

**SPILL
AND
RELEASE REPORTING**



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SPILL REPORTING REQUIREMENTS

- **CLEAN WATER ACT (CWA)**
- **COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT
(CERCLA, I.E., SUPERFUND)**
- **SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (SARA)**
- **RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)**
- **HAZARDOUS MATERIALS TRANSPORTATION ACT (HMTA)**
- **TOXIC SUBSTANCES CONTROL ACT (TSCA)**

ELEMENTS OF SPILL REPORTING

- **PERSONS RESPONSIBLE FOR REPORTING**
- **DEFINITION OF A SPILL**
- **GEOGRAPHICAL SPILL LOCATION**
- **REPORTABLE SUBSTANCES**
- **REPORTABLE QUANTITIES**
- **REPORTING PROCEDURES**
- **ENFORCEMENT**

GENERAL

I. CWA

- A. PROHIBITS THE DISCHARGE OF HARMFUL QUANTITIES OF OIL OR HAZARDOUS SUBSTANCES INTO THE NAVIGABLE WATERS OF THE UNITED STATES AND ADJOINING SHORELINES, EXCEPT IN COMPLIANCE WITH A PERMIT OR OTHER GOVERNMENTAL APPROVAL [CWA §311(b)(3)].**

- B. ANY PERSON WHO IS IN CHARGE OF A VESSEL OR FACILITY FROM WHICH THERE HAS BEEN SUCH AN UNPERMITTED DISCHARGE MUST IMMEDIATELY NOTIFY THE GOVERNMENT [CWA §311(b)(5)].**

GENERAL

II. CERCLA [SUPERFUND]

A. REQUIRES ANY PERSON IN CHARGE OF A VESSEL OR FACILITY TO REPORT ANY UNPERMITTED RELEASE OF A HAZARDOUS SUBSTANCE INTO THE ENVIRONMENT IN AN AMOUNT GREATER THAN THE REPORTABLE QUANTITY FOR THAT SUBSTANCES.

B. SIGNIFICANT DIFFERENCES FROM CWA REPORTING

- RELEASES OF OIL ARE NOT, AT THIS TIME, REGULATED UNDER CERCLA.
- "HAZARDOUS SUBSTANCES" COVERED UNDER CERCLA INCLUDE MANY MORE CHEMICALS THAN THE "HAZARDOUS SUBSTANCES" LISTED BY THE EPA UNDER THE CWA.
- THE CERCLA SPILL REPORTING REQUIREMENT IS NOT LIMITED TO SPILLS INTO NAVIGABLE WATERS, BUT INCLUDES SPILLS INTO THE "ENVIRONMENT" AS A WHOLE, INCLUDING [CERCLA §101(8)]
 - NAVIGABLE WATERS AND ANY OTHER SURFACE WATERS,
 - GROUNDWATER,
 - DRINKING WATER SUPPLIES,
 - LAND SURFACE OR SUBSURFACE STRATA, AND
 - AMBIENT AIR

GENERAL

III. SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT

A. TWO CHANGES:

- **REQUIRED THE EPA TO PROMULGATE REPORTABLE QUANTITIES FOR ALL HAZARDOUS SUBSTANCES BY APRIL OF 1988.**
- **THE EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT OF 1986, EXPANDED CERCLA'S ORIGINAL SPILL REPORTING PROVISIONS, AND REQUIRED THAT RELEASES OF CERTAIN CHEMICALS BEYOND FACILITY BOUNDARIES TO BE REPORTED TO STATE AND LOCAL OFFICIALS, AS WELL AS TO THE NATIONAL RESPONSE CENTER.**

GENERAL

IV. RCRA

- A. ALTHOUGH RCRA DOES NOT CONTAIN AN EXPLICIT SPILL REPORTING PROVISION, SECTIONS 3002, 3003 AND 3004 OF RCRA, REQUIRE THE EPA TO PROMULGATE REGULATIONS CONCERNING THE MANAGEMENT OF HAZARDOUS WASTES [40 CFR PARTS 260 THROUGH 270].**
- B. TRANSPORTERS ARE REQUIRED TO REPORT TO THE NATIONAL RESPONSE CENTER ANY DISCHARGES OF HAZARDOUS WASTE WHICH OCCUR DURING TRANSPORT [40 CFR §263.30(c)].**
- C. MOST GENERATORS OF HAZARDOUS WASTE, AS WELL AS OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES, MUST TAKE CERTAIN PRECAUTIONS TO MINIMIZE HAZARDS DUE TO SPILLS [40 CFR §265.51(a)].**

GENERAL

IV. RCRA

D. DIFFERENCES WHICH SET RCRA APART FROM CWA AND CERCLA

- **RCRA PROVISIONS ONLY APPLY TO DISCHARGES OF HAZARDOUS WASTES.**
- **NO SPECIFIC THRESHOLD QUANTITIES THAT WOULD TRIGGER REPORTING ARE INCLUDED UNDER RCRA.**
- **WHILE HAZARDOUS WASTE DISCHARGES DURING TRANSPORTATION ARE TO BE REPORTED TO THE NATIONAL RESPONSE CENTER, OTHER REPORTS ARE TO BE MADE TO THE FEDERAL, STATE, AND LOCAL AUTHORITIES RESPONSIBLE FOR REGULATING HAZARDOUS WASTES, OR FOR RESPONDING TO EMERGENCY SITUATIONS.**

GENERAL

V. HMTA

A. TWO ELEMENTS OF DOT SPILL REPORTING

- **THE EPA'S REGULATIONS WHICH REQUIRE THE REPORTING OF SPILLS OF HAZARDOUS WASTE DURING TRANSPORT ARE ADOPTED BY REFERENCE [40 CFR §171.3].**
- **SPILLS OF ANY OTHER HAZARDOUS MATERIALS MUST ALSO BE REPORTED [49 CFR §171.16].**

GENERAL

V. HMTA

B. UNIQUE ASPECTS OF HMTA REPORTING REQUIREMENTS

- **THEY ONLY APPLY TO DISCHARGES WHICH OCCUR DURING TRANSPORTATION.**
- **THEY APPLY TO DISCHARGES OF "HAZARDOUS MATERIAL," A GROUP OF MATERIALS WHICH IS EVEN LARGER THAN THE GROUP OF "HAZARDOUS SUBSTANCES" REGULATED UNDER CERCLA.**
- **SPECIFIC THRESHOLD QUANTITIES HAVE BEEN PROMULGATED, ALONG WITH NARRATIVE STANDARDS (E.G., THE OCCURRENCE OF FIRE OR SUSPECTED CONTAMINATION BY INFECTIOUS AGENTS), WHICH MUST BE USED TO DETERMINE IF THE SPILL POSES A SUFFICIENT THREAT THAT A REPORT IS REQUIRED.**

GENERAL

VI. TSCA

- A. SECTION 8(E) OF TSCA PROVIDES THAT WHENEVER A MANUFACTURER, DISTRIBUTOR, OR PROCESSOR OF A CHEMICAL BECOMES AWARE THAT THE CHEMICAL MAY POSE A "SUBSTANTIAL RISK" TO HEALTH OR THE ENVIRONMENT, THAT INFORMATION MUST BE REPORTED TO THE EPA.**

GENERAL

VI. TSCA

- B. WHILE TSCA'S PRIMARY APPLICATIONS ARE TO SCIENTIFIC EXPERIMENTS, CLINICAL OBSERVATIONS, AND EPIDEMIOLOGIC SURVEYS, THE EPA HAS APPLIED TO IT TO CERTAIN SPILLS OF HAZARDOUS MATERIALS.
- C. IN A "STATEMENT OF INTERPRETATIONS AND ENFORCEMENT POLICY," THE EPA TOOK THE POSITION THAT TSCA SECTION 8(E), REQUIRES THE IMMEDIATE REPORTING OF ANY "ENVIRONMENTAL CONTAMINATION" BY A CHEMICAL SUBSTANCE WHICH EITHER SERIOUSLY THREATENS HUMANS WITH DEATH, CANCER, BIRTH DEFECTS, MUTATION, OR SERIOUS OR PROLONGED INCAPACITATION, OR WHICH SERIOUSLY THREATENS LARGE-SCALE OR ECOLOGICALLY SIGNIFICANT POPULATION DESTRUCTION OF NON-HUMAN ORGANISMS, UNLESS THAT SPILL HAS ALREADY BEEN REPORTED TO THE EPA UNDER OTHER SPILL REPORTING REQUIREMENTS.
- D. POTENTIALLY BROAD APPLICABILITY BECAUSE TSCA REPORTING REQUIREMENTS ARE NOT LIMITED TO A SPECIFIC LIST OF CHEMICALS AND NO THRESHOLD REPORTING LIMITS APPLY.

PERSONS RESPONSIBLE FOR REPORTING

I. GENERAL RESPONSIBILITY

- A. INDIVIDUAL "IN CHARGE" OF A VESSEL, FACILITY OR VEHICLE OR A DESIGNATED SPILL RESPONSE COORDINATOR.**
- B. ULTIMATE RESPONSIBILITY WITH THE OWNER OR OPERATOR OF THE VESSEL OR FACILITY.**

PERSONS RESPONSIBLE FOR REPORTING

II. CWA

- A. THE "PERSON IN CHARGE" OF THE VESSEL OR FACILITY MUST DETERMINE IF THE SPILL IS REPORTABLE AND, IF SO, NOTIFY THE NATIONAL RESPONSE CENTER [CWA §311(b)(5)]. A PERSON MAY BE AN INDIVIDUAL OR CORPORATION.**
- B. ULTIMATE REPORTING RESPONSIBILITY IS ASSIGNED TO THE OWNER OR OPERATOR BECAUSE THE OWNER OR OPERATOR HAS A GREATER ABILITY TO:**
- **ENSURE THAT DISCHARGES ARE DISCOVERED,**
 - **DIRECT THOSE CONTROLLING THE FACILITY OR VESSEL, AND TO**
 - **ACT TO CONTROL OR LESSEN ANY DAMAGE FROM A SPILL.**
- C. ANYONE WHOSE AUTHORITY EXTENDS TO CONTROL OF THE PARTICULAR MECHANISM THAT CAUSES A DISCHARGE WILL LIKELY BE CONSIDERED THE OWNER OR OPERATOR'S AGENT FOR PURPOSES OF THE NOTIFICATION REQUIREMENT.**

PERSONS RESPONSIBLE FOR REPORTING

III. CERCLA

- A. ANY "PERSON IN CHARGE" MUST DETERMINE WHETHER THERE HAS BEEN A RELEASE OF A REPORTABLE QUANTITY OF A HAZARDOUS SUBSTANCE UNDER CERCLA [40 CFR §302.6(A)].**
- B. A "PERSON" IS DEFINED AS "AN INDIVIDUAL, FIRM, CORPORATION, ASSOCIATION, PARTNERSHIP, CONSORTIUM, JOINT VENTURE, COMMERCIAL ENTITY, UNITED STATES GOVERNMENT, STATE, MUNICIPALITY, COMMISSION, POLITICAL SUBDIVISION OF A STATE, OR ANY INTERSTATE BODY" [40 CFR 302.3].**
- C. EPA WILL DETERMINE WHO IS A "PERSON IN CHARGE" ON A CASE BY CASE BASIS [50 FR 13456, 13460-61, APRIL 4, 1985].**

PERSONS RESPONSIBLE FOR REPORTING

IV. RCRA

- A. THE PERSON RESPONSIBLE FOR SPILL REPORTING MAY BE ANY PERSON ALONG THE HAZARDOUS WASTE HANDLING CHAIN. RCRA DISCHARGES AND SPILLS ARE PRIMARILY COVERED DURING:**
- **STORAGE BY GENERATORS [40 CFR 262]**
 - **TRANSPORTATION INCLUDING LOADING AND UNLOADING [40 CFR §171.15(A), CITED BY 40 CFR §263.30(c)(1)]**
 - **HANDLING AT TSD FACILITIES [40 CFR PARTS 264-65]**
- B. "'PERSON' MEANS AN INDIVIDUAL, TRUST, FIRM, JOINT STOCK COMPANY, FEDERAL AGENCY, CORPORATION (INCLUDING A GOVERNMENT CORPORATION), PARTNERSHIP, ASSOCIATION, STATE, MUNICIPALITY, COMMISSION, POLITICAL SUBDIVISION OF A STATE, OR ANY INTERSTATE BODY". [40 CFR §260.10].**
- C. THE RCRA REGULATIONS GOVERNING HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES ARE DIRECTED TOWARD THE OWNERS AND OPERATORS.**

PERSONS RESPONSIBLE FOR REPORTING

V. HMTA

- A. THE REGULATIONS IMPLEMENTING THE HMTA APPLY TO CARRIERS WHO TRANSPORT HAZARDOUS MATERIALS, INCLUDING HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES [49 CFR §§171.17, 171.15(A) AND 171.16(A)].**
- B. THE PERSON IN CHARGE OF A TRANSPORT VEHICLE OR FACILITY FROM WHICH A HAZARDOUS SUBSTANCE IS DISCHARGED INTO NAVIGABLE WATERS MUST REPORT THE SPILL TO THE NATIONAL RESPONSE CENTER [40 CFR 171.17(A)].**
- C. A "PERSON" UNDER THE HMTA IS DEFINED NEARLY AS BROADLY AS UNDER RCRA, EXCEPT THAT GOVERNMENT BODIES ARE NOT "PERSONS" UNDER THE HMTA [49 CFR §171.8].**

PERSONS RESPONSIBLE FOR REPORTING

VI. TSCA

- A. SECTION 8(E) OF TSCA APPLIES TO ANY "PERSON WHO MANUFACTURES, PROCESSES, OR DISTRIBUTES IN COMMERCE A CHEMICAL SUBSTANCE OR MIXTURE."**
- B. ALTHOUGH "PERSON" IS NOT SPECIFICALLY DEFINED IN TSCA, THE EPA'S ENFORCEMENT POLICY DEFINES PERSON TO INCLUDE ANY INDIVIDUAL, CORPORATION OR OTHER BUSINESS ENTITY, AND ANY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY [43 FR 11110, 11111 MARCH 16, 1978].**
- C. COMMERCIAL ESTABLISHMENTS MAY CHOOSE TO ASSUME EXCLUSIVE RESPONSIBILITY FOR NOTIFYING THE EPA OF ANY SUBSTANTIAL RISK INFORMATION OBTAINED BY THEIR INDIVIDUAL EMPLOYEES.**
- D. THE EXCLUSION OF THE INDIVIDUAL EMPLOYEES' OBLIGATION TO DIRECTLY NOTIFY THE EPA IS ONLY AVAILABLE IF THE COMPANY HAS ESTABLISHED, PUBLICIZED, AND AFFIRMATIVELY IMPLEMENTED ITS OWN INTERNAL NOTIFICATION PROCEDURES.**

PERSONS RESPONSIBLE FOR REPORTING

VI. TSCA

E. THE COMPANY PROCEDURES MUST INCLUDE, AT A MINIMUM, REQUIREMENTS CONCERNING THE FOLLOWING:

- **HOW THE INFORMATION MUST BE REPORTED BY THE EMPLOYEES;**
- **HOW THE NOTIFICATIONS TO THE DESIGNED COMPANY OFFICIAL WILL BE PREPARED AND SUBMITTED BY THE EMPLOYEES;**
- **HOW EMPLOYEES ARE TO BE ADVISED OF THE FEDERAL PENALTIES FOR FAILING TO REPORT; AND**
- **HOW EMPLOYEES WHO HAVE SUBMITTED REPORTS WILL BE NOTIFIED OF THE RESULTS OF THOSE REPORTS, INCLUDING WHETHER OR NOT THE REPORTS WERE SUBMITTED TO THE EPA.**

DESPITE THE EXISTENCE OF SUCH A SYSTEM, THE COMPANY OFFICIALS WHO ARE ULTIMATELY RESPONSIBLE FOR ENSURING COMPLIANCE WITH TSCA SECTION 8(E) RETAIN PERSONAL LIABILITY FOR ENSURING THAT APPROPRIATE REPORTS ARE MADE TO THE EPA.

PERSONS RESPONSIBLE FOR REPORTING

VI. TSCA

- F. IF A "PERSON" HAS BECOME AWARE OF A SPILL, THAT PERSON MUST ALSO MANUFACTURE, PROCESS, OR DISTRIBUTE IN COMMERCE THE MATERIAL WHICH HAS BEEN SPILLED IN ORDER TO BE SUBJECT TO THE REPORTING REQUIREMENTS.**
- G. VIRTUALLY, ANY INDIVIDUAL OR BUSINESS ENTITY IN THE CHAIN OF MANUFACTURE AND SALE OF CHEMICALS IS POTENTIALLY SUBJECT TO THE TSCA SPILL REPORTING REQUIREMENT. USERS, EXCLUDING MANUFACTURERS OR PROCESSORS, ARE NOT SUBJECT TO TSCA SPILL REPORTING.**

DEFINITION OF A SPILL

I. GENERAL

- A. "SPILLS" ARE GENERALLY UNCONTROLLED DISCHARGES WHICH CAN BE SUDDEN OR GRADUAL.**
- B. EXEMPTIONS MAY BE PART OF THE DEFINITION OF A SPILL OR PART OF THE REPORTING REQUIREMENT.**

DEFINITION OF A SPILL

II. CWA

- A. A DISCHARGE INCLUDES "ANY SPILLING, LEAKING, PUMPING, POURING, EMITTING, EMPTYING OR DUMPING" [CWA §311(A)(2)].**
- B. EPA AND THE UNITED STATES COAST GUARD HAVE BOTH ADOPTED THE STATUTORY DEFINITION OF "DISCHARGE" IN THEIR REGULATIONS [40 CFR §§110.1(B), 116.3 AND 33 CFR §153.103(G)].**

DEFINITION OF A SPILL

II. CWA

C. THREE EXCLUSIONS CONTEMPLATED BY CWA SECTION 311:

- **DISCHARGES IN COMPLIANCE WITH AN NPDES PERMIT. THIS EXCLUSION ONLY APPLIES WHEN A PERMIT HAS BEEN ISSUED WHICH INCLUDES A SPECIFIC EFFLUENT LIMITATION FOR THE APPLICABLE SUBSTANCE OR "INDICATOR" PARAMETER. THE EXCLUSION IS IMPORTANT WHERE THE PARTICULAR EFFLUENT LIMITATION SET IN THE NPDES PERMIT EXCEEDS THE "REPORTABLE QUANTITY" UNDER CWA SECTION 311.**
- **PREVIOUSLY CONTEMPLATED ONSITE SPILLS WHICH ARE RECOGNIZED BY A SPECIFIC CONDITION IN THE NPDES PERMIT WHICH ALLOWS FOR TREATMENT IN THE PERMITTED WASTEWATER TREATMENT SYSTEM [40 CFR §117.12(a)(2)].**

DEFINITION OF A SPILL

II. CWA

- **CONTINUOUS OR INTERMITTENT DISCHARGES WHICH HAVE BEEN IDENTIFIED IN AN NPDES PERMIT, OR IN AN APPLICATION FOR AN NPDES PERMIT INCLUDING [40 CFR §117.12(A)(3)]:**
 - **CONTAMINATION OF NON-CONTACT COOLING WATER OR STORMWATER BY MANUFACTURING OR TREATMENT PROCESSES DESCRIBED IN THE APPLICATION OR PERMIT,**
 - **A CONTINUOUS OR ANTICIPATED INTERMITTENT DISCHARGE OF PROCESS WASTEWATER FROM THE MANUFACTURING OR TREATMENT SYSTEMS DESCRIBED IN THE APPLICATION OR PERMIT, OR**
 - **AN UPSET OR FAILURE OF A TREATMENT SYSTEM OR PROCESS DESCRIBED IN THE APPLICATION OR PERMIT WHICH RESULTS FROM OPERATIONAL ERROR OR SYSTEM FAILURE [40 CFR §117.12(d)].**

FOR THE EXCLUSION TO APPLY, IT IS NOT NECESSARY FOR AN NPDES PERMIT TO BE ISSUED OR FOR THE DISCHARGE TO BE IN COMPLIANCE WITH AN ISSUED PERMIT .

DEFINITION OF A SPILL

II. CWA

- D. THE ONLY OTHER STATUTORY EXCLUSION COVERS DISCHARGES OF OIL INTO THE "CONTIGUOUS ZONE" WHERE THOSE DISCHARGES ARE PERMITTED UNDER THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL [CWA §311(B)(3)]. ESSENTIALLY, THE CONTIGUOUS ZONE EXTENDS NINE MILES SEAWARD OF THE TERRITORIAL SEA WHICH EXTENDS THREE MILES FROM A COASTAL BASELINE.**

DEFINITION OF A SPILL

II. CWA

E. OTHER REGULATORY EXCLUSIONS FROM REPORTING INCLUDE DISCHARGES:

- **IN COMPLIANCE WITH A PERMIT UNDER THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT;**
- **IN COMPLIANCE WITH WATER TREATMENT PLANT OPERATIONS SPECIFIED BY LOCAL OR STATE DRINKING WATER REGULATIONS;**
- **PURSUANT TO THE DIRECTIONS ON THE LABEL OF A REGISTERED PESTICIDE PRODUCT, OR PURSUANT TO THE REQUIREMENTS OF AN EXPERIMENTAL USE PERMIT OR EXEMPTION ISSUED BY THE EPA FOR A PESTICIDE;**
- **IN COMPLIANCE WITH RCRA REGULATIONS; AND**
- **IN COMPLIANCE WITH INSTRUCTIONS FROM AN EPA OR COAST GUARD OFFICIAL SUPERVISING THE CLEANUP OF A SPILL.**

DEFINITION OF A SPILL

II. CWA

E. OTHER REGULATORY EXCLUSIONS FROM REPORTING INCLUDE DISCHARGES:

- **IN COMPLIANCE WITH CERTAIN PERMITS ISSUED BY THE STATE OF CALIFORNIA;**
- **FROM A SYSTEM USED TO PROVIDE INERT GAS TO THE CARGO TANKS OF A VESSEL;**
- **FROM A STATIONARY SOURCE TO A PUBLICLY OWNED TREATMENT WORKS ("POTW") [THIS EXCLUSION DOES NOT APPLY TO MOBILE SOURCES DISCHARGING TO A PUBLICLY OWNED TREATMENT WORKS]; AND**
- **IN COMPLIANCE WITH A DREDGE AND FILL PERMIT ISSUED BY THE ARMY CORPS OF ENGINEERS UNDER SECTION 404 OF THE CWA, OR UNDER AN EXEMPTION FROM THE REQUIREMENTS OF SECTION 404 [40 CFR §§117.11 AND 117.13].**

DEFINITION OF A SPILL

III. CERCLA

- A. A "RELEASE" INCLUDES "ANY SPILLING, LEAKING, PUMPING, POURING, EMITTING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING, OR DISPOSING" [CERCLA §101(22) AND 40 CFR §302.3].
- B. FOUR STATUTORY EXCLUSIONS FROM THE DEFINITION OF "RELEASE:"
- ANY RELEASE WHICH RESULTS IN EXPOSURE TO PERSONS SOLELY WITHIN A WORKPLACE, BUT ONLY WITH RESPECT TO A CLAIM WHICH SUCH PERSONS MAY ASSERT AGAINST THEIR EMPLOYER;
 - EMISSIONS FROM THE ENGINE EXHAUST OF MOTOR VEHICLES, AIRCRAFT, BOATS OR PIPELINE PUMPING STATIONS;
 - RELEASES OF SOURCE, BYPRODUCT, OR SPECIAL NUCLEAR MATERIAL DEFINED IN THE ATOMIC ENERGY ACT OF 1954, IF THE RELEASES ARE SUBJECT TO FINANCIAL PROTECTION REQUIREMENTS ESTABLISHED BY THE NUCLEAR REGULATORY COMMISSION, OR IF THE RELEASE RESULTS FROM CERCLA RESPONSE ACTIONS; AND
 - THE NORMAL APPLICATION OF FERTILIZER [CERCLA §101(22)].

DEFINITION OF A SPILL

III. CERCLA

C. EXCLUSIONS FROM REPORTING REQUIREMENTS INCLUDE:

- "FEDERALLY PERMITTED" RELEASES;
- THE APPLICATION OF A REGISTERED PESTICIDE, OR THE HANDLING AND STORAGE OF SUCH A PESTICIDE;
- A RELEASE REGULATED UNDER RCRA; OR
- A "CONTINUOUS RELEASE" FOR WHICH NOTIFICATION HAS ALREADY BEEN GIVEN TO THE EPA [CERCLA §§103(A)(E) AND (F)].

D. "FEDERALLY PERMITTED" RELEASES ARE:

- DISCHARGES IN COMPLIANCE WITH A WASTEWATER DISCHARGE PERMIT ISSUED UNDER SECTION 402 OF THE CWA;
- DISCHARGES IN COMPLIANCE WITH A DREDGE AND FILL PERMIT ISSUED UNDER SECTION 404 OF THE CWA;
- RELEASES IN COMPLIANCE WITH A FINAL RCRA PERMIT ISSUED FOR A HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY;

DEFINITION OF A SPILL

III. CERCLA

D. "FEDERALLY PERMITTED" RELEASES ARE:

- ANY RELEASE IN COMPLIANCE WITH AN OCEAN DUMPING PERMIT;
- ANY INJECTION OF FLUIDS INTO THE GROUND AUTHORIZED UNDER THE SAFE DRINKING WATER ACT;
- ANY EMISSION OF POLLUTANTS INTO THE AIR SUBJECT TO A PERMIT OR OTHER REGULATION UNDER STATE OR FEDERAL AIR POLLUTION CONTROL REGULATIONS;
- ANY INJECTION OF FLUIDS AUTHORIZED UNDER STATE LAW IN CONNECTION WITH THE RECOVERY OF CRUDE OIL OR NATURAL GAS;
- THE INTRODUCTION OF ANY POLLUTANT INTO A PUBLICLY OWNED TREATMENT WORKS WHERE THE POLLUTANT IS SPECIFIED IN AND IS IN COMPLIANCE WITH FEDERAL, STATE OR LOCAL PRETREATMENT REQUIREMENTS; AND
- ANY RELEASE OF SOURCE, SPECIAL NUCLEAR, OR BY-PRODUCT MATERIAL (AS DEFINED UNDER THE ATOMIC ENERGY ACT [CERCLA §101(10)]).

DEFINITION OF A SPILL

III. CERCLA

E. CONTINUOUS RELEASES DO NOT NEED TO BE REPORTED ON A DAILY BASIS IF:

- **IT IS STABLE IN QUANTITY AND RATE; AND**
- **IT IS FROM A FACILITY FROM WHICH THE EPA HAS RECEIVED NOTICE OF ITS EXISTENCE UNDER CERCLA SECTION 103(c), OR NOTIFICATION OF THE RELEASE HAS BEEN GIVEN UNDER CERCLA SECTION 103(a) FOR A SUFFICIENTLY LONG PERIOD OF TIME SUCH THAT THE CONTINUITY, QUANTITY, AND REGULARITY OF THE RELEASE HAS BEEN ESTABLISHED [CERCLA §103(f)(2)].**
- **AFTER MEETING THESE CONDITIONS, NOTIFICATION OF THE CONTINUOUS RELEASE ONLY NEEDS TO BE GIVEN ON AN ANNUAL BASIS OR AT ANY SUCH TIME THAT THERE IS A STATISTICALLY SIGNIFICANT INCREASE IN THE QUANTITY OF THE MATERIAL BEING RELEASED.**

F. ANY RELEASE WHICH IS REQUIRED TO BE REPORTED UNDER RCRA, AND WHICH HAS BEEN REPORTED TO THE NATIONAL RESPONSE CENTER, DOES NOT ALSO HAVE TO BE REPORTED UNDER CERCLA SECTION 103(a) [CERCLA §(f)(1)].

DEFINITION OF A SPILL

IV. RCRA

- A. RCRA PROVISIONS ARE NARROWER BECAUSE THEY FOCUS ON HAZARDOUS WASTE.**
- B. TRANSPORTERS MUST REPORT THE "ACCIDENTAL OR INTENTIONAL SPILLING, LEAKING, PUMPING, POURING, EMITTING, EMPTYING, OR DUMPING OF HAZARDOUS WASTE." [40 CFR §§260.10 AND 263.30].**
- C. GENERATORS AND OTHER PERSONS STORING, TREATING, OR DISPOSING OF HAZARDOUS WASTES ARE REQUIRED TO REPORT RELEASES, FIRES AND EXPLOSIONS WHICH MAY THREATEN PUBLIC HEALTH OR THE ENVIRONMENT [40 CFR §§264.56(d)(2) AND 265.56(d)(2)].**
- D. OWNERS AND OPERATORS OF HAZARDOUS WASTE SURFACE IMPOUNDMENTS, LANDFILLS, OR LAND TREATMENT FACILITIES ARE REQUIRED TO IMPLEMENT A GROUNDWATER MONITORING PROGRAM. ANY EVIDENCE OF RELEASES MUST BE REPORTED [40 CFR PART 264 SUBPART F AND PART 265 SUBPART F].**

DEFINITION OF A SPILL

V. HMTA

- A. DOT RULES APPLY TO TRANSPORTATION RELATED INCIDENTS OR DISCHARGES INCLUDING THOSE INVOLVING DEATH OR SERIOUS INJURIES, EXTENSIVE PROPERTY DAMAGE, FIRES, CONTAMINATION BY RADIOACTIVE OR INFECTIOUS MATERIALS, CONTINUING DANGER TO LIFE, AS WELL AS DISCHARGES OF HAZARDOUS SUBSTANCES, MATERIALS AND WASTES. [49 CFR §§171.15-.17].**
- B. NO EXCLUSIONS FOR SPILL REPORTED UNDER OTHER STATUTES.**

DEFINITION OF A SPILL

VI. TSCA

- A. ANY INFORMATION INDICATING THAT A SUBSTANCE PRESENTS A "SUBSTANTIAL RISK OF INJURY TO HEALTH OR THE ENVIRONMENT" MUST BE REPORTED. THE EPA HAS INTERPRETED THIS BROAD STATUTORY PROVISION TO APPLY TO "EMERGENCY INCIDENTS OF ENVIRONMENTAL CONTAMINATION." [43 FR 11110 AND 11112, MARCH 16, 1978].**
- B. EPA CONSTRUES SUCH INCIDENTS TO INCLUDE CONTAMINATION BY A CHEMICAL SUBSTANCE OR MIXTURE WHICH HAS BEEN SHOWN TO POSE A SUBSTANTIAL RISK TO PUBLIC HEALTH OR THE ENVIRONMENT AND WHICH SERIOUSLY THREATENS HUMAN AND NON-HUMAN POPULATIONS DUE TO THE EXTENT OF CONTAMINATION.**
- C. THE ONLY EXCLUSION IS FOR SITUATIONS WHERE THE EPA OR THE NATIONAL RESPONSE CENTER HAS ALREADY BEEN INFORMED OF THE CONTAMINATION INCIDENT.**

GEOGRAPHICAL SPILL LOCATION

I. CWA

A. REPORTABLE DISCHARGES [CWA §311(b)(5)] FROM A VESSEL, AN ONSHORE OR OFFSHORE FACILITY MUST BE:

- INTO OR UPON THE "NAVIGABLE WATERS OF THE UNITED STATES," "ADJOINING SHORELINE," OR "THE WATERS OF THE CONTIGUOUS ZONE;" OR
- ASSOCIATED WITH ACTIVITIES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT OR THE DEEP WATER PORT ACT; OR
- SUCH AS TO AFFECT NATURAL RESOURCES UNDER THE AUTHORITY OF THE UNITED STATES [CWA §311(b)(3) AND 40 CFR §§110.3, 4 AND 5 AND 117.11].

B. TO BE REPORTABLE, DISCHARGES MUST BE INTO:

- THE "NAVIGABLE WATERS OF THE UNITED STATES" OR
- THE "WATERS OF THE CONTIGUOUS ZONE".

GEOGRAPHICAL SPILL LOCATION

I. CWA

C. EPA RULES DEFINE "NAVIGABLE WATERS" TO INCLUDE [40 CFR PARTS 116 AND 117.1(I)]:

- **ALL WATERS WHICH HAVE BEEN USED, ARE BEING USED, OR MAY BE USED IN INTERSTATE OR FOREIGN COMMERCE, INCLUDING ALL TIDAL WATERS;**
- **ALL INTERSTATE WATERS, INCLUDING INTERSTATE WETLANDS;**
- **ALL OTHER WATERS, INCLUDING INTRASTATE WATERS AND WETLANDS, THE USE OR DEGRADATION OF WHICH COULD AFFECT INTERSTATE OR FOREIGN COMMERCE;**
- **ALL IMPOUNDMENTS OF NAVIGABLE WATERS;**
- **TRIBUTARIES OF NAVIGABLE WATERS, INCLUDING THEIR ADJACENT WETLANDS;
AND**
- **WETLANDS WHICH ARE ADJACENT TO ANY NAVIGABLE WATERS.**

GEOGRAPHICAL SPILL LOCATION

I. CWA

- D. THE CORPS OF ENGINEERS HAS CONSTRUED NAVIGABLE WATER TO INCLUDE ISOLATED WETLANDS WHICH ARE OR MAY BE USED BY MIGRATORY BIRDS.**
- E. WASTEWATER TREATMENT SYSTEMS, OTHER THAN LARGE COOLING PONDS MEETING THE NAVIGABLE WATERS CRITERIA, ARE EXCLUDED [40 CFR §117.1(I)(6)].**

GEOGRAPHICAL SPILL LOCATION

II. CERCLA

A. CERCLA APPLIES TO RELEASES INTO THE ENVIRONMENT AS A WHOLE INCLUDING: [CERCLA §§101(22), 101(8) AND 40 CFR §§302.6, 302.3]:

- **THE NAVIGABLE WATERS, WATERS OF THE CONTIGUOUS ZONE, AND OCEAN WATERS WHERE THE NATURAL RESOURCES ARE UNDER THE EXCLUSIVE MANAGEMENT AUTHORITY OF THE UNITED STATES; AND**
- **ANY OTHER SURFACE WATER, GROUNDWATER, DRINKING WATER SUPPLY, LAND SURFACE OR SUBSURFACE STRATA, OR AMBIENT AIR WITHIN OR SUBJECT TO THE JURISDICTION OF THE UNITED STATES.**

B. A SPILL WHOLLY CONTAINED IN A BUILDING IS NOT REPORTABLE [50 FR 13456 AND 62, APRIL 4, 1985].

C. A "FACILITY" INCLUDES ALL BUILDINGS, STRUCTURES, CONTAINERS, MOTOR VEHICLES, OR AIRCRAFT AS WELL AS ANY SITE OR AREA WHERE A HAZARDOUS SUBSTANCE HAS BEE DEPOSITED, STORED, DISPOSED OF, PLACED OR OTHERWISE LOCATED [CERCLA §101(9)]. THE ONLY LIMITATION IS THAT "FACILITY" DOES NOT INCLUDE ANY CONSUMER PRODUCT IN CONSUMER USE OR ANY VESSEL.

GEOGRAPHICAL SPILL LOCATION

III. 1986 CERCLA AMENDMENTS

- A. EMERGENCY REPORTING REQUIREMENTS ARE LIMITED TO FACILITIES WHERE "EXTREMELY HAZARDOUS SUBSTANCES" ARE STORED IN AMOUNTS EXCEEDING THRESHOLD PLANNING QUANTITIES [SARA §304]. STATES MAY DESIGNATE ADDITIONAL FACILITIES SUBJECT TO EMERGENCY REPORTING REQUIREMENTS [SARA §302(B)].**
- B. EMERGENCY NOTIFICATION REQUIREMENTS APPLY ONLY TO RELEASES WHICH ESCAPE BEYOND THE SITE [SARA §304(A)(4)].**
- C. ALTHOUGH TRANSPORTATION IS GENERALLY EXEMPT FROM THE REQUIREMENTS UNDER THE NEW TITLE III, THAT EXEMPTION DOES NOT APPLY TO THE EMERGENCY NOTIFICATION PROVISIONS [SARA §§327 AND 304(D)].**

GEOGRAPHICAL SPILL LOCATION

IV. RCRA

- A. REPORTABLE RCRA SPILLS OR INCIDENTS ARE NOT CLEARLY DEFINED IN TERMS OF LOCATIONS. INSTEAD, THE FOCUS IS UPON INCIDENTS INVOLVING HAZARDOUS WASTE, WITHOUT REGARD TO WHERE THE INCIDENT OCCURS.**
- B. EPA REQUIRES REPORTING INCIDENTS OCCURRING INSIDE AND OUTSIDE HAZARDOUS WASTE FACILITIES [45 FR 33154, 33184-85, MAY 19, 1980].**
- C. THE ONLY NOTIFICATION REQUIREMENT TIED TO A GEOGRAPHICAL LOCATION PERTAINS TO RELEASES TO GROUNDWATER WHERE REPORTING IS LIMITED TO INSTANCES WHERE HAZARDOUS WASTE OR HAZARDOUS CONSTITUENTS ARE SUSPECTED TO HAVE REACHED GROUNDWATER SUPPLIES [40 CFR §§264.98 AND 265.93].**

GEOGRAPHICAL SPILL LOCATION

V. HMTA

- A. SIMILAR TO RCRA, THE HMTA REQUIREMENTS FOCUS UPON INCIDENTS OR DISCHARGES OCCURRING DURING THE TRANSPORTATION OF HAZARDOUS MATERIALS, REGARDLESS OF WHERE THOSE INCIDENTS OCCUR. [40 CFR §§171.15 AND 171.16].**
- B. EXCEPTION: DISCHARGES TO NAVIGABLE WASTES OR ADJOINING SHORELINES ARE REPORTABLE IN A MANNER SIMILAR TO CWA REQUIREMENTS [49 CFR 171.17].**

GEOGRAPHICAL SPILL LOCATION

VI. TSCA

- A. TSCA PROVIDES NO GUIDANCE REGARDING THE GEOGRAPHICAL SCOPE OF SPILL REPORTING.**
- B. EPA'S ENFORCEMENT POLICY ONLY BROADLY REFERS TO INCIDENTS OF "ENVIRONMENTAL CONTAMINATION".**

REPORTABLE SUBSTANCES

I. CWA

A. TWO MAJOR CATEGORIES:

- **OIL [40 CFR §110.1(A)].**
- **HAZARDOUS SUBSTANCES**

B. EPA HAS DESIGNATED APPROXIMATELY 300 HAZARDOUS SUBSTANCES [40 CFR §116.4]. INCLUDING 65 "TOXIC POLLUTANTS" DESIGNATED BY CONGRESS [CWA §307(A)(1) AND 40 CFR §401.15].

REPORTABLE SUBSTANCES

II. CERCLA

A. HAZARDOUS SUBSTANCES INCLUDE [CERCLA §101(14)]:

- "HAZARDOUS SUBSTANCES" DESIGNATED UNDER THE CWA; [CWA §311(B)(2)(A)]
- ANY "HAZARDOUS WASTE" REGULATED UNDER RCRA;
- ANY "TOXIC POLLUTANT" LISTED UNDER THE CWA [CWA §307(A)]
- ANY "HAZARDOUS AIR POLLUTANT" LISTED UNDER THE FEDERAL CLEAN AIR ACT; [CAA §112] AND
- ANY HAZARDOUS SUBSTANCE REGULATED BY THE EPA UNDER SECTION 7 OF TSCA.

B. THE OVERALL LIST INCLUDES APPROXIMATELY 700 SUBSTANCES.

C. ALTHOUGH THE STATUTORY DEFINITION OF "HAZARDOUS SUBSTANCE" SPECIFICALLY EXCLUDES PETROLEUM, THE EXCLUSION DOES NOT APPLY TO ANY PETROLEUM FRACTION WHICH IS LISTED OR DESIGNATED AS A HAZARDOUS SUBSTANCE BY THE EPA UNDER ONE OF THE OTHER ENVIRONMENTAL LAWS INCORPORATED INTO CERCLA'S DEFINITION OF HAZARDOUS SUBSTANCES [CERCLA §101(14)].

REPORTABLE SUBSTANCES

II. CERCLA

D. CERTAIN UNLISTED SUBSTANCES SUCH AS RCRA "CHARACTERISTIC" HAZARDOUS WASTES ARE ALSO REGULATED UNDER CERCLA [40 CFR §302.4(b)].

WASTES EXCLUDED FROM THE EPA'S DEFINITION OF HAZARDOUS WASTES WHICH ARE ALSO EXCLUDED FROM ITS DEFINITION OF HAZARDOUS SUBSTANCES INCLUDE:

- HOUSEHOLD WASTE;
- FERTILIZER GENERATED IN FARMING;
- MINING OVERBURDEN RETURNED TO THE MINE;
- FOSSIL-FUEL COMBUSTION PRODUCTS;
- OIL, GAS, AND GEOTHERMAL WELL WASTES;
- SOLID WASTE FROM ORE PROCESSING;
- CEMENT KILN DUST;
- TRIVALENT CHROME WASTES (PRIMARYLY FROM THE LEATHER INDUSTRY); AND
- CERTAIN ARSENIC-TREATED WOOD PRODUCTS [40 CFR §§302.4(b) AND 261.4(b)].

REPORTABLE SUBSTANCES

III. SARA

- A. A LIST OF EXTREMELY HAZARDOUS SUBSTANCES IS USED TO DETERMINE IF A FACILITY IS SUBJECT TO THE EMERGENCY PLANNING REQUIREMENTS OF SUBTITLE A OF TITLE III AND TO IDENTIFY THE KINDS OF RELEASES WHICH ARE REQUIRED TO BE REPORTED [SARA §§ 302(B) AND 304(A)].**

- B. RELEASES OF HAZARDOUS SUBSTANCES BEYOND THE FACILITY'S BOUNDARIES WHICH EXCEED REPORTABLE QUANTITIES MUST BE REPORTED TO THE APPROPRIATE STATE AND LOCAL AUTHORITIES [SARA §302(A)(1)].**

REPORTABLE SUBSTANCES

IV. RCRA

A. SPILL REPORTING REQUIREMENTS INCLUDE ALL LISTED AND CHARACTERISTIC HAZARDOUS WASTES.

B. EXCLUSIONS FROM THE DEFINITION OF "SOLID WASTE" INCLUDE:

- **DOMESTIC SEWAGE;**
- **INDUSTRIAL POINT-SOURCE DISCHARGES SUBJECT TO REGULATION UNDER THE CWA;**
- **IRRIGATION RETURN FLOWS;**
- **CERTAIN SUBSTANCES SUBJECT TO REGULATION UNDER THE ATOMIC ENERGY ACT;**
- **CERTAIN WASTEWATER FROM PAPER MAKING;**
- **SPENT SULFURIC ACID USED TO PRODUCE VIRGIN SULFURIC ACID; AND**
- **MINING WASTES NOT REMOVED FROM THE GROUND [40 CFR §261.4(a)].**

REPORTABLE SUBSTANCES

IV. RCRA

C. SOIL WASTES EXCLUDED FROM THE DEFINITION OF "HAZARDOUS WASTE" INCLUDE [40 CFR §261.4(B)(1)-(9)]:

- **HOUSEHOLD WASTE;**
- **FERTILIZERS GENERATED NATURALLY ON THE FARM AND RETURNED TO THE SOIL;**
- **MINING OVERBURDEN RETURNED TO THE MINE;**
- **FOSSIL FUEL COMBUSTION WASTES;**
- **WASTES FROM OIL, GAS, OR GEOTHERMAL ENERGY WELLS;**
- **CERTAIN WASTES CONTAINING PRIMARILY TRIVALENT CHROMIUM;**
- **SOLID WASTE FROM ORE PROCESSING;**
- **CEMENT KILN DUST; AND**
- **CERTAIN ARSENICAL-TREATED WOOD.**

REPORTABLE SUBSTANCES

V. HMTA

- A. "HAZARDOUS MATERIALS" ARE THOSE SUBSTANCES OR MATERIALS WHICH HAVE BEEN DESIGNATED AS HAZARDOUS BY THE SECRETARY OF TRANSPORTATION BECAUSE THEY HAVE BEEN DETERMINED TO POSE AN UNREASONABLE RISK TO HEALTH, SAFETY, AND PROPERTY WHEN TRANSPORTED IN COMMERCE [49 CFR §§171.1(A) AND 171.8].**
- B. THE TERM HAZARDOUS MATERIALS INCLUDES THOSE HAZARDOUS WASTES DEFINED BY RCRA WHICH REQUIRE THE USE OF MANIFESTS DURING TRANSPORTATION [40 CFR §§171.3 AND 171.8] AND THE HAZARDOUS SUBSTANCES DEFINED UNDER SECTION 311 OF THE CWA [49 CFR §§171.8 AND 171.17].**

REPORTABLE SUBSTANCES

VI. TSCA

- A. ANY CHEMICAL SUBSTANCE MIGHT BE COVERED IF "SUBSTANTIAL-RISK INFORMATION" EXISTS ABOUT THE CHEMICAL. INCLUDING ANY INFORMATION WHICH "REASONABLY SUPPORTS" THE CONCLUSION THAT THE "SUBSTANCE OR MIXTURE" PRESENTS A "SUBSTANTIAL RISK OF INJURY TO HEALTH OR THE ENVIRONMENT".
- B. SUBSTANTIAL RISK EFFECTS INCLUDE "HUMAN HEALTH EFFECTS," I.E. ANY INSTANCE OF CANCER, BIRTH DEFECTS, DEATH OR SERIOUS INCAPACITATION AND "ENVIRONMENTAL EFFECTS: WHICH INCLUDE:
- WIDESPREAD AND PREVIOUSLY UNSUSPECTED DISTRIBUTION IN THE ENVIRONMENT;
 - PRONOUNCED BIOACCUMULATION;
 - ANY SUBSTANTIAL ADVERSE EFFECT ASSOCIATED WITH A WIDESPREAD OR BIOACCUMULATED SUBSTANCE;
 - CHANGES IN A SPECIES, POPULATION BEHAVIOR, GROWTH, OR SURVIVAL; OR
 - EASE OF DEGRADATION INTO ANOTHER CHEMICAL WHICH HAS ANY OF THE EFFECTS LISTED ABOVE, ONCE THE CHEMICAL IS IN THE ENVIRONMENT.

REPORTABLE SUBSTANCES

VI. TSCA

C. EXCLUSIONS FROM TSCA ARE:

- **PESTICIDES**
- **TOBACCO PRODUCTS;**
- **SUBSTANCES REGULATED BY THE NUCLEAR REGULATORY COMMISSION;**
- **FIREARMS OR AMMUNITION;**
- **FOOD, DRUGS AND COSMETICS; AND**
- **A LIMITED SET OF MIXTURES OF CHEMICAL SUBSTANCES.**

REPORTABLE QUANTITIES

I. CWA

- A. THE DISCHARGE OF "HARMFUL QUANTITIES" OF OIL OR HAZARDOUS SUBSTANCES IS PROHIBITED [CWA §311(b)(3)].
- B. EPA HAS DETERMINED THAT THE AMOUNT OF OIL NECESSARY TO CAUSE A "SHEEN" ON THE WATER IS HAZARDOUS AND SUFFICIENT TO TRIGGER THE REPORTING REQUIREMENT [40 CFR 110.3(b)].
- C. FOR SPILLS INVOLVING HAZARDOUS SUBSTANCES, A SPECIFIC REPORTABLE QUANTITY OF EACH SUBSTANCE TRIGGERS THE REPORTING REQUIREMENTS. THIS QUANTITY RANGES FROM ONE TO 5,000 POUNDS [40 CFR §116.4].
- D. EPA HAS ESTABLISHED 24 HOURS AS THE TIME LIMIT IMPLIED BY THE REPORTABLE QUANTITY CONCEPT [40 CFR §117.21].
- E. EACH HAZARDOUS SUBSTANCE PRESENT IN A MIXTURE IS CONSIDERED SEPARATELY IN ORDER TO DETERMINE IF A REPORTABLE QUANTITY OF ANY OF THE SUBSTANCES HAS BEEN DISCHARGED [40 CFR §302.5(b)].

REPORTABLE QUANTITIES

II. CERCLA

- A. THE INDIVIDUAL HAZARDOUS SUBSTANCES LISTED IN THE REGULATIONS ARE ASSIGNED REPORTABLE QUANTITIES RANGING FROM ONE TO 5,000 POUNDS [40 CFR TABLE 302.4].**
- B. GENERALLY, RCRA CHARACTERISTIC HAZARDOUS WASTES ARE REPORTABLE IF A RELEASE EXCEEDS 100 POUNDS.**
- C. EP TOXIC (NOW TCLP) SUBSTANCES BECOME REPORTABLE WHEN THE REPORTABLE QUANTITY OF THEIR MOST HAZARDOUS CONSTITUENT IS EXCEEDED [40 CFR §302.5(B)].**
- D. THE RQ OF CONSTITUENTS IN MIXTURES ARE EVALUATED SEPARATELY EXCEPT FOR RCRA LISTED WASTE STREAMS WHICH MAY BE EVALUATED AS A WHOLE [50 FR 13456, 13463, APRIL 4, 1985 AND 40 CFR TABLE 302.4].**

REPORTABLE QUANTITIES

III. RCRA

- A. **INSTEAD OF REPORTABLE QUANTITIES EPA, REGULATIONS PROVIDE A VARIETY OF TESTS TO DETERMINE IF A SPILL SHOULD BE REPORTED.**
- B. **TRANSPORTERS MUST "TAKE APPROPRIATE IMMEDIATE ACTION TO PROTECT HUMAN HEALTH AND ENVIRONMENT," BY, AMONG OTHER THINGS, NOTIFYING LOCAL AUTHORITIES [40 CFR §§263.30(A) AND 263.30(C) (1) (2)].**
- C. **CONTINGENCY PLAN REQUIREMENTS APPLICABLE TO MANY GENERATORS OF HAZARDOUS WASTE, AS WELL AS OWNERS OR OPERATORS OF TREATMENT, STORAGE, AND DISPOSAL FACILITIES, PROVIDE FOR VARIOUS NOTIFICATIONS WHICH ARE REQUIRED IN THE EVENT OF A RELEASE OF A HAZARDOUS WASTE [40 CFR §§264.52(C) 264.56(A) (2) AND 264.56(D)].**
- D. **IN THE EVENT THAT GROUNDWATER MONITORING AROUND LANDFILLS SURFACE IMPOUNDMENTS OR WASTE PILES REVEALS STATISTICALLY SIGNIFICANT CONTAMINATION, EPA MUST BE NOTIFIED AND ASSESSMENTS BEGUN [40 CFR §§264.92 AND 265.91(A) (2)].**

REPORTABLE QUANTITIES

IV. HMTA

A. TRANSPORTERS OF HAZARDOUS MATERIALS ARE REQUIRED TO GIVE IMMEDIATE NOTICE OF ANY INCIDENT OCCURRING DURING THE TRANSPORTATION OF HAZARDOUS MATERIALS IN WHICH, AS A DIRECT RESULT OF THE HAZARDOUS MATERIALS, ANY ONE OF THE FOLLOWING OCCURS:

- **A PERSON IS KILLED;**
- **A PERSON IS INJURED SEVERELY ENOUGH TO REQUIRE HOSPITALIZATION;**
- **ESTIMATED PROPERTY DAMAGE EXCEEDS \$50,000;**
- **FIRE, SPILLAGE OR SUSPECTED CONTAMINATION BY RADIOACTIVE MATERIAL OCCURS;**
- **THE TRANSPORTER DETERMINES THAT A SITUATION EXISTS WHICH SHOULD BE IMMEDIATELY REPORTED, EVEN THOUGH IT DOES NOT MEET ANY OF THE CRITERIA DESCRIBED ABOVE (SUCH AS A CONTINUING DANGER TO LIFE). [49 CFR §171.15(A)].**

REPORTABLE QUANTITIES

IV. HMTA

- B. IMMEDIATE REPORTING IS REQUIRED WHEN A "HAZARDOUS SUBSTANCE" IS DISCHARGED IN A REPORTABLE QUANTITY INTO OR UPON NAVIGABLE WATERS OR ADJOINING SHORELINES [49 CFR §§171.16(A) AND 171.17(A)]. THE HAZARDOUS SUBSTANCES SUBJECT TO THIS REPORTING REQUIREMENT ARE THE SUBSET OF THE HAZARDOUS MATERIALS, LISTED BY THE U.S. DOT, IDENTIFIED BY THE LETTER "E" IN THE TABLE OF HAZARDOUS MATERIALS [49 CFR §§171.8 AND 172.101].**
- C. EXCEPTIONS ARE PROVIDED FOR PETROLEUM PRODUCTS THAT ARE LUBRICANTS OR FUELS, OR MIXTURES CONTAINING DESIGNATED HAZARDOUS SUBSTANCES AT LESS THAN SPECIFIED CONCENTRATIONS [49 CFR §171.8].**

REPORTABLE QUANTITIES

IV. HMTA

D. DOT MUST BE INFORMED IN WRITING OF OTHER SPILLS, NOT SUBJECT TO IMMEDIATE REPORTING, INCLUDING SPILLS OF ANY AMOUNT OF HAZARDOUS MATERIAL OR HAZARDOUS WASTE [49 CFR §171.16(a)].

● **GENERAL EXCEPTIONS INCLUDE:**

- **CONSUMER COMMODITIES,**
- **BATTERIES, AND**
- **PAINT AND RELATED MATERIAL SHIPPED IN PACKAGES OF FIVE GALLONS OR LESS [49 CFR §171.16(c)].**

● **HOWEVER, INCIDENTS INVOLVING EXCEPTED MATERIALS ARE REPORTABLE IF THEY:**

- **MEET THE REPORTING THRESHOLD DESCRIBED ABOVE FOR INCIDENTS INVOLVING DAMAGE TO PERSON OR PROPERTY;**
- **INVOLVE TRANSPORTATION ABOARD AIRCRAFT; OR**
- **INVOLVE HAZARDOUS WASTE [49 CFR §171.16(d)].**

REPORTABLE QUANTITIES

V. TSCA

- A. INSTEAD OF REPORTABLE QUANTITIES, TSCA RELIES ON A DETERMINATION OF WHETHER AN INCIDENT IS REPORTABLE BASED ON THE EFFECTS OR THREATENED EFFECTS OF THE INCIDENT. ANY INCIDENT THAT THREATENS A "SUBSTANTIAL RISK OF INJURY TO HEALTH OR THE ENVIRONMENT," WOULD BE SUBJECT TO THE TSCA REPORTING REQUIREMENTS.**

REPORTING PROCEDURES

I. IMMEDIATE REPORTING IS REQUIRED:

- A. UNDER THE CWA, CERCLA, AND THE HMTA, WHENEVER THERE HAS BEEN A DISCHARGE OR RELEASE OF A HAZARDOUS SUBSTANCE FROM A VESSEL, FACILITY, OR TRANSPORTATION CONTAINER INTO THE ENVIRONMENT IN AN AMOUNT EQUAL TO OR EXCEEDING THE REPORTABLE QUANTITY FOR THE SUBSTANCE IN ANY TWENTY-FOUR PERIOD [40 CFR §§117.21, 302.6 AND 49 CFR §171.17(A)].**
- B. UNDER THE CWA, WHENEVER THERE HAS BEEN ANY DISCHARGE OF OIL INTO OR UPON NAVIGABLE WATERS OR ADJOINING SHORELINES [40 CFR §110.9].**
- C. UNDER RCRA, WHENEVER A HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY EXPERIENCES A SPILL, FIRE, OR EXPLOSION WHICH COULD RESULT IN A SITUATION THREATENING HUMAN HEALTH OR THE ENVIRONMENT OUTSIDE OF THE FACILITY, AN IMMEDIATE REPORT MUST BE MADE. IMMEDIATE REPORTS TO LOCAL AUTHORITIES MAY BE REQUIRED IN THE EVENT OF A DISCHARGE OF HAZARDOUS WASTE DURING ITS TRANSPORTATION [40 CFR §§264.56(d), 256.56(d) AND 263.30(a)].**

REPORTING PROCEDURES

I. IMMEDIATE REPORTING IS REQUIRED:

- D. IN THE CASE OF TRANSPORTATION-RELATED INCIDENTS INVOLVING HAZARDOUS MATERIALS IF SOMEONE HAS BEEN KILLED, REQUIRED HOSPITALIZATION, OR IF PROPERTY DAMAGE FROM THE INCIDENT HAS EXCEEDED \$50,000. IF THE TRANSPORTATION INCIDENT INVOLVED A SHIPMENT OF RADIOACTIVE OR INFECTIOUS MATERIAL, OR IF IN THE JUDGEMENT OF THE CARRIER A REPORT SHOULD BE MADE, THEN A REPORT SHOULD ALSO BE MADE AS SOON AS POSSIBLE [49 CFR §171.15(a)].**

- E. UNDER TSCA FOR ALL EMERGENCY INCIDENTS OF ENVIRONMENTAL CONTAMINATION INVOLVING A SUBSTANCE WHICH POSES A SUBSTANTIAL RISK OF INJURY TO HEALTH OR THE ENVIRONMENT.**

REPORTING PROCEDURES

II. DELAYED REPORTING

- A. UNDER RCRA, INDICATIONS OF GROUNDWATER CONTAMINATION ARE TO BE REPORTED IN SEVEN DAYS [40 CFR §§264.98(h) AND 265.93(d)].**
- B. THE HMTA ALLOWS INCIDENTS INVOLVING RELEASES OF HAZARDOUS MATERIALS AND HAZARDOUS WASTES TO BE REPORTED WITHIN FIFTEEN DAYS, UNLESS OTHERWISE IMMEDIATELY REPORTABLE [49 CFR §§171.16(a) AND 40 CFR §263.30(a)].**

III. REPORT DESTINATION

- A. FOR IMMEDIATE REPORTING CALL THE NATIONAL RESPONSE CENTER AT:**

1-800-424-8802 TOLL FREE

OR

1-(202)-426-2675,

WHERE A COAST GUARD DUTY OFFICER, AVAILABLE 24 HOURS/DAY, WILL RECORD ALL THE RELEVANT SPILL INFORMATION [40 CFR §§110.9, 117.21, 264.56(d), 265.56(d) AND 49 CFR §§171.15(a), 171.17(a)].

REPORTING PROCEDURES

III. REPORT DESTINATION

- B. FOR TRANSPORTATION-RELATED INCIDENTS INVOLVING ETIOLOGIC (INFECTIOUS) AGENTS, THE CARRIER MAY NOTIFY EITHER THE NATIONAL RESPONSE CENTER OR THE CENTER FOR DISEASE CONTROL IN ATLANTA AT [49 CFR §171.15(B)]:**
- 1-(404)-633-5313.**
- C. UNDER RCRA, EMERGENCY SITUATIONS DURING THE TRANSPORTATION OR HANDLING OF HAZARDOUS WASTE MAY REQUIRE REPORTING TO LOCAL OFFICIALS [40 CFR §§263.30(A), 264.56(D)(1) AND 265.56(D)(1)].**
- D. REPORTS OF SUSPECTED GROUNDWATER CONTAMINATION MUST BE MADE TO THE APPROPRIATE EPA REGIONAL ADMINISTRATOR, OR DESIGNATED STATE AGENCY [40 CFR §§264.98(H) AND 265.93(D)].**
- E. CERCLA RELEASES OF EITHER EXTREMELY HAZARDOUS SUBSTANCES OR HAZARDOUS SUBSTANCES, WHICH GO BEYOND FACILITY BOUNDARIES AND EXCEED THEIR REPORTABLE QUANTITIES AS MUST BE REPORTED TO THE COMMUNITY EMERGENCY COORDINATOR FOR THE LOCAL EMERGENCY PLANNING COMMITTEE AND THE STATE EMERGENCY PLANNING COMMISSION. TRANSPORTATION RELATED RELEASES MAY BE REPORTED BY DIALING 911 OR THE OPERATOR [SARA §304(B)(1)].**

REPORTING PROCEDURES

IV. FOR AN ORAL REPORT, THE NRC OFFICER WILL REQUEST:

- A. THE CALLER'S NAME;**
- B. THE NAME OF THE RESPONSIBLE PARTY;**
- C. A TELEPHONE NUMBER WHERE THE CALLER CAN BE REACHED;**
- D. THE DATE AND TIME OF THE SPILL;**
- E. THE LOCATION OF THE SPILL;**
- F. THE NAME OF THE MATERIAL SPILLED;**
- G. THE SOURCE OF THE SPILL;**
- H. THE CAUSE OF THE SPILL;**
- I. THE AMOUNT DISCHARGED;**

REPORTING PROCEDURES

IV. FOR AN ORAL REPORT, THE NRC OFFICER WILL REQUEST:

- J. THE AMOUNT IN WATER;**
- K. THE WEATHER CONDITIONS;**
- L. WHETHER THERE IS A CONTINUING DANGER TO LIFE OR THE ENVIRONMENT;**
- M. THE RAILCAR NUMBER, TRUCK NUMBER, OR VESSEL NAME;**
- N. THE NAME OF THE CARRIER;**
- O. THE NAME OF THE MANUFACTURER OR SHIPPER;**
- P. THE CONSIGNEE;**
- Q. THE NUMBER THE TYPE OF INJURIES;**
- R. THE AMOUNT OF DAMAGE; AND**
- S. A DESCRIPTION OF THE CLEANUP PLANS AND THE AGENCIES THAT HAVE BEEN NOTIFIED.**

THE INFORMATION REQUESTED BY THE NRC OFFICER INCLUDES ALL THE INFORMATION TO SATISFY THE REQUIREMENTS OF THE EPA AND THE CENTER FOR DISEASE CONTROL.

REPORTING PROCEDURES

V. SARA SPECIFICALLY REQUIRES THAT ORAL REPORTS INCLUDE:

- **THE IDENTITY OF THE SUBSTANCE RELEASED;**
- **WHETHER THE SUBSTANCE IS AN EXTREMELY HAZARDOUS SUBSTANCE;**
- **ESTIMATED QUANTITY RELEASED;**
- **TIME AND DURATION OF THE RELEASE;**
- **WHETHER THE SUBSTANCE WAS RELEASED INTO THE AIR, WATER OR SOIL;**
- **ANY KNOWN OR ANTICIPATED HEALTH RISKS ASSOCIATED WITH THE RELEASE AND ANY APPROPRIATE ADVICE REGARDING THE MEDICAL ATTENTION THAT SHOULD BE GIVEN TO EXPOSED INDIVIDUALS;**
- **THE PRECAUTIONS THAT SHOULD BE TAKEN AS A RESULT OF THE RELEASE, INCLUDING EVACUATION; AND**
- **THE NAME AND TELEPHONE NUMBER OF THE PERSONS WHO ARE TO BE CONTACTED IF FURTHER INFORMATION IS REQUIRED [SARA §304(B)(2)].**

REPORTING PROCEDURES

VI. RCRA SPILLS REQUIRE WRITTEN REPORTS WHICH INCLUDE:

- A. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE OWNER OR OPERATOR;**
- B. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE FACILITY;**
- C. THE DATE, TIME, AND TYPE OF INCIDENT;**
- D. THE NAME AND QUANTITY OF MATERIALS INVOLVED;**
- E. THE EXTENT OF INJURIES, IF ANY;**
- F. AN ASSESSMENT OF ACTUAL OR POTENTIAL HAZARDS TO HUMAN HEALTH OR THE ENVIRONMENT, WHERE APPLICABLE; AND,**
- G. THE ESTIMATED QUANTITY AND DISPOSITION OF RECOVERED MATERIAL THAT RESULTED FROM THE INCIDENT [40 CFR §§264.56(j) AND 256.56(j)].**

REPORTING PROCEDURES

- VII. DOT Form F 5800.1 MUST BE USED FOR TRANSPORTATION-RELATED INCIDENTS [49 CFR §171.16(a)]**
- A. THESE REPORTS MUST BE FILED WHENEVER ANY QUANTITY OF HAZARDOUS MATERIAL OR HAZARDOUS WASTE HAS BEEN DISCHARGED DURING TRANSPORTATION, EVEN IF THE INCIDENT DID NOT NECESSITATE AN IMMEDIATE ORAL REPORT.**
- B. IF THE REPORT PERTAINS TO A HAZARDOUS WASTE DISCHARGE, THE FOLLOWING ADDITIONAL INFORMATION MUST BE INCLUDED WITH THE REPORT: [49 CFR 171.17(c)]**
- **A COPY OF THE HAZARDOUS WASTE MANIFEST FOR THE WASTE;**
 - **AN ESTIMATE OF THE QUANTITY OF THE WASTE REMOVED FROM THE SCENE,**
 - **THE NAME AND ADDRESS OF THE FACILITY TO WHICH THE WASTE WAS TAKEN, AND**
 - **THE MANNER OF DISPOSITION OF ANY UNREMOVED WASTE.**

REPORTING PROCEDURES

- VIII. ALTHOUGH WRITTEN FOLLOW-UP REPORTS ARE NOT SPECIFICALLY REQUIRED UNDER THE CWA OR TSCA, EPA MAY REQUIRE THEM.**
- IX. CERCLA REQUIRES WRITTEN FOLLOW-UP OF AN EMERGENCY NOTICE CONFIRMING THE ORAL REPORT AND ADDING:**
- A. ACTIONS TAKEN TO RESPOND TO AND CONTAIN THE RELEASE;**
 - B. ANY KNOWN OR ANTICIPATED HEALTH RISKS ASSOCIATED WITH THE RELEASE;
AND**
 - C. APPROPRIATE ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR EXPOSED INDIVIDUALS [SARA §304(c)].**

ENFORCEMENT

- I. ENFORCEMENT AUTHORITY HAS BEEN DELEGATED TO:**
 - A. EPA FOR RCRA, CERCLA, CWA AND TSCA**
 - B. DOT FOR HMTA**
 - C. JUSTICE DEPARTMENT UPON REQUEST BY EPA OR DOT**

ENFORCEMENT

II. TWO KINDS OF VIOLATIONS:

A. VIOLATIONS OF A STATUTE DUE TO THE FACT THAT A SPILL OCCURRED

- **LIABILITY IS STRICT**

B. FAILURE TO NOTIFY

- **LIABILITY IS A FUNCTION OF THE RESPONSIBLE PERSON'S MENTAL STATE AT THE TIME.**
- **THE "MENTAL STATE" OF THE RESPONSIBLE PERSON REFERS TO THE DISTINCTION THAT IS MADE BETWEEN WRONGFUL CONDUCT THAT IS DONE INTENTIONALLY AND WRONGFUL CONDUCT THAT OCCURS EITHER INADVERTENTLY OR AS THE RESULT OF NEGLIGENCE. THE MENTAL STATE DETERMINES WHETHER CRIMINAL OR CIVIL PENALTY PROCEDURES MAY APPLY.**

ENFORCEMENT

III. PENALTIES

A. GENERALLY, EACH DAY A SPILL GOES UNREPORTED CONSTITUTES A SEPARATE VIOLATION.

B. CWA [CWA §311(B)(5), (6)(A) AND (6)(B)]

- **FAILURE TO REPORT: UP TO \$10,000 OR ONE YEAR IN PRISON OR BOTH**
- **CIVIL PENALTY FOR THE SPILL: UP TO \$5,000 PER OFFENSE**
- **CIVIL ACTION: ASSESS RESPONSIBLE PERSON UP TO \$50,000 PER OFFENSE [\$250,000 IF WILLFUL NEGLIGENCE OR MISCONDUCT IS INVOLVED]**

ENFORCEMENT

III. PENALTIES

C. CERCLA [CERCLA §§ 103(B)(3), SARA 109(A) AND (B)]

- **FAILURE TO IMMEDIATELY REPORT:**

- **FINES ACCORDING TO FEDERAL CRIMINAL CODE [UP TO \$250,000 FOR INDIVIDUALS AND \$500,000 FOR ORGANIZATIONS]**
- **FIRST CONVICTION: UP TO 3 YEARS ON PRISON**
- **SECOND CONVICTION: UP TO 5 YEARS IN PRISON**

- **CIVIL PENALTIES FOR FAILURE TO REPORT**

- **FIRST VIOLATION: UP TO \$25,000/DAY**
- **SECOND VIOLATION: UP TO \$75,000/DAY**
- **ADDITIONAL PENALTIES UP TO \$25,000 FOR EACH SEPARATE VIOLATION**

ENFORCEMENT

III. PENALTIES

D. RCRA [RCRA §§3008(G) AND 3008(D)(6)]

- CIVIL PENALTIES UP TO \$25,000/DAY/VIOLATION
- CRIMINAL PENALTIES UP TO \$50,000/DAY/VIOLATION AND UP TO 2 YEARS IN PRISON
- SECOND CONVICTIONS PROVIDE FOR DOUBLING CRIMINAL PENALTIES

E. HMTA [HMTA §110(A)]

- CIVIL PENALTIES UP TO \$10,000/DAY/VIOLATION
- CRIMINAL PENALTIES UP TO \$25,000/DAY/VIOLATION AND UP TO 5 YEARS IN PRISON

F. TSCA [TSCA §16(A)]

- CIVIL PENALTIES UP TO \$25,000/DAY/VIOLATION
- CRIMINAL PENALTIES UP TO \$25,000/DAY/VIOLATION AND ONE YEAR IN PRISON