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FEDERAL ENVIRONMENTAL NOTIFICATION & REPORTING REQUIREMENTS HANDBOOK

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Chapter 2. The Comprehensive Environmental Response, Compensation, and Liability Act

Purpose and Organization

Congress passed the *Comprehensive Environmental Response, Compensation, and Liability Act* of 1980 (CERCLA, also known as "Superfund") in response to a growing national concern about the release of hazardous substances to the environment. *The Superfund Amendments and Reauthorization Act* of 1986 (SARA), signed by President Reagan on October 17, 1986, amended many provisions of CERCLA. SARA has been the only major revision of CERCLA since its enactment in 1980.

CERCLA provides for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and for the cleanup of inactive hazardous waste disposal sites. CERCLA [Section 101(14)] defines *hazardous substances* as:

(A) any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act,
(B) any element, compound, mixture, solution, or substance designated pursuant to Section 102 of {CERCLA},
(C) any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress),
(D) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act,
(E) any hazardous air pollutant listed under Section 112 of the Clean Air Act, and
(F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act.

Releases of source, byproduct, or special nuclear material from a nuclear incident are excluded from CERCLA requirements if the releases are subject to the financial protection requirements of the *Atomic Energy Act*. Releases of source, special nuclear, or byproduct materials from a processing site designated by the *Uranium Mill Tailings Radiation Control Act* of 1978 are also excluded [CERCLA Section 101(22)].

CERCLA intends to provide for response to, and cleanup of, environmental problems that are not covered adequately by the permit programs of the many other environmental laws--*Clean Air Act; Clean Water Act; Safe Drinking Water Act; Marine Protection, Research, and Sanctuaries Act; Resource Conservation and Recovery Act;* and the *Atomic Energy Act*. In general, if a release to the environment constitutes a "Federally permitted release," as defined by Section 101(1) of CERCLA, the release is not subject to CERCLA reporting or liability provisions. However, if the release exceeds the permitted limit for a specific substance by the reportable quantity of that substance or more, occurs more frequently than the permit stipulates, or is otherwise out of compliance with the permit, then the release is subject to CERCLA reporting and liability provisions.

The Office of Environmental Policy and Assistance, RCRA/CERCLA Division (EH-413) has developed two guidance products to aid field personnel responsible for hazardous substance releases. The first is a graphical guidance document entitled "Hazardous Substance Release Reporting under CERCLA, EPCRA Section 304, & DOE Emergency Management System/Occurrence Reporting System." The second is the RQ•Calculator, a user-friendly, HyperText-based computer program designed to assist field personnel in determining instances where a release has occurred that exceeds the reportable quantity for specified hazardous substances.

National Priorities List and Hazard Ranking System

CERCLA, as amended by SARA, provides for a fund, called the Superfund, that the Environmental Protection Agency (EPA) or State and local governments

can use to pay for the cleanup of hazardous waste sites listed on the National priorities List (NPL). The NPL, compiled by the EPA, lists those sites, including Federally-owned facilities, that appear to pose the most serious threats to human health or the environment. The EPA determines whether or not to place a site on the NPL by using the hazard ranking system (HRS). Under the HRS, pertinent data about a site are evaluated and "scored." A site may receive scores for items such as waste volume, waste toxicity, distance to population, and distance to underground drinking water. The cleanup of sites must conform to the EPA's National Oil and Hazardous Substances Pollution Contingency Plan (NCP), the operating rules for Superfund cleanups promulgated by EPA under Section 105(a)(8)(B) of CERCLA. The NPL is dynamic. As HRS studies are performed, releases and waste sites may be removed or added to the NPL list. As of January 20, 1993, the NPL included 1,205 final sites (123 in the Federal sector) and 28 proposed sites (three of which are Federal sites).

If liability for the release of a hazardous substance can be firmly established, the liable or "potentially responsible party" (PRP) must pay for the cost of remedial responses. Generally, funds from the Superfund do not go towards paying for the clean up of releases from Federally owned facilities [Section 111(e)(3)] except to provide alternative water supplies in cases involving groundwater contamination outside the boundaries of a Federally owned facility if the Federally owned facility is not the only PRP.

Under Section 120 of CERCLA, each department, agency, and instrumentality of the United States is subject to, and must comply with, CERCLA in the same manner as any nongovernmental entity (except for requirements for bonding, insurance, financial responsibility, or applicable time period).

Superfund Process

The Superfund process includes the following steps:

- ***Preliminary assessment*** ~ EPA performs a preliminary assessment (PA) of a site (often a review of data without an actual site visit) to determine if further study is necessary.

- ***Site inspection*** ~ A site inspection (SI) is an on-site investigation conducted to determine if there is a release or potential release and to evaluate the nature of the associated threats.

- ***Remedial investigation*** ~ A remedial investigation (RI), conducted by the lead agency, determines the nature and extent of the problem presented by the release.

- ***Feasibility study*** ~ The lead agency undertakes a feasibility study (FS) to develop and evaluate options for remedial action. The remedial investigation and feasibility study are collectively referred to as the "RI/FS."

- ***Record of Decision*** ~ After completing the RI/FS, EPA selects the appropriate cleanup option and publishes it in a public document known as the Record of Decision (ROD).

- ***Remedial design*** ~ The remedial design includes the technical analysis and procedures that follow the selection of a remedy for a site.

- ***Remedial action*** ~ The remedial action involves the actual construction or implementation of a cleanup.

In general, the proposed remedy for a site must meet two threshold criteria: (1) to protect human health and the environment and (2) to comply with "applicable or relevant and appropriate requirements" (ARARs). Federal and/or State requirements are considered "applicable" if they are "...based upon an objective determination of whether the requirement specifically addresses a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site" [40 CFR Part 300(g)(1)].

Natural Resource Damage Assessment

Under CERCLA, as amended by SARA and implemented by the NCP, Federal or State officials appointed as trustees for the public can assess damages "...for injury to, destruction of, or loss of natural resources..." The claim is made for the value of the "residual" injury that was not or could not be addressed by the selected remedy. As a Natural Resources (NR) Trustee for resources on, over, or under land that DOE manages, DOE has a broad responsibility for the physical and biological environment under its jurisdiction. To assist DOE Program and Field Organizations in understanding and meeting their NR Trustee responsibilities, the RCRA/CERCLA Division of the Office of Environmental Policy and Assistance (EH-413) has prepared guidance on this topic, *Natural Resource Trusteeship and Ecological Evaluation for Environmental*

Restoration at Department of Energy Facilities, DOE/EH-0192, June 1991.

Notification and Reporting Requirements

The following reporting requirements apply under CERCLA:

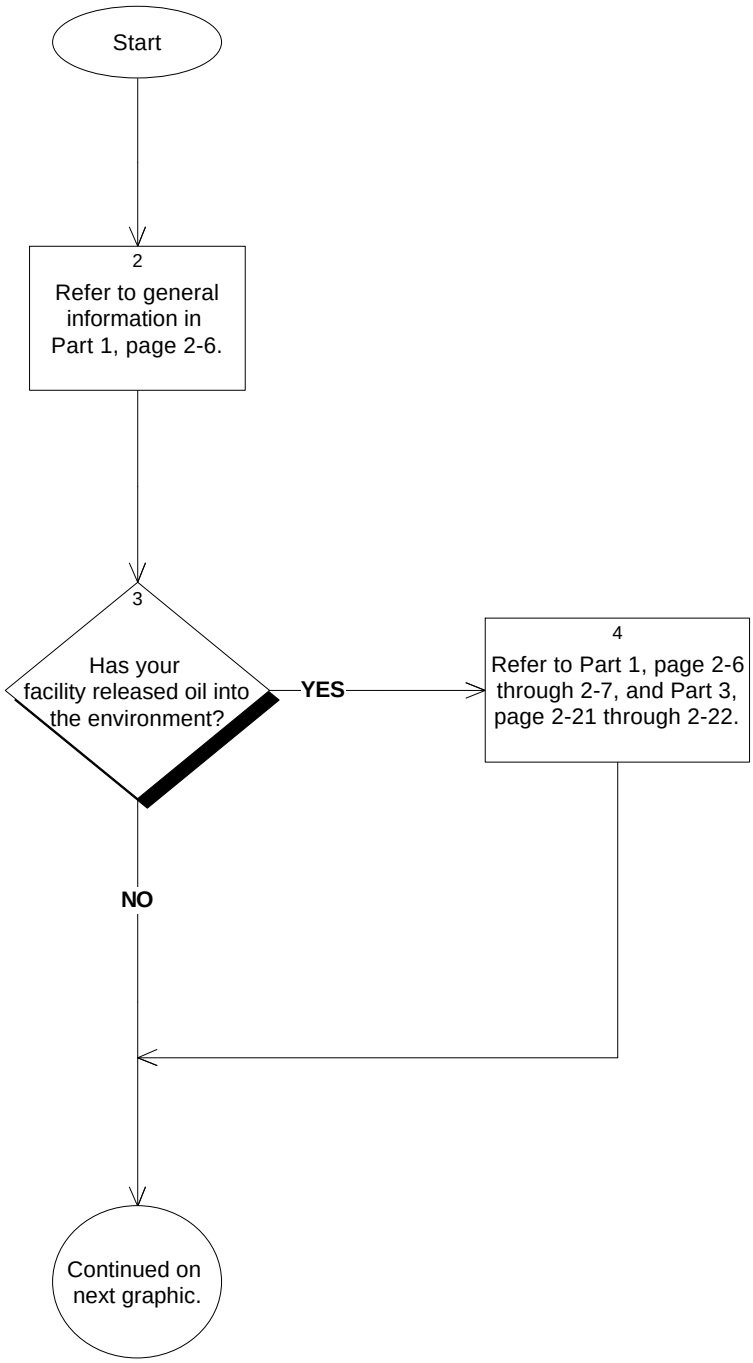
- Any person in charge of a vessel or an offshore or onshore facility shall notify the NRC of any release of a hazardous substance that equals or exceeds the reportable quantity.

- The appropriate individual shall promptly notify Federal and State natural resource trustees of potential damages to natural resources under investigation.

- In the event of a natural resource emergency, the natural resource trustee shall contact the NRC.

Figure 2 guides the user to the various CERCLA notification and reporting requirements conveyed in this chapter that are relevant to a DOE facility or situation.

Figure 2: Comprehensive Environmental Response, Compensation, and Liability Act



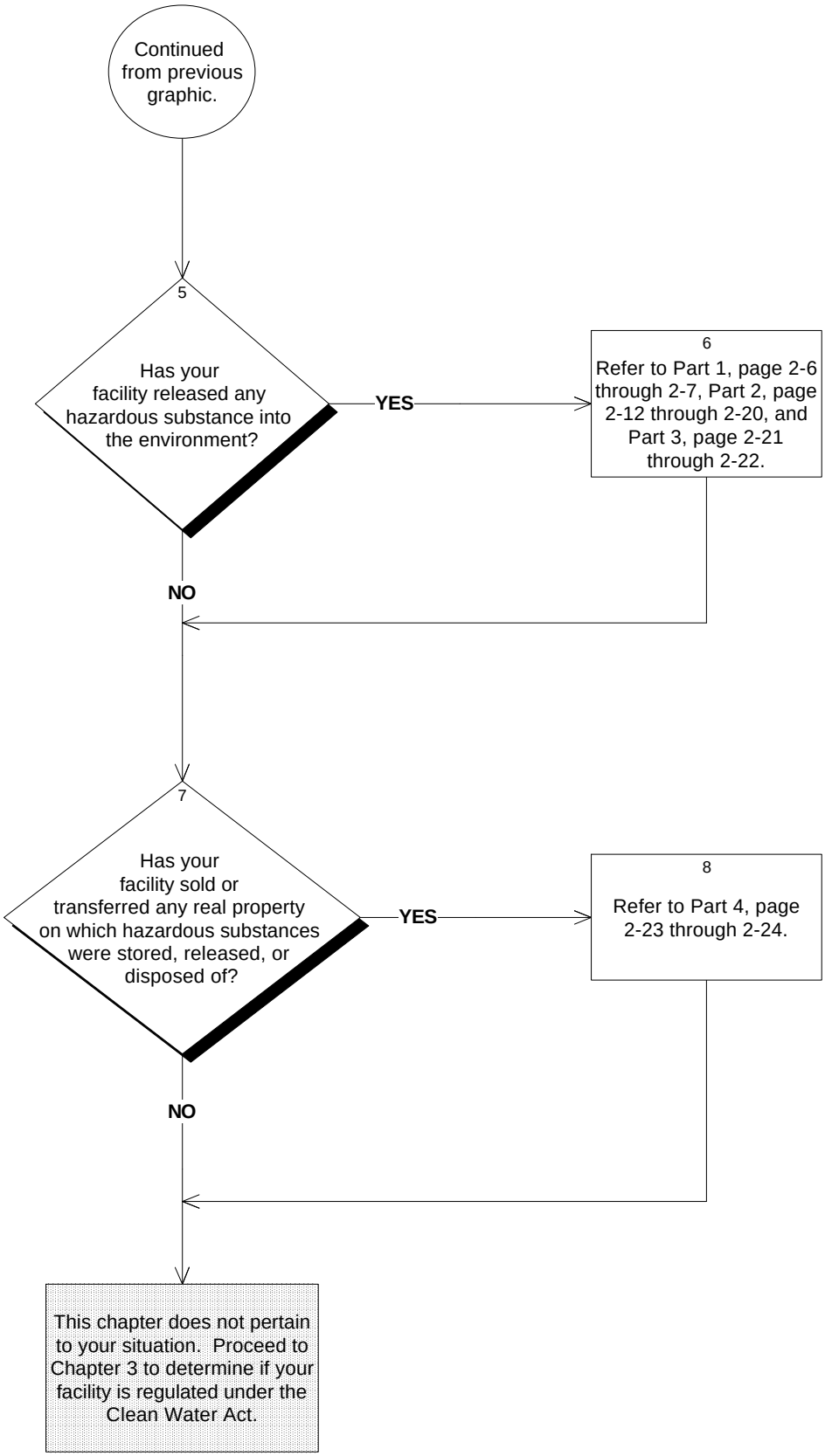

Continued from previous graphic.
5
Has your facility released any hazardous substance into the environment?
YES
6
Refer to Part 1, page 2-6 through 2-7, Part 2, page 2-12 through 2-20, and Part 3, page 2-21 through 2-22.
NO
7
Has your facility sold or transferred any real property on which hazardous substances were stored, released, or disposed of?
YES
8
Refer to Part 4, page 2-23 through 2-24.
NO
This chapter does not pertain to your situation. Proceed to Chapter 3 to determine if your facility is regulated under the Clean Water Act.

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 1. National Oil and Hazardous Substances Pollution Contingency Plan

Authorizations
CERCLA, Section 205
Clean Water Act, Section 311(c)(2)

References
40 CFR 300.125

Notification and Communications

(a) The National Response Center (NRC), located at United States Coast Guard (USCG) Headquarters (HQ), is the national communications center, continuously manned for handling activities related to response actions. The NRC acts as the single point of contact for all pollution incident reporting, and as the National Response Team (NRT) communications center. Notice of discharges must be made telephonically through a toll free number or a special local number (Telecommunication Device for the Deaf (TDD) and collect calls accepted). The NRC receives and immediately relays telephone notices of discharges or releases to the appropriate predesignated Federal On-scene Coordinator (OSC). The telephone report is distributed to any interested NRT member agency or Federal entity that has established a written agreement or understanding with the NRC. The NRC evaluates incoming information and immediately advises the Federal Emergency Management Agency (FEMA) of a potential major disaster or evacuation situation.

(c) Notice of an oil discharge or release of a hazardous substance in an amount equal to or greater than the reportable quantity (RQ) must be made immediately in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302, respectively. Notification shall be made to the NRC Duty Officer, HQ USCG, Washington, DC, telephone (800) 424-8802 or (202) 267-2675. All notices of discharges or releases received at the NRC will be relayed immediately by telephone to the OSC.

References
40 CFR 300.170

Federal Agency Participation

(c) All Federal agencies are responsible for reporting releases of hazardous substances from facilities or vessels under their jurisdiction or control in accordance with Section 103 of CERCLA.

(d) All Federal agencies are encouraged to report releases of pollutants or contaminants or discharges of oil from vessels under their jurisdiction or control to the NRC.

References
40 CFR 300.300

Operational Response Phases for Oil Removal - Phase I - Discovery or Notification

(a) A discharge of oil may be discovered through:

(1) A report submitted by the person in charge of a vessel or facility, in accordance with statutory requirements.

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Part 1. National Oil and Hazardous Substances Pollution Contingency Plan (con't.)

References 40 CFR 300.300 (con't.)	(2) Deliberate search by patrols. (3) Random or incidental observation by government agencies or the public. (4) Other sources. (b) Any person in charge of a vessel or a facility shall, as soon as he or she has knowledge of any discharge from such vessel or facility in violation of Section 311(b)(3) of the Clean Water Act, immediately notify the NRC. If direct reporting to the NRC is not practicable, reports may be made to the USCG or EPA predesignated On-Scene Coordinator (OSC) for the geographic area where the discharge occurs. The Environmental Protection Agency (EPA) predesignated OSC may also be contacted through the regional 24-hour emergency response telephone number. All such reports shall be promptly relayed to the NRC. If it is not possible to notify the NRC or predesignated OSC immediately, reports may be made immediately to the nearest Coast Guard unit. In any event, such person in charge of the vessel or facility shall notify the NRC as soon as possible. (c) Any other person shall, as appropriate, notify the NRC of a discharge of oil. (d) Upon receipt of a notification of discharge, the NRC shall promptly notify the OSC. The OSC shall proceed with the following phases as outlined in the Regional Contingency Plan (RCP) and OSC contingency plan.
References 40 CFR 300.305	**Operational Response Phases for Oil Removal - Phase II: Preliminary Assessment and Initiation of Action** (d) If natural resources are or may be injured by the discharge, the OSC shall ensure that State and Federal trustees of affected natural resources are promptly notified in order that the trustees may initiate appropriate actions, including those identified in Subpart G of Part 300, Trustees for Natural Resources. The OSC shall seek to coordinate assessments, evaluations, investigations, and planning with State and Federal trustees.

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 1. National Oil and Hazardous Substances Pollution Contingency Plan (con't.)

References 40 CFR 300.405	**Hazardous Substance Response - Discovery or Notification** (a) A release may be discovered through: (1) A report submitted in accordance with Section 103(a) of CERCLA (i.e., reportable quantities codified at 40 CFR Part 302), (2) A report submitted to EPA in accordance with Section 103(c) of CERCLA, (3) Investigation by government authorities conducted in accordance with Section 104(e) of CERCLA or other statutory authority, (4) Notification of a release by a Federal or State permit holder when required by its permit, (5) Inventory or survey efforts or random or incidental observation reported by government agencies or the public, (6) Submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with Section 105(d) of CERCLA, and (7) Other sources. (b) Any person in charge of a vessel or a facility shall report releases as described in paragraph (a)(1) of this section to the NRC. If direct reporting to the NRC is not practicable, reports may be made to the USCG on-scene coordinator for the geographic area where the release occurs. The EPA predesignated OSC may also be contacted through the regional 24-hour emergency response telephone number. All such reports shall be promptly relayed to the NRC. If it is not possible to notify the NRC or predesignated OSC immediately, reports may be made immediately to the nearest USCG unit. In any event, such person in charge of the vessel or facility shall notify the NRC as soon as possible. (c) All other reports of releases described under paragraph (a) of this section, except releases reported under paragraphs (a)(2) and (6) of this section, shall, as appropriate, be made to the NRC. (d) The NRC will generally need information that will help to characterize the release. This will include, but not be limited

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 1. National Oil and Hazardous Substances Pollution Contingency Plan (con't.)

References
40 CFR 300.405 (con't.)

to: Location of the release; type(s) of material(s) released; an estimate of the quantity of material released; possible source of the release; and date and time of the release. Reporting under paragraphs (b) and (c) of this section shall not be delayed due to incomplete notification information.

(e) Upon receipt of a notification of a release, the NRC shall promptly notify the appropriate OSC. The OSC shall notify the Governor, or designee, of the State affected by the release.

(f) When the OSC is notified of a release that may require response pursuant to 40 CFR 300.415(b), a removal site evaluation shall, as appropriate, be promptly undertaken pursuant to 40 CFR 300.410.

(1) When notification indicates that removal action pursuant to 40 CFR 300.415(b) is not required, a remedial site evaluation shall, if appropriate, be undertaken by the lead agency pursuant to 40 CFR 300.420, if one has not already been performed.

(2) If radioactive substances are present in a release, the EPA Radiological Response Coordinator should be notified for evaluation and assistance, consistent with 40 CFR 300.130(f) and 300.145(f).

(g) Release notification made to the NRC under this section does not relieve the owner/operator of a facility from any obligations to which it is subject under SARA Title III or State law. In particular, it does not relieve the owner/operator from the requirements of Section 304 of SARA Title III and 40 CFR Part 355 and 40 CFR 300.215(f) for notifying the community emergency coordinator for the appropriate local emergency planning committee of all affected areas and the State Emergency Response Commission of any State affected that there has been a release. Federal agencies must comply with SARA Title III as required by Executive Order 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.

References
40 CFR 300.420

Hazardous Substance Response - Remedial Site Evaluation

(b) (4) In performing a remedial Preliminary Assessment (PA), the lead agency may complete the EPA form, available from EPA regional offices, or its equivalent, and shall prepare a PA report, which shall include:

(i) A description of the release.

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 1. National Oil and Hazardous Substances Pollution Contingency Plan (con't.)

References 40 CFR 300.420 (con't.)	(ii) A description of the probable nature of the release. (iii) A recommendation on whether further action is warranted, which lead agency should conduct further action, and whether an SI or removal action or both should be undertaken. (5) Any person may petition the lead Federal agency (EPA or the appropriate Federal agency in the case of a release or suspected release from a Federal facility) to perform a PA of a release when such person is, or may be, affected by a release of a hazardous substance, pollutant, or contaminant. Such petitions shall be addressed to the EPA Regional Administrator for the region in which the release is located, except that petitions for PAs involving Federal facilities should be addressed to the head of the appropriate Federal agency. (i) Petitions shall be signed by the petitioner and shall contain the following: (A) The full name, address, and phone number of petitioner. (B) A description, as precisely as possible, of the location of the release. (C) How the petitioner is or may be affected by the release. (ii) Petitions should also contain the following information to the extent available: (A) What type of substances were or may be released. (B) The nature of activities that have occurred where the release is located. (C) Whether local and State authorities have been contacted about the release. (iii) The lead Federal agency shall complete a remedial or removal PA within one year of the date of receipt of a complete petition pursuant to paragraph (b)(5) of 40 CFR 300.420, if one has not been performed previously, unless the lead Federal agency determines that a PA is not appropriate. Where such a determination is made, the lead Federal agency shall notify the petitioner and will provide a reason for the determination.

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Part 1. National Oil and Hazardous Substances Pollution Contingency Plan (con't.)

References 40 CFR 300.420 (con't.)	(iv) When determining if performance of a PA is appropriate, the lead Federal agency shall take into consideration: (A) Whether there is information indicating that a release has occurred or there is a threat of a release of a hazardous substance, pollutant, or contaminant. (B) Whether the release is eligible for response under CERCLA. (C) Remedial site inspection. (c) (5) Upon completion of a remedial site investigation, the lead agency shall prepare a report that includes the following: (i) A description/history/nature of waste handling. (ii) A description of known contaminants. (iii) A description of pathways of migration of contaminants. (iv) An identification and description of human and environmental targets. (v) A recommendation on whether further action is warranted.
References 40 CFR 300.430	**Hazardous Substance Response - Remedial Investigation/Feasibility Study and Selection of Remedy** (b) (7) If natural resources are or may be injured by the release, ensure that State and Federal trustees of the affected natural resources have been notified in order that the trustees may initiate appropriate actions, including those identified in Subpart G of 40 CFR Part 300. The lead agency shall seek to coordinate necessary assessments, evaluations, investigations, and planning with such State and Federal trustees. (e) (8) The lead agency shall notify the support agency of the alternatives that will be evaluated in detail to facilitate the identification of {Applicable or Relevant & Appropriate Requirements} (ARARs) and, as appropriate, pertinent advisories, criteria, or guidance to be considered.

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 2. Designation, Reportable Quantities, and Notification

Authorizations
CERCLA, Section 102(a)
Clean Water Act, Section 311(b)(2)(A)

References
40 CFR 302.6

Notification Requirements

(a) Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he has knowledge of any release (other than a Federally permitted release or application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the reportable quantity determined by this part in any 24-hour period, immediately notify the National Response Center [(800) 424-8802; in Washington, D.C. (202) 426-2675].

(b) Releases of mixtures or solutions of

(1) Hazardous substances, except for radionuclides, are subject to this section's notification requirements only where a component hazardous substance of the mixture or solution is released in a quantity equal to or greater than its RQ.

(i) If the quantity of all of the hazardous constituent(s) of the mixture or solution is known, notification is required where an RQ or more of any hazardous constituent is released; or

(ii) If the quantity of one or more of the hazardous constituent(s) of the mixture or solution is unknown, notification is required where the total amount of the mixture or solution released equals or exceeds the RQ for the hazardous constituent with the lowest RQ.

(2) Radionuclides are subject to this section's notification requirements only in the following circumstances:

(i) 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 for the radionuclide must be determined for each radionuclide. The only such releases subject to this section's notification requirements are those in which the sum of the ratios for the radionuclides in the mixture or solution released is equal to or greater than one.

(ii) If the identity of each radionuclide in a released mixture or solution is known but the quantity released (in curies) of one or more of the radionuclides is unknown, the only such releases subject to this section's notification requirements are those in which the total quantity (in curies) of the mixture or solution released is equal to or greater than the lowest RQ of any individual radionuclide in the mixture or solution.

(iii) If the identity of one or more radionuclides in a released mixture or solution is unknown (or if the identity

References
40 CFR 302.6 (con't.)

of a radionuclide released by itself is unknown), the only such releases subject to this section's notification requirements are those in which the total quantity (in curies) released is equal to or greater than either one curie or the lowest RQ of any known individual radionuclide in the mixture or solution, whichever is lower.

(c) The following categories of releases are exempt from the notification requirements of this section:

(1) Releases of those radionuclides that occur naturally in the soil from land holdings such as parks, golf courses, or other large tracts of land.

(2) Releases of radionuclides occurring naturally from the disturbance of land for purposes other than mining, such as for agricultural or construction activities.

(3) Releases of radionuclides from the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers.

(4) Releases of radionuclides from coal and coal ash piles at utility and industrial facilities with coal-fired boilers.

(d) Except for releases of radionuclides, notification of the release of an RQ of solid particles of antimony, arsenic, beryllium cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc is not required if the mean diameter of the particles released is larger than 100 micrometers (0.004 inches).

References
40 CFR 302.8

Continuous Releases

(a) Except as provided in paragraph (c) of this section, no notification is required for any release of a hazardous substance that is, pursuant to the definitions in paragraph (b) of this section, continuous and stable in quantity and rate.

(b) "Definitions." The following definitions apply to notification of continuous releases:

(1) "Continuous."A continuous release is a release that occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes.

(2) "Normal range." The normal range of a release is all releases (in pounds or kilograms) of a hazardous substance

Part 2. Designation, Reportable Quantities, and Notification (con't.)

References
40 CFR 302.8 (con't.)

reported or occurring over any 24-hour period under normal operating conditions during the preceding year. Only releases that are both continuous and stable in quantity and rate may be included in the normal range.

(3) "Routine." A routine release is a release that occurs during normal operating procedures or processes.

(4) "Stable in quantity and rate." A release that is stable in quantity and rate is a release that is predictable and regular in amount and rate of emission.

(5) "Statistically significant increase." A statistically significant increase in a release is an increase in the quantity of the hazardous substance released above the upper bound of the reported normal range of the release.

(c) The following notifications shall be given for any release qualifying for reduced reporting under this section:

(1) Initial telephone notification.

(2) Initial written notification within 30 days of the initial telephone notification.

(3) Follow-up notification within 30 days of the first anniversary date of the initial written notification:

(4) Notification of a change in the composition or source(s) of the release or in the other information submitted in the initial written notification of the release under paragraph (c)(2) of this section or the follow-up notification under paragraph (c)(3) of this section.

(5) Notification at such times as an increase in the quantity of the hazardous substance being released during any 24-hour period represents a statistically significant increase as defined in paragraph (b) of this section.

(d) Prior to making an initial telephone notification of a continuous release, the person in charge of a facility or vessel must establish a sound basis for qualifying the release for reporting under CERCLA Section 103(f)(2) by:

(1) Using release data, engineering estimates, knowledge of operating procedures, or best professional judgment to establish the continuity and stability of the release,

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 2. Designation, Reportable Quantities, and Notification (con't.)

References
40 CFR 302.8 (con't.)

(2) Reporting the release to the NRC for a period sufficient to establish the continuity and stability of the release, or

(3) When a person in charge of the facility or vessel believes that a basis has been established to qualify the release for reduced reporting under this section, initial notification to the National Response Center shall be made by telephone. The person in charge must identify the notification as an initial continuous release notification report and provide the following information:

(i) The name and location of the facility or vessel.

(ii) The name(s) and identity(ies) of the hazardous substance(s) being released.

(e) Initial written notification of a continuous release shall be made to appropriate EPA Regional Office for the geographical area where the releasing facility or vessel is located. (Note: In addition to the requirements of this part, releases of CERCLA hazardous substances are also subject to the provisions of SARA Title III Section 304, and EPA's implementing regulations codified at 40 CFR Part 355, which require initial telephone and written notifications of continuous releases to be submitted to the appropriate State emergency response commission and local emergency planning committee.)

(1) Initial written notification to the appropriate EPA Regional Office shall occur within 30 days of the initial telephone notification to the NRC, and shall include, for each release for which reduced reporting as a continuous release is claimed, the following information:

(i) The name of the facility or vessel; the location, including the latitude and longitude; the case number assigned by the NRC or the Environmental Protection Agency; the Dun and Bradstreet number of the facility, if available; the port of registration of the vessel; the name and telephone number of the person in charge of the facility or vessel.

(ii) The population density within a one-mile radius of the facility or vessel, described in terms of the following ranges: 0-50 persons, 51-100 persons, 101-500 persons, 501-1,000 persons, more than 1,000 persons.

(iii) The identity and location of sensitive populations and ecosystems within a one-mile radius of the facility or vessel (e.g., elementary schools, hospitals, retirement communities, or wetlands).

Table 2
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Part 2. Designation, Reportable Quantities, and Notification (con't.)

References 40 CFR 302.8 (con'd.)	(iv) For each hazardous substance release claimed to qualify for reporting under CERCLA Section 103(f)(2), the following information must be supplied: (A) The name/identity of the hazardous substance; the Chemical Abstracts Service Registry Number for the substance (if available); and if the substance being released is a mixture, the components of the mixture and their approximate concentrations and quantities, by weight. (B) The upper and lower bounds of the normal range of the release (in pounds or kilograms) over the previous year. (C) The source(s) of the release (e.g., valves, pump seals, storage tank vents, stacks). If the release is from a stack, the stack height (in feet or meters). (D) The frequency of the release and the fraction of the release from each release source and the specific period over which it occurs. (E) A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate. (F) An estimate of the total annual amount that was released in the previous year (in pounds or kilograms). (G) The environmental medium affected by the release: (1.) If surface water, the name of the surface water body. (2.) If a stream, the stream order or average flow rate (in cubic feet/second) and designated use. (3.) If a lake, the surface area (in acres) and average depth (in feet or meters). (4.) If on or under ground, the location of public water supply wells within two miles.

Part 2. Designation, Reportable Quantities, and Notification (con't.)

References
40 CFR 302.8 (con't.)

(H) A signed statement that the hazardous substance release(s) described is (are) continuous and stable in quantity and rate under the definitions in paragraph (a) of this section and that all reported information is accurate and current to the best knowledge of the person in charge.

(f) Within 30 days of the first anniversary date of the initial written notification, the person in charge of the facility or vessel shall evaluate each hazardous substance release reported to verify and update the information submitted in the initial written notification. The follow-up notification shall include the following information:

(1) The name of the facility or vessel; the location, including the latitude and longitude; the case number assigned by the NRC or the EPA; the Dun and Bradstreet number of the facility, if available; the port of registration of the vessel; the name and telephone number of the person in charge of the facility or vessel.

(2) The population density within a one-mile radius of the facility or vessel, described in terms of the following ranges: 0-50 persons, 51-100 persons, 101-500 persons, 501-1,000 persons, more than 1,000 persons.

(3) The identity and location of sensitive populations and ecosystems within a one-mile radius of the facility or vessel (e.g., elementary schools, hospitals, retirement communities, or wetlands).

(4) For each hazardous substance release claimed to qualify for reporting under CERCLA Section 103(f)(2), the following information shall be supplied:

(i) The name/identity of the hazardous substance; the Chemical Abstracts Service Registry Number for the substance (if available); and if the substance being released is a mixture, the components of the mixture and their approximate concentrations and quantities, by weight.

(ii) The upper and lower bounds of the normal range of the release (in pounds or kilograms) over the previous year.

(iii) The source(s) of the release (e.g., valves, pump seals, storage tank vents, stacks). If the release is from a stack, the stack height (in feet or meters).

(iv) The frequency of the release and the fraction of the release from each release source and the specific period

Part 2. Designation, Reportable Quantities, and Notification (con't.)

References
40 CFR 302.8 (con't.)

over which it occurs.

(v) A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate.

(vi) An estimate of the total annual amount that was released in the previous year (in pounds or kilograms).

(vii) The environmental medium {or media} affected by the release:

(A) If surface water, the name of the surface water body.

(B) If a stream, the stream order or average flow rate (in cubic feet/second) and designated use.

(C) If a lake, the surface area (in acres) and average depth (in feet or meters).

(D) If on or under ground, the location of public water supply wells within two miles.

(viii) A signed statement that the hazardous substance release(s) is(are) continuous and stable in quantity and rate under the definitions in paragraph (a) of this section and that all reported information is accurate and current to the best knowledge of the person in charge.

(g) If there is a change in the release, notification of the change, not otherwise reported, shall be provided in the following manner:

(1) If there is any change in the composition or source(s) of the release, the release is a new release and must be qualified for reporting under this section by the submission of initial telephone notification and initial written notification in accordance with paragraphs (c)(1) and (2) of this section as soon as there is a sufficient basis for asserting that the release is continuous and stable in quantity and rate.

(2) If there is a change in the release such that the quantity of the release exceeds the upper bound of the reported normal range, the release must be reported as a statistically significant increase in the release. If a change will result in a number of releases that exceed the upper bound of the normal range, the person in charge of a facility or vessel

Part 2. Designation, Reportable Quantities, and Notification (con't.)

References
40 CFR 302.8 (con't.)

may modify the normal range by:

(i) Reporting at least one statistically significant increase report as required under paragraph (c)(7) of 40 CFR 302.8 and, at the same time, informing the NRC of the change in the normal range, and

(ii) Submitting, within 30 days of the telephone notification, written notification to the appropriate EPA Regional Office describing the new normal range, the reason for the change, and the basis for stating that the release in the increased amount is continuous and stable in quantity and rate under the definitions in paragraph (b) of this section.

(3) If there is a change in any information submitted in the initial written notification or the follow-up notification other than a change in the source, composition, or quantity of the release, the person in charge of the facility or vessel shall provide written notification of the change to the EPA Region for the geographical area where the facility or vessel is located, within 30 days of determining that the information submitted previously is no longer valid. Notification shall include the reason for the change, and the basis for stating that the release is continuous and stable under the changed conditions.

(4) Notification of changes shall include the case number assigned by the NRC or the EPA and also the signed certification statement required at (c)(2)(xi) of 40 CFR 302.8.

(h) Notification of a statistically significant increase in a release shall be made to the NRC as soon as the person in charge of the facility or vessel has knowledge of the increase. The release must be identified as a statistically significant increase in a continuous release. A determination of whether an increase is a "statistically significant increase" shall be made based upon calculations or estimation procedures that will identify releases that exceed the upper bound of the reported normal range.

(i) Each hazardous substance release shall be evaluated annually to determine if changes have occurred in the information submitted in the initial written notification, the follow-up notification, and/or in a previous change notification.

(j) In lieu of an initial written report or a follow-up report, owners or operators of facilities subject to the requirements of SARA Title III Section 313 may submit to the appropriate EPA Regional Office for the geographical area where the facility is located, a copy of the Toxic Release Inventory form submitted under SARA Title III Section 313 the previous

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 2. Designation, Reportable Quantities, and Notification (con't.)

References 40 CFR 302.8 (con't.)	July 1 provided that the following information is added: (1) The population density within a one-mile radius of the facility or vessel, described in terms of the following ranges: 0-50 persons, 51-100 persons, 101-500 persons, 501-1,000 persons, more than 1,000 persons. (2) The identity and location of sensitive populations and ecosystems within a one-mile radius of the facility or vessel (e.g., elementary schools, hospitals, retirement communities, or wetlands). (3) For each hazardous substance release claimed to qualify for reporting under CERCLA Section 103(f)(2), the following information must be supplied: (i) The upper and lower bounds of the normal range of the release (in pounds or kilograms) over the previous year. (ii) The frequency of the release and the fraction of the release from each release source and the specific period over which it occurs. (iii) A brief statement describing the basis for stating that the release is continuous and stable in quantity and rate. (iv) A signed statement that the hazardous substance release(s) is (are) continuous and stable in quantity and rate under the definitions in paragraph (b) of this section and that all reported information is accurate and current to the best knowledge of the person in charge.

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 3. Natural Resource Damage Assessment

Authorizations
CERCLA, Section 104(b)(2)

References
43 CFR 11.20

Designation of Federal Trustees

(a) The President is required to designate in the National Contingency Plan those Federal officials who are to act on behalf of the public as trustees for natural resources. Federal officials so designated will act pursuant to Section 107(f) of CERCLA and Section 311(f)(5) of the Clean Water Act. Natural resources include:

(1) Natural resources over which the United States has sovereign rights, and

(2) Natural resources within the territorial sea, contiguous zone, exclusive economic zone, and outer continental shelf belonging to, managed by, held in trust by, appertaining to, or otherwise controlled (hereinafter referred to as "managed or protected") by the United States.

References
43 CFR 11.21

Responsibilities of Trustees

(a) Where there are multiple trustees, because of coexisting or contiguous natural resources or concurrent jurisdictions, they should coordinate and cooperate in carrying out these responsibilities.

(b) Trustees are responsible for designating to the RRTs, for inclusion in the Regional Contingency Plan, appropriate contact to receive notifications from the OSCs/RPMs of potential injuries to natural resources.

References
43 CFR 11.20

Notification and Detection

(a) Notification.

(1) Section 104(b)(2) of CERCLA requires prompt notification of Federal and State natural resource trustees of potential damages to natural resources under investigation and requires coordination of the assessments, investigations, and planning under Section 104 of CERCLA with such trustees.

(2) The National Contingency Plan (NCP) provides for the OSC or lead agency to notify the natural resource trustee when natural resources have been or are likely to be injured by a discharge of oil or a release of a hazardous substance being investigated under the NCP.

Part 3. Natural Resource Damage Assessment (con't.)

References
43 CFR 11.20 (con't.)

(3) Natural resource trustees, upon such notification described in paragraphs (a) (1) and (2) of this section, shall take such actions, as may be consistent with the NCP.

(b) Previously unreported discharges or releases. If a natural resource trustee identifies or is informed of apparent injuries to natural resources that appear to be a result of a previously unidentified or unreported discharge of oil or release of a hazardous substance, he should first make reasonable efforts to determine whether a discharge or release has taken place. In the case of a discharge or release not yet reported or being investigated under the NCP, the natural resource trustee shall report that discharge or release to the appropriate authority as designated in the NCP.

(c) Identification of co-trustees. The natural resource trustee should assist the OSC or lead agency, as needed, in identifying other natural resource trustees whose resources may be affected as a result of shared responsibility for the resources and who should be notified.

References
43 CFR 11.21

Emergency Restorations

(a) In the event of a natural resource emergency, the natural resource trustee (i.e., the Federal or State agency acting as trustee) shall contact the NRC (800/424-8802) to report the actual or threatened discharge or release and to request that an immediate response action be taken.

(1) An emergency is any situation related to a discharge or release requiring immediate action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources, or a situation in which there is a similar need for emergency action.

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 4. Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property

Authorizations
CERCLA, Section 120(h) as amended

References
40 CFR 373.1

General Requirement

After October 16, 1990, whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and at which, during the time the property was owned by the United States, any hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of such department, agency, or instrumentality must include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

References
40 CFR 373.2

Applicability

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

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

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

References
40 CFR 373.3

Content of Notice

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

(a) The name of the hazardous substance; the Chemical Abstracts Services Registry Number (CASRN) where applicable; the regulatory synonym for the hazardous substance, as listed in 40 CFR 302.4, where applicable; the RCRA hazardous waste number specified in 40 CFR 261.30, where applicable; the quantity in kilograms and pounds of the hazardous substance

Table 2
Comprehensive Environmental Response, Compensation, and Liability Act

Part 4. Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property (con't.)

References 40 CFR 373.3 (con't.)	that has been stored for one year or more, or known to have been released, or disposed of, on the property, and the date(s) that such storage, release, or disposal took place. (b) The following statement, prominently displayed: "The information contained in this notice is required under the authority of regulations promulgated under Section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or "Superfund") 42 U.S.C. Section 9620(h)."