or disposing into the environment.

q. The term "Reportable Quantity" means that quantity, as set forth in 40 CFR 302, the release of which requires notification to the National Response Center (NRC).

r. Under TSCA, the term "Responsible Party" means the owner of the PCB equipment, facility, or other source of PCBs or his/her designated agent (e.g., a facility manager or foreman).

s. The term "Sheen" means an iridescent appearance on the surface of the water caused by oils, petroleum products, etc.

t. As defined by TSCA, the term "Spill" 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 surface of the equipment; or other PCB source, as well as contamination resulting from those releases.

u. The term "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 (a) violate applicable water quality standards, or (b) cause a film or sheen upon or discoloration of the surface 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.

v. The term "Sludge" means an aggregate of oil or oil and other matter of any kind in any form other than dredged spoil having a combined specific gravity equal to or greater than water.

w. The term "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 planing quantity" for that substance.

x. The term "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, and Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

y. The term "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.

## **Appendix C - Application of CFR 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 vessel engine.

(2) Who is Required to Report? Any person in charge of a vessel or of an onshore or offshore facility is responsible for reporting releases of oil to the National Response Center (NRC) at 1-800-424-8802 as soon as he/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 predesignated On-Scene Coordinator (OSC) for the geographic area where the discharge occurs.)

(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; 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 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.

(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/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 1-800-424-8802; in Washington, D.C. (202) 426-2675.

(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.

### **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 (EHA) 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 with complying with the "Emergency Planning and Community Right-to-Know Act" (EPCRA) (40 CFR 355, 370, 372).

(2) Who is Required to Report? First, the owner or operator of a facility 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). (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. A Formerly Used Defense Site (FUDS) remediation will need to make reporting a requirement of the contractor, or the Corps Construction office will need to perform this task.

(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 reportable quantity (RQ) of any extremely hazardous substance (EHS) or CERCLA hazardous substance. The notification requirements can be found in 40 CFR 355.40. Notification is not necessary for any release which results in exposure to persons solely within the boundaries of the facility. The reader is cautioned to be careful when determining notification is not required since regulators may be conservative in evaluating if the release remained on the facility site.

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

(1) Application of 40 CFR 370. This CFR establishes reporting requirements which 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? Any facility that has present at anyone time 10,000 pounds of OSHA hazardous chemicals and/or extremely hazardous substance (EHS) in an amount greater than or equal to 500 pounds or the threshold planning quantity (TPQ), which is less, is subject to reporting. This reporting requirement is not applicable to hazardous wastes or constituents.

(3) When is Reporting Required? If a facility meets any one of these levels, the owner/operator must submit Tier I/II Reports to the fire department, LEPC, and SERC by 1 March of each year. 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, etc.), tobacco products, wood products, consumer products, etc. Items such as gasoline, oils, heating oils, diesel fuel, solvents would be covered under this part.

**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 pertaining to any 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 the facility are required to comply with reporting requirements to EPA and to the State in which the facility is located if that facility employs 10 full-time employees (including contract and part-time employees) who work at the facility **and** if 10,000 pounds or more of a toxic chemical are used or stored at the facility in a calendar year. The threshold for reporting if the Federal facility is manufacturing or processing toxic chemicals is 25,000 pounds.

(3) What Reporting is Required? Facilities in this position are required to report to EPA using EPA Form R. Each Form R report covers activities that occurred during a calendar year at a covered facility and must be submitted on or before July 1st of the next year. There are recordkeeping requirements in 40 CFR 372.10. The facility must also 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 the purpose of maintaining vehicles operated at the facility are exempt if certain criteria are met (40 CFR 372.38).

**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 parts per million (ppm) or greater. Spills containing concentrations of 50 ppm or more PCBs are regulated under this policy, as well as uncontrolled discharges of PCBs occurring after May 4, 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.

(3) When is Reporting Required? Reporting requirements for PCB spills are shown in the following table:

Table 3 - PCB Reporting Requirements

If 1 lb or more of PCBs or PCB contaminated material is spilled	Notify the National Response Center (NRC) at 1-800-424-8802
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 <b>if over 1 lb</b> , 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 <b>if over 1 lb</b> , notify the NRC
If 10 lbs or more PCBs or PCB contaminated material is spilled	Notify the appropriate EPA regional office (Office of Prevention, Pesticides and Toxic Substances Branch); and <b>if over 1 lb</b> , notify the NRC

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.

*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? Any carrier/transporter responsible for the transportation of hazardous materials (including hazardous wastes), including the loading, unloading and temporary storage is required to report spills. The carrier should notify the DOT (1-800-424-8802) at the earliest practical moment. Notice involving etiological agents may be given to the Center of Disease Control (404) 633-5313 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.)

(3) When is Reporting Required? The carrier shall report when:

(a) As a direct result of hazardous materials --

- . A person receives injuries requiring hospitalization, or a person is killed;
- . An estimated carrier or other property damage exceeds \$50,000;
- . An evacuation of the general public occurs lasting 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 radioactive contamination occurs involving shipment or radioactive material; or fire, breakage, spillage, or suspected contamination occurs involving shipment of etiologic agents; or

(c) A situation exists of such a nature that, in the judgement of the carrier, it should be reported to the Department even though it does not meet the above criteria of this section.

***h. CERCLA 103(c) Notification 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 Reportable Quantity (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 frame. This is ordinarily covered through the consultation process which occurs with EPA as part of the Defense Environmental Restoration Program (DERP) and/or through submission of Preliminary Assessment Report to EPA.

## **U.S. ARMY CORPS OF ENGINEERS SPILL NOTIFICATION INFORMATION LIST**

To the extent possible, when a spill/release is reported the following information should be recorded and provided during notification:

- . Name, address, and telephone number of reporting individual.
- . Date and time of day the spill was reported.
- . Names of an individual and/or agency the spill was reported to.
- . Names 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.
- . Sources 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.
- . A vessel name, rail car/truck number or other identifying information.
- . Name of carrier.
- . Number and type of injuries or fatalities.
- . Whether evacuations have occurred.
- . Estimated dollar amount of property damage.
- . Description of clean-up action taken and future plans.
- . Other agencies that have been notified or will be immediately notified.
- . Whether there are any known or anticipated acute or chronic health risks associated with the emergency, and where appropriate, advice regarding medical attention necessary for exposed individuals.
- . Proper precautions to take as a result of the releases during evacuation.
- . Natural resources which may be affected.
- . Land owners.
- . Name of individual/agency to which the spill was reported.
- . Time of day, and date the spill was reported.

**U.S. ARMY CORPS OF ENGINEERS  
SPILL NOTIFICATION CHECKLIST**

\_\_\_\_\_

**++ Discharge/Spill Observed**

Date: \_\_\_\_\_

Location: \_\_\_\_\_

Recorder: \_\_\_\_\_

\_\_\_\_\_

**++ Call the National Response Center (1-800-424-8802)**

**Note:** *If direct reporting to the NRC is not practicable,  
Reports may be made to the EPA Regional Office*

EPA Region 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 to SERC made by: \_\_\_\_\_

Time of Notification: \_\_\_\_\_

Date of Notification: \_\_\_\_\_

Name of Person at SERC: \_\_\_\_\_

**Note:** *Notice to the LEPC and SERC are required 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 Ofc: \_\_\_\_\_