

**FISH AND WILDLIFE SERVICE
POLLUTION CONTROL**

Pollution Control

Part 560 Pollution at FWS Facilities

Chapter 3 Reporting Releases of Hazardous Substances, Oil Discharges, and Contaminated Sites 560 FW 3

3.1 What is the purpose of this chapter? This chapter identifies the national requirements and procedures for reporting releases of hazardous substances, oil discharges, transportation accidents, liquid and gas pipeline releases, and contaminated sites.

3.2 What are the applicable authorities?

A. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (also known as the Clean Water Act).

B. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA/Superfund), as amended (42 U.S.C. 9601 et seq.).

C. Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. 11001 et seq. (Also Known as SARA Title III).

D. Oil Pollution Act of 1990 (OPA). Among other things, addresses oil pollution liability and compensation, conforming amendments, international oil pollution prevention and removal, Prince William Sound provisions, miscellaneous special issues, oil pollution research and development program, trans-Alaska pipeline system, and amendments to the oil spill liability trust fund.

E. 40 CFR 261, Environmental Protection Agency (EPA), Identification and Listing of Hazardous Waste.

F. 40 CFR 300, Environmental Protection Agency (EPA), National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

G. 40 CFR 302, EPA, Designation, Reportable Quantities, and Notification.

H. 40 CFR 355, EPA, Emergency Planning and Notification.

I. 49 CFR 171, Department of Transportation (DOT), Research and Special Program Administration.

J. 49 CFR 191, DOT, Transportation of Natural and other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-related Condition Reports.

K. 49 CFR 195, DOT, Transportation of Hazardous Liquids by Pipeline.

3.3 Who is responsible for administering the program?

A. The **Chief, Division of Engineering (DEN)** provides guidance and technical assistance to Regional Engineers for compliance with requirements relating to reporting of contaminated sites, oil discharges, and chemical and hazardous substance releases.

B. The **Chief, Division of Environmental Quality (EC)**, develops and disseminates discovery, notification, and response guidance relating to oil spills for the Service through the National Service Oil Spill Response Contingency Plan, the latest copy of which is available through Regional sources.

C. The **Chief, Office of Safety and Aviation** is responsible for providing assistance to Regional Safety and Response personnel regarding health and safety issues associated with reporting of contaminated sites, oil discharges, and chemical and hazardous substance releases.

D. Regional Directors have overall responsibility for ensuring that reporting requirements are fully implemented at Regional facilities.

E. Regional Engineers/Environmental Compliance Coordinators are responsible for developing and implementing actions intended to effectively minimize health risks and environmental damage associated with releases and providing any other technical assistance to field stations.

F. Regional Spill Response Coordinators, are responsible for coordinating all Regional pre-spill planning, spill notification and evaluation, spill response, and post-spill activities. The Regional Spill Response Coordinators must coordinate spill response activities with Regional Safety, Engineering, Law Enforcement, and Natural Resource Damage Assessment personnel and Facility Response Coordinators.

G. Facility Managers/Project Leaders/Field Response Coordinators will:

(1) Ensure that discovery, notification, evaluation, and response actions follow the protocol established under the Service Oil Spill Response Contingency Plan. You can obtain a copy of the most current plan from Regional or National Spill Response Coordinators. All Service personnel involved in spill response must document the notification process on the most current Incident Report form or equivalent, also available in the Service Contingency Plan or from Regional sources.

(2) Once aware or made aware of a reportable spill, notify the Regional Spill Response Coordinator and the Environmental Coordinator. You may also be required to notify the State Environmental Agency.

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(3) Once the initial discovery and associated notifications are complete, secure the scene and await instructions for further actions. For example, oil spill response requires entirely unique criteria to be followed when compared to response for hazardous materials spill.

3.4 What are the definitions of terms used in this chapter?

A. Discharge. When used in relation to Section 311 of CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, but excludes:

(1) Discharges in compliance with a permit under Section 402 of the CWA.

(2) Discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under Section 402 of the CWA, and subject to a condition in such a permit.

(3) Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under Section 402 of the CWA, that are caused by events occurring within the scope of relevant operating or treatment systems.

B. Hazardous Substance. Any substance designated pursuant to 40 CFR 302.

C. Navigable waters. The waters of the United States, including the territorial seas.

D. Release. (For purposes of NCP, release also means threat of release.) Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excluding:

(1) Any release that results in exposure to persons solely within a workplace, with respect to a claim that such persons may assert against the employer of such persons.

(2) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

(3) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act, or, for the purposes of Section 104 of the CWA or any other

response action, any release of source, byproduct, or special nuclear material from any processing site designated under Section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978.

(4) The normal application of fertilizer.

E. Reportable Quantity (RQ). The quantity of any hazardous substance that when released into the environment is subject to reporting. The RQs are listed in 40 CFR 302, Table 302.4.

F. Service Facility. Buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property owned by or constructed or manufactured or leased to the Service. This includes refuges, hatcheries, and other field stations, as well as any place where the Service occupies space.

3.5 What is the National Response Center (NRC)?

The primary function of the NRC, located at U.S. Coast Guard Headquarters in Washington, D.C., is to serve as a sole national point of contact for all pollution incident reporting such as oil spills, chemical releases, transportation accidents, liquid pipeline releases, gas pipeline releases, discharges from hazardous waste treatment or storage facility, and abandoned dump or waste sites into the environment anywhere in the United States and its territories. In addition to gathering and distributing spill data for Federal On-Scene Coordinators and serving as the communications and operations center for the National Response Team, the NRC maintains agreements with a variety of Federal entities to make additional notifications regarding incidents meeting established trigger criteria. The NRC requires information about what, where, when, and why it happened, and the name, address and phone number of the person who is reporting the incident. The telephone number for NRC is 800-424-8802 or 202-267-2675 in Washington, D.C.

3.6 What are the notification/reporting requirements?

A. Release of Hazardous Substances. CERCLA requires that all releases of hazardous substances (including radio nuclides) exceeding reportable quantities, be reported to the National Response Center. 40 CFR Part 302 promulgates reportable quantities and reporting criteria for hazardous substances. 561 FW 10 provides guidance for compliance with CERCLA issues at Fish and Wildlife Service (Service) facilities.

B. Oil Discharge.

(1) NCP requires notification to NRC of any oil discharge or a hazardous substance release in an amount that is equal to or greater than the RQ identified in 40 CFR 302. Clean Water Act also directs notification

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to NRC of a discharge of oil or hazardous substance from a vessel or facility into the Nation's navigable waters. For oil spills, EPA has determined that a harmful quantity is any quantity causing a film or sheen on the receiving waters, any quantity causing a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, or any quantity that violates an applicable water quality standard. 561 FW 3 provides some guidance on oil spills and associated reporting requirements.

(2) Maintenance personnel involved in day-to-day operations may encounter release of oil (spill or leak) from storage containers. The presence of liner material beneath the container may allow much of the spill to be contained and recovered. Use of sorbent materials such as kitty litter, oil pads, or oil socks are also recommended. If a small amount of oil should spill on the ground, the affected soil must be removed and disposed in compliance with all regulations. You must report any oil spill following the guidance provided in the FWS Oil Spill Response Contingency Plan, the latest copy of which is available through regional sources.

C. Transportation Accidents. You must report immediately any transportation accidents involving hazardous materials, including radioactive substances, to the NRC through Regional sources when, as a direct result of the materials there is death or injuries requiring hospitalization, or property damage in excess of \$50,000 or fire, breakage or spillage of an etiologic agent. The requirements are provided in 49 CFR 171.15.

D. Liquid Pipeline Releases. You must notify NRC through Regional sources when a pipeline system releases hazardous liquid or carbon dioxide that causes death or injury, or an explosion or fire or if there is an escape to the atmosphere of more than 5 barrels/day of highly volatile liquid or carbon dioxide, or property damage exceeding \$5,000, or pollution of any body of water. The requirements are provided in 49 CFR 195.52.

E. Gas Pipeline Releases. You must notify the NRC through Regional sources when a gas pipeline releases corrosive or flammable gas, liquefied natural gas (LNG) which causes death or injury requiring hospitalization, or a damage greater than \$50,000 occurs. The details of these requirements are provided in 49 CFR 191.5.

F. Abandoned Dump or Waste Sites. Anyone having knowledge of abandoned dumps or waste sites should report these sites to the Regional Environmental Coordinator's office for further action.