



Hazardous Materials

Emergency Management

NC DEPARTMENT OF PUBLIC SAFETY

Best Practices for Validating Hazardous Substance Cleanup Contractors

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Acronyms

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulation
COI	Certificate of Insurance
CONOPS	Concept of Operations
COR	Certificate of Registration
EPCRA	Emergency Planning Community Right to Know Act
FEMA	Federal Emergency Management Agency
FMCSA	Federal Motor Carrier Safety Administration
HAZMAT	Hazardous Materials
HAZWOPER	Hazardous Waste Operations and Emergency Response
HMR	Hazardous Materials Regulations
HMSP	Hazardous Materials Safety Permit
HMTA	Hazardous Materials Transportation Act
ICS	Incident Command System
LEPC	Local Emergency Planning Committees
pH	Potential of Hydrogen
NCDEQ	North Carolina Division of Environmental Quality
NCDOL	North Carolina Department of Labor
NCDOT	North Carolina Department of Transportation
NCEM	North Carolina Emergency Management
NCEM RRT	North Carolina Emergency Management Regional Response Teams
NCGS	North Carolina General Statute
NCRND	North Carolina State Radiological Nuclear Detection
NFPA	National Fire Protection Association
NIMS	National Incident Management System
NIOSH	National Institute for Occupational Safety and Health
NRC	National Response Center
NRF	National Response Framework
PHMSA	Pipeline and Hazardous Materials Safety Administration
PPE	Personal Protective Equipment
QA/QC	Quality Assurance / Quality Control
RCRA	Resource Conservation and Recovery Act
RP	Responsible Party
RQ	Reportable Quantities
SCBA	Self-Contained Breathing Apparatus
SDS	Safety Data Sheet
SERC	State Emergency Response Commission
TERC	Tribal Emergency Response Commissions
TRAA	Towing & Recovery Association of America
TSDF	Treatment, Storage and Disposal Facilities
UN	United Nations
USCG	United States Coast Guard
USDOT	United States Department of Transportation
USEPA	Environmental Protection Agency
USOSHA	Occupational Safety and Health Administration

1. Introduction

Disclaimer

The information in this guidance document is drawn from sources believed to be reliable. North Carolina Emergency Management makes no claims, promises, guarantees, and expressly disclaims liability for errors and omissions in connection with any of this information. Moreover, it should not be assumed that every acceptable procedure is included, or that special circumstances may not warrant modification or additional procedures. The user should be aware that changing regulations or practices may require changes in the recommendations contained herein. Appropriate steps should be taken to ensure that the information is current, when used. These recommendations should not be confused with federal, state, provincial, municipal, or insurance requirements.

North Carolina has the potential for a wide range of hazardous substance incidents and cleanup operations from oil and other hazardous waste spills, truck saddle tanks and railroad tanker accidents, natural disasters, chemical releases and fires. Response to these incidents demands emergency personnel and cleanup contractors to be trained and skilled to identify and handle the hazardous chemical to prevent additional injury or harm to those working the incident, the public and the environment.

During a hazardous substance incident, the responsible party selects the cleanup contractor and pays for the cleanup operation, even if the responsible party did not cause the accident. The responsible party coordinates with their insurance company for compensation from the accident causer.

Hazardous substance incidents prompt a quick response and unless the responsible party has a retainer with a qualified and experienced contractor, it is challenging to select and initiate cleanup in a timely manner.

Recovery of motor vehicle and hazardous substance/waste includes the following steps:

1. Reporting the incident
2. Determining the responsible party
 - a. Responsible party hiring a cleanup contractor (if applicable)
3. Determining the cleanup/remediation requirements
4. Cleaning up the spill
5. Disposing of contaminated materials

Responsible party is the person, company, agency or entity that has control over the fuel, oil or other hazardous substance. The term does not imply criminal negligence.

Control is any person using, transferring, storing or transporting a hazardous substance.

Emergency Planning District under Emergency Planning Community Right to Know Act (EPCRA) each state is required to establish a State Emergency

Response Commission (SERC) and to designate local emergency planning districts. For North Carolina, districts are primarily at the county level with the county emergency operations plan and Local Emergency Planning Committees (LEPCs) or Tribal Emergency Response Commissions (TERCs). There are a few regional LEPCs that cover multiple counties.

Hazardous substance is any substance that poses a threat to human health and the environment. Hazardous substances are toxic, corrosive, ignitable, explosive or chemically reactive and may have health hazards to include carcinogens, toxics, reproductive toxins, irritants, corrosive, neurotoxins, hepatotoxins, and chemicals that damage the lungs, skin, eyes, or mucous membranes.

Hazardous wastes are a subset of hazardous substances and materials meeting fixed criteria that must adhere to specific federal Resource Conservation and Recovery Act (RCRA) regulations for safe handling, storage, transport, and disposal. Hazardous wastes are solid waste which may take the form of liquids, solids, gases, or sludge. Characteristics of hazardous waste may generally include:

- ignitability (a flash point <140 degrees F)
- corrosivity (a pH less than or equal to 2, or greater than or equal to 12.5)
- reactivity (reacts violently, is potentially explosive, or generates toxic gases when exposed to water)
- is capable of detonation or explosion
- is a cyanide or sulfide that can generate toxic gases); or
- is toxic as defined in 40 CFR Part 261 Identification and Listing of Hazardous Waste §261.24 or listed as defined in §261.33

Hazardous waste transporters move hazardous waste safely off site. Transporters may not transport hazardous waste without an US Environmental Protection Agency (EPA) issued identification number and a hazardous waste manifest.

Hazardous waste may be transported by air, rail, highway, or water.

Emergency planning districts vary on how they handle cleanup contractors. Examples are:

- A vetting process where local government/counties review cleanup contractor qualifications annually and maintain an authorized cleanup contractor rotating list. See Annex A for an example cleanup contractor application form.
- Maintain 3-to-5-year contracts with a handful of qualified contractors.
- The responsible party selects their own contractor.

Selecting a qualified contractor presents its own challenges. Currently there are minimal federal or state regulations or standards overseeing cleanup contractors. Emergency managers and responders may be proactive in assisting responsible parties select qualified contractors by developing a vetting process, standard procedures or local

ordinance defining requirements for cleanup contractors. This will aid in the hazardous substance incident being properly cleaned up in a timely manner, at a reasonable cost to the responsible party while minimizing injury or harm to the responders, cleanup contractors, public or the environment.

2. Cleanup Operation Cost and Emergency Response Procedures

Transport truck fuel and oil spills and other hazardous substance spills on highways and lands are a contamination threat to the public and environment. In the event of a spill, emergency planning districts are recommended to establish procedures or ordinances outlining:

- Establishing chain of command between responder or emergency planning districts and contractors.
 - The contractor provides coordination description of their activities with the designated on-scene coordinator.
- Cleanup full cost reimbursement from the responsible party
 - The local entity responsible for billing and payment collection
 - Lien for payment of charges
- Response time requirements from initial notification and cleanup completion timeline. Timelines will vary based on location and travel time for cleanup contractors. Include timeline exceptions such as:
 - lab analysis results
 - additional excavation
 - extenuating circumstances
- Contractor maintains Certificate of Insurance (COI) and will provide upon request; requirements for contractor to provide written notification to responsible party and local responder for cancellation or change of insurance service.
- Consider contractor minimum insurance requirements:
 - Workers' compensation/employer liability
 - Employer liability
 - Commercial general liability
 - Auto liability
 - Pollution liability
- Contractor responsibilities for subcontractor (ensuring insured and competent to perform work).
- Contractor shall provide all personnel, materials, equipment, analytical testing (if required), reports, invoices, documentation, and project management/supervision to perform emergency response, mitigation and remediation services.
- Contractor will transfer, treat and dispose of hazardous wastes according to USEPA RCRA and United States Department of Transportation (USDOT) standards for treatment and disposal of the wastes.

- Authority for responders to enter public or private property with or without the owner's consent, for hazardous substance incident response.
- The authority of the emergency planning district to control, contain abate and clean up hazardous substance spills in the event the responsible party cannot obtain a cleanup contractor in a timely manner, or the spill poses a threat to public health and safety.
- That the emergency planning district, city, county, etc. is not liable for cleanup contractors or outside personnel.

The responsible party is primarily responsible for response, containment and spill cleanup costs regardless of the cause.

2.1. Notification Process

Reporting releases falls under two main categories, oil spills and hazardous substance releases.

2.1.1. Oil Spill

Oil spills are reported when a harmful quantity is released in a waterway. USEPA's definition of a harmful quantity is any quantity of discharged oil that violates state water quality standards, causes a film or sheen on the water's surface, or leaves sludge or emulsion beneath the surface.

The reporting requirements for petroleum products are found in Part 2 of Article 21A of the North Carolina's Oil Pollution and Hazardous Substances Control Act of 1978, in Chapter 143 of the North Carolina General Statutes (N.C.G.S.) §143-215.85.

If the petroleum discharged, released or spilled:

- Is 25 gallons or more, or
- Causes a sheen on nearby surface water, or
- Is 100 feet or less from surface water body.
- Reaches a storm drain or conveyance to water.

Then the responsible party must immediately take measures to collect and remove the discharge, report the discharge immediately (within 24-hours) to the State 24-Hour Watch, and begin to restore the area affected by discharge.

If the petroleum discharged, released or spilled:

- Is less than 25 gallons,
- Does not cause a sheen on nearby surface water, and
- Is more than 100 feet from surface water bodies,
- Reaches a storm drain or conveyance to water.

Then the responsible party must immediately take measures to collect and remove the discharge. If it cannot be cleaned up within 24-hours of the discharge or causes a sheen on nearby surface water, the person must immediately notify the State 24-Hour Watch.

If the petroleum released or spilled in any circumstances does not meet one of the above requirements or is not permitted by N.C.G.S. §143-215.1, or it is not pursuant to a rule adopted by the Environmental Management Commission or, a regulation of US USEPA, it must be reported to the State 24-Hour Watch immediately by calling 1-800-858-0368 (NC DEQ).

North Carolina Division of Environmental Quality (NCDEQ) Frequently Asked Questions for Hazardous Spills (NCDEQ, Frequently Asked Questions by Topic, 2023):

<https://deq.nc.gov/about/divisions/environmental-assistance-and-customer-service/frequently-asked-questions-topic#Spills-HazardousandPetroleum-2947>

See Annex B, USEPA's fact sheet on oil discharge reporting requirements.

2.1.2. Hazardous Substances

For hazardous substance release reporting, the federal government has established Superfund Reportable Quantities (RQs). If a hazardous substance or waste is released to the environment in an amount that equals or exceeds its RQ, the release must be reported to federal authorities, unless certain reporting exemptions for hazardous substance releases also apply. (EPA, Emergency Response, 2023)

USEPA Emergency Response - When are you required to report:

<https://www.epa.gov/emergency-response/when-are-you-required-report-oil-spill-and-hazardous-substance-release>

USEPA Emergency Response - What are you required to report:

<https://www.epa.gov/emergency-response/what-information-needed-when-reporting-oil-spill-or-hazardous-substance-release>

USEPA How to Report Spills:

<https://www.epa.gov/pesticide-incidents/how-report-spills-and-environmental-violations>

The responsible party is the preferred notifier to the National Response Center or the incident designated notifier. The notification must be made as soon as possible.

2.1.3. Notification Contacts and Reporting Information

1. The National Response Center (NRC) at 1-800-424-8802.

Information to provide the NRC:

- Your name, location, organization, and telephone number.
- Name and address of the party responsible for the incident; or name of the carrier or vessel, the railcar/truck number, or other identifying information.
- Date and time of the incident.

- Location of the incident.
 - Source and cause of the release or spill.
 - Types of material(s) released or spilled.
 - Quantity of materials released or spilled.
 - Medium (e.g., land, water) affected by release or spill.
 - Danger or threat posed by the release or spill.
 - Number and types of injuries or fatalities (if any).
 - Weather conditions at the incident location.
 - Whether an evacuation has occurred.
 - Other agencies notified or about to be notified.
 - Any other information that may help emergency personnel respond to the incident.
2. The State 24-Hour Watch at 1-800-858-0368 (which is also the State Emergency Response Commission) is the North Carolina emergency response number for reporting spills.

When the SERC receives a hazardous substance release the following are also notified:

- County Emergency Management
- North Carolina Emergency Management (NCEM) Area Coordinator
- NCEM Regional Response Teams (RRT)
- NC Department of Public Health
- NC Division of Environmental Quality (DEQ) is notified at the State level. The NCDEQ representatives notify their regional representatives as appropriate.

Additional partners are contacted on a situational basis.

- NC Bureau of Investigation
- NC State Highway Patrol
- NC Department of Agriculture and Consumer Services
- NCEM Human Services
- NC Radiation Protection
- US Environmental Protection Agency

The NC Bureau of Investigation and federal agencies will take the lead for incidents containing radiological, weapons of mass destruction or biological contamination. The North Carolina State Radiological Nuclear Detection (RND) Concept of Operations (CONOPS) defines procedures, and the 24-Hour Watch maintains a copy (NC, 2022).

2.1. Determining the Responsible Party

The person, company, agency or entity that has control over the fuel, oil or other hazardous substance is the responsible party. Even if the hazardous substance/waste

controller did not cause the transportation accident, they are responsible for the emergency response and cleanup of the hazardous spill.

The shipper and/or company should be identified from hazardous substance containers to aid determining the responsible party. In the event the RP is unavailable due to medical circumstances, contact the transportation and/or shipper's insurance company. Responsible parties should be notified as soon as possible for involvement in the cleanup process and hiring a contractor.

The responsible party is accountable for vehicle fluid spillage, including the final removal and proper disposal of absorbents and, if needed, the subsequent site remediation. If the responsible party does not or cannot handle this responsibility in a timely manner, the governing authority (state, county, city, etc.) should initiate disposal and the responsible party billed. Clean-up actions taken by early responders do not affect or limit this responsibility.

The responsible party should be able to initiate, call and mobilize, a qualified response/cleanup contractor within appropriate time, but no longer than 2 hours after discovery of incident. Contractors should have basic response capabilities and should arrive on site no longer than 4 hours after initiation.

Pursuant to N.C.G.S §143-215.89 Any person liable for costs of cleanup of oil or other hazardous substances shall have a cause of action to recover such costs in part or in whole from any other person causing or contributing to the discharge of oil or other hazardous substances into the waters (or land) of the State, including any amount recoverable by the State as necessary expenses.

If the responsible party is unwilling to initiate cleanup, contact the NCEM Hazardous Materials team at [hazmat@ncdps.gov](mailto: hazmat@ncdps.gov) or via the 24-Hour Watch at 1-800-858-0368. Coordination will be initiated with NCDEQ and escalated to the USEPA depending on the situation.

USEPA Guide to Identifying the Responsible Party (EPA, Finding Potentially Responsible Parties, 2023):

<https://www.epa.gov/enforcement/finding-potentially-responsible-parties-prp>

2.1.1. Transporter Registration and Insurance Coverage

Hazardous Materials Transporter Registration

Transporters of hazardous materials under Transportation 49 CFR Part 107 Hazardous Materials Program Procedures must carry a copy of their Certificate of Registration issued by Pipeline and Hazardous Materials Safety Administration (PHMSA) or another document bearing the registration number identified as the "U.S. DOT Hazmat Reg. No." on board each truck and truck tractor (not including trailers and semi-trailers) used to transport hazardous materials; the Certificate of Registration or document bearing the registration number must be made available, upon request, to enforcement personnel (§107.620 Recordkeeping requirements).

The Federal Motor Carrier Safety Administration (FMCSA) requires motor carriers to obtain a Hazardous Materials Safety Permit (HMSP) prior to transporting certain highly hazardous materials See 49 CFR Part 385 Subpart E – Hazardous Materials Safety Permits for the materials list (FMCSA, Regulations, 2023).

Hazmat Safety Permit Carriers must file insurance to FMCSA through MCS-90, Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980.

FMCSA MCS-90 Form:

<https://www.fmcsa.dot.gov/registration/form-mcs-90-endorsement-motor-carrier-policies-insurance-public-liability-under> for definitions and schedule of limits, public liability.

For a complete list of transportation insurance requirements see

<https://www.fmcsa.dot.gov/registration/insurance-filing-requirements>.

The FMCSA's QCMobile app can be used to verify an entity's operating authority and USDOT number.

FMCSA's QC Mobile (FMCSA, QC Mobile, 2023): <https://mobile.fmcsa.dot.gov/app/>

Hazardous Materials Shipper and Carrier Responsibilities

General shipper responsibilities are contained in 49 CFR Part 173 Shippers – General Requirements for Shipments and Packagings.

<ul style="list-style-type: none">• DETERMINE WHETHER A MATERIAL MEETS THE DEFINITION OF A "HAZARDOUS MATERIAL"• PROPER SHIPPING NAME• CLASS/DIVISION• IDENTIFICATION NUMBER• HAZARD WARNING LABEL• PACKAGING• MARKING• EMPLOYEE TRAINING	<ul style="list-style-type: none">• SHIPPING PAPERS• EMERGENCY RESPONSE INFORMATION• EMERGENCY RESPONSE TELEPHONE NUMBER• CERTIFICATION• COMPATIBILITY• BLOCKING AND BRACING• PLACARDING• SECURITY PLAN• INCIDENT REPORTING
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Major responsibilities for hazardous material carriers. The carrier must check that the material offered by the shipper is properly described and packaged.

- SHIPPING PAPER (49 CFR Part 172 Subpart C)
- PLACARD AND MARK VEHICLE
- LOADING AND UNLOADING
- COMPATIBILITY
- BLOCKING AND BRACING
- INCIDENT REPORTING

- SECURITY PLAN
- EMPLOYEE TRAINING

Financial Responsibility and Minimum Levels

The minimum levels of financial responsibility passenger and property motor carriers must maintain falls under 49 CFR Part 387 Minimum Levels of Financial Responsibility for Motor Carriers. The purpose of the regulation is to protect the public from loss for which they are not at fault. Compensation for damage is only provided by the carrier if the carrier is at fault (Kent Hymel, 2012).

Majority of carriers are general freight carriers in interstate for-hire service, and these carriers have the lowest requirement for liability coverage; hazardous material carriers are regulated whether for-hire or private, interstate or intrastate, and passenger carriers are regulated if they are for-hire (Kent Hymel, 2012).

Table 1 to § 387.9—Schedule of Limits—Public Liability

Type of carriage	Commodity transported	January 1, 1985
(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,001 or more pounds)	Property (nonhazardous)	\$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,001 or more pounds)	Hazardous substances, as defined in 49 CFR 171.8, transported in bulk in cargo tanks, portable tanks, or hopper-type vehicles with capacities in bulk; in bulk Division 1.1, 1.2 or 1.3 materials; Division 2.3, Hazard Zone A material; in bulk Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2 material; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403	\$5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,001 or more pounds)	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, or hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in entry (2) or (4) of this table	\$1,000,000
(4) For-hire and Private (In interstate or foreign commerce,	In bulk Division 1.1, 1.2, or 1.3 material; in bulk Division 2.3, Hazard Zone A material; in bulk Division 6.1, Packing Group I, Hazard Zone	\$5,000,000

Type of carriage	Commodity transported	January 1, 1985
with a gross vehicle weight rating of less than 10,001 pounds)	A material; or highway route-controlled quantities of a Class 7 material as defined in 49 CFR 173.403	

86 FR 57071, Oct. 14, 2021

Primary liability insurance usually includes some coverage for costs related to vehicle fuel spills, responsible parties are recommended to verify what their insurance coverage includes or if additional pollution liability insurance would be beneficial.

2.2. When the Responsible Party is Unknown

The cost of cleanup can add up over time from hazardous substance and/or waste spills. When the responsible party is unknown, it is often the property owner or local entities covering the cleanup cost. For example, a spill in the DOT right of way becomes the DOT’s responsibility; a spill on private property becomes the private property owner’s responsibility; a spill on public, county or city land becomes the local government’s responsibility.

Counties and local entities can prepare for spill response and cleanup cost by setting aside a budget, utilizing funds collected from hazardous substance incidents through fee schedules as well as fees collected for Tier II hazardous substance storage reporting. When possible, the spill funds should be self-sustaining.

2.3. Enforcement

Emergency managers and responders are to coordinate with their NCDEQ incident contact if a responsible party is unwilling to initiate cleanup. Contact the State 24-Hour Watch at 1-800-858-0368 or hazmat@ncdps.gov to receive the NCDEQ contact information if unknown.

Contaminant Cleanup

North Carolina enforces contaminant cleanup through NCDEQ. The enforcement requirements are in N.C.G.S. §143-215.88A, [Enforcement procedures: civil penalties](#) and N.C.G.S. §143-215.88B [Enforcement procedures: criminal penalties](#). Additionally, enforcement requirements for violations of the Solid Waste Management Act are found in [Article 9](#) of Chapter 130A of the N.C.G.S. and [Chapter 13](#) Solid Waste Management, 15A N.C. Administrative Code (N.C.A.C.) 13A .0701-.0707.

The enforcement requirements for Public Health General Provisions are found in N.C.G.S. §130A-22(a). The Secretary of Environmental Quality may impose an administrative penalty on a person who violates Article 9 Chapter 130A, rules adopted by the Environmental Management Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation

shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the case of a first violation involving hazardous waste as defined in N.C.G.S. §130A-290 or involving the disposal of medical waste as defined in N.C.G.S. §130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal of medical waste as defined in N.C.G.S. §130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action implemented pursuant to N.C.G.S. §130A-310.9(c) or a violation of the rules adopted pursuant to N.C.G.S. §130A-310.12(b). For violations of Part 7 of Article 9 of Chapter 130A and N.C.G.S. §130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

Hazardous Materials Transport

Pipeline and Hazardous Materials Safety Administration, under §107 Subpart D Enforcement, in addition to the Modal Agencies have selection criteria for shippers; "offerors", that are similar i.e.

- (1) Investigation of known shipper violations discovered during carrier audits,
- (2) Non-frivolous written complaints alleging violations of the Federal Hazardous Materials Regulations,
- (3) NRC and DOT 5800.1, spill and hazmat incident reports,
- (4) Referrals from other governmental agencies and special investigations targeting high risk hazardous materials such as explosives and certain radioactive materials. In almost all instances these shipper inspections are unannounced.

If inspection of the hazardous materials operations discloses violations of the hazardous materials regulations, the responsible party may be subject to civil and/or criminal penalties.

PENALTIES PER VIOLATION §107.329

CIVIL	MAXIMUM	\$79,976.00**
CRIMINAL*	INDIVIDUAL	\$250,000.00
	CORPORATION	\$500,000.00

* MINIMUM \$481.00 if related to Training

** \$186,610.00 if violation resulted in death, serious illness or severe injury to any person or substantial property damage

(Levels of fine from 18 U.S.C. and includes provision for imprisonment for not more than 5 years.)

FMCSA How to Comply with Federal Hazardous Material Regulations:

<https://www.fmcsa.dot.gov/regulations/hazardous-materials/how-comply-federal-hazardous-materials-regulations>

2.4. Tow Truck Companies and Certification

Towing & Recovery Association of America (TRAA) represents the towing and recovery industry on a national level. Towing and recovery personnel are often trained in handling vehicle fluids at an incident (fuel, hydraulic fluids, coolants, etc.). TRAA, in partnership with DOT established national standards through the National Driver Certification Program which covers customer service, safety, incident management, truck, and equipment. There are three levels of certification. The training on hazardous materials per level are:

Level 1 – Light Duty: For most vehicular spills (car wreck) with only minor amounts of hazardous material spilled, Level I (Light Duty) requirements should be sufficient if tow truck operators are not coming in contact with the spilled material.

Level II – Medium Duty: For vehicular spills (medium-heavy duty truck wreck) with moderate amounts of hazardous material spilled (partial saddle tank emptied), Level II (Medium Duty) requirements should be sufficient, if tow truck operators minimize their time near the spilled material.

Level III Heavy Recovery Specialist: For large vehicular spills (tanker spill, blood-borne pathogens, etc.), Level III (Heavy Duty) requirements will be necessary to ensure tow truck driver safety.

National Driver Certification Program (TRAA, 2023): <https://traaonline.com/ndcp>

For small vehicular spills common cleanup equipment includes:

- Granular absorbents (or vermiculite, floor sweep, clay, etc.)
- Oil absorbent pads
- Universal absorbent pads
- Booms

For hazardous substance and/or waste spill beyond the above capabilities see Contractor Response Capabilities and Experience.

2.5. Spill Funds Bridging the Payment Gap

Hazardous substance spills are to be cleaned up as soon as feasible, within hours not days. Often responsible parties are caught by the cleanup contractor down payment fee and the RP does not have the funds readily available. For example, it could be the RP has not obtained the insurance company approval; the RP insurance is unable to cover the cleanup cost, pollution liability is not included in their coverage; or the RP does not have company purchase approval. In these circumstances the cleanup still needs to occur. There are few cleanup contractors that will take a project without guaranteed payment or a safety net. The preferred method is for the cleanup contractor to provide the RP with a payment plan.

Local entities may assist the RP with the payment gap by having local spill funds available. The spill funds could be used to aid covering the down payment or cover the gap that the insurance/RP is unable to pay. The local entity would have billing and collection mechanisms in place for back payment from the RP.

2.6. Fee Schedule and Payment Collection

When a local entity is setting up a billing and payment collection, determine a minimum charge for collection and a fee schedule for responder personnel and equipment. The local ordinance or procedure needs to clearly outline the basis of payment and payment process. If the responsible party is unwilling to hire a cleanup contractor, local entities may incorporate administrative fees into their fee structures.

Below is an example from Greensboro, NC Code of Ordinances Chapter 10 – Fire Prevention and Protection Article III. Response to Hazardous Materials Emergencies, Fees and Charges.

The city will not charge for abatement, control and containment of hazardous material responses, or fire incidents involving hazardous materials which accrue one hundred seventy-five dollars (\$175.00) or less in charges.

Charges for hazardous materials emergency response on behalf of the city by the fire department shall be based upon the following schedule:

- (1) Engine, quint and rescue apparatus shall be one hundred seventy-five dollars (\$175.00) per hour for each apparatus. Charges will be assessed in half-hour increments after the first hour.
- (2) Hazardous materials team response (full) shall be three hundred fifty dollars (\$350.00) for the initial hour. Charges will be assessed in half-hour increments after the first hour.
- (3) Hazardous materials team response (modified) shall be one hundred seventy-five dollars (\$175.00) for the initial hour. Charges will be assessed in half-hour increments after the first hour.

- (4) Battalion chief response shall be twenty-five dollars (\$25.00) per hour. Charges will be assessed in half-hour increments after the first hour.
- (5) Reusable entry suits shall be three hundred seventy-five dollars (\$375.00) for each suit.
- (6) Monitors shall be fifty dollars (\$50.00) for each monitor.
- (7) Any other actual costs of abatement, control and containment of hazardous materials other than set out above.

Failure to pay the charges as assessed shall give the city the right to levy a lien upon the land or the premises where the hazardous material emergency arose, and the levy shall be collected in the same manner as unpaid taxes pursuant to the authority of N.C.G.S. §160A-193.

Example Fee Structure, Alamance County, NC Spill Clean-up Recovery Ordinance:

Resource	Fee
Engine or Tanker \$250 per hr.	\$350 per hr.
Heavy Rescue \$250 per hr. Aerial Device	
Support Vehicles (Brush Truck, etc.)	\$125 per hr.
Ambulance	\$200 per hr.
Emergency Management Vehicle	\$45 per hr.
Fire Marshal Vehicle	\$45 per hr.
All responding personnel	1.5 X hourly rate
Materials used	Replacement cost + 10%
Materials damaged	Replacement cost + 10%
Mileage	Current Federal Rate

2.7. Cleanup Contracts and Cost Estimates

Similar to fee schedules for local response entities, contractor cost estimates should break down their fees for personnel and equipment so the charges can be checked for reasonable cost. The contract/statement of work should describe the service to be provided and if it is a lump sum (total price for specified work) or time-and-materials (hourly rates for labor and equipment that will be used to perform specific tasks). For a time-and-materials contract it is recommended to include a not-to-exceed clause (2 CFR Part 200 Subpart D Procurement Standards §200.318(j)). The contractor may hire a subcontractor for items such as a geologist or chemist for sampling or lab analysis.

Cost Estimate Breakdowns should include:

- Labor personnel such as administrative support, supervisors, safety managers, hazardous material technicians, geologists, chemists and their respective estimated hours and hourly rates.
- Equipment types and rates.
- Estimated mileage/rate.
- Sampling cost (soil, water, air, etc.).
- Lab analysis cost.
- Backfill materials.
- Hazardous waste transportation fee.
- Hazardous waste disposal fee.

The responsible party or local authority may check SAM.gov to verify that potential contractors have not been suspended or debarred from performing work funded by the federal government.

Progress payment method may also be used, requiring documentation to verify and validate cleanup completion. For example, complete payment after receiving:

- Hazardous waste manifest – receipt confirmation from Owner and Operators of Treatment, Storage, or Disposal Facilities.
- Soil sampling analysis reports – to confirm soils contaminants are at an acceptable level (partner with NCDEQ for acceptable levels/concentrations).

2.8. Contractor Payment

Contractor payment should be based on completed work whether the responsible party or local entity is completing the payment. The payment process shall be clearly outlined in the contract/statement of work and indicate if a work product or report provided by the contractor is required.

Often contractors working with out-of-state transporters will request a down payment or include additional contract requirements to ensure payment.

2.9. Emergency Responders Role vs Cleanup Contractor

Responder

Local procedures and ordinances should designate authority to emergency responders to reduce, isolate, control and contain hazardous materials to prevent additional injury or harm to those working the incident, the public and the environment.

Responders assist in obtaining information on the vehicle type, placards, container or tank type, labeling and manifest. Responders identify effects and risks on the public, property, and environment.

- Potential pathway of release - air, land, surface waters, or groundwater

- Vapors, clouds, run-offs, or suspicious substances
- Biological indicators - dead vegetation, animals, insects, and fish

Responders may limit the release by methods such as mist knockdown/vapor suppression, neutralizing or chemical stabilizing, diversion, booming, build catchment basins or dikes to control run-off and protect storm drains and water sources.

Once the hazardous material is contained by local responders or a qualified cleanup contractor hired by the responsible party arrives on scene to take over isolating, controlling and containing the hazardous material, local responders turn over the incident to the responsible party/clean-up contractor.

Local responders should check with the cleanup contractor that they have the equipment and trained personnel to complete the cleanup. Local responders do not complete hazardous substance/waste removal or remediation.

Cleanup Contractor

The cleanup contractor may provide response services, partnering with local responders. They shall provide:

- A primary point of contact to communicate with the incident commander/local responder and/or responsible party.
- Storage, transportation, treatment and disposal of hazardous substances and/or waste according to Federal, State and local safety and environmental regulations.
- Complete all required notifications.
- Obtain all necessary permits and USEPA identification numbers; and maintain manifest documentation.
- All personnel, materials, and equipment necessary to perform contracted response activities and services.
- Removal and remediation services. The remediation services should mitigate or eliminate the hazard or environmental damage from the hazardous substance release. All remediation activities must ensure soil and groundwater contaminant levels meet applicable State and Federal cleanup standards.
 - If the spill involves a RCRA regulated hazardous waste in transport, soil remediation and clean up must be conducted in accordance with the NCDEQ Generator Closure Guidelines where groundwater is not impacted.
 - NCDEQ guidelines for the cleanup of spills of hazardous waste (NCDEQ, Generator Closure Guidelines for Cleanup of Environmental Media and Debris at Generator Sites, Division of Waste Management, Hazardous Waste Section, 2023):
 - <https://www.deq.nc.gov/waste-management/dwm/hw/guidance-document-table-documents/generator-closure-guidelines/download?attachment>

- A waste determination, per 40 CFR 262.11, must be conducted on all spill residues that are generated onsite.
- Mitigation is to include dust, soil erosion, sedimentation and storm water run-on/run-off control.
- Proper decontamination of personnel and equipment.
- Plans to locate and mark all buried utilities and pipelines including all private and public pipelines such as water, sewer and gas, buried telecommunications cable and buried electrical utilities prior to excavation.
- Sampling, analytical, monitoring, equipment calibrations and Quality Assurance/Quality Control (QA/QC) support for contaminants.
- Hazardous classification of waste / waste profiling.
- RCRA-compliant containers for temporary on-site accumulation of hazardous waste including proper labeling and container management.
- Verification the hazardous waste is transported only by properly notified transporters with USEPA identification numbers. Disposal may include temporary storage and ultimate disposal at RCRA permitted Treatment, Storage and Disposal Facilities (TSDFs). The contractor shall document disposal from initial location(s) to ultimate disposal location(s) with signed hazardous waste manifests. For containers of hazardous waste that must be moved immediately due to public safety concerns, please reach out to the NCDEQ Hazardous Waste Section <https://www.deq.nc.gov/about/divisions/waste-management/about-waste-management/frequently-asked-questions/hazardous-waste-section-faqs>. Hazardous waste cannot be transported without an USEPA identification number.

2.10. Responsible Party Responsibilities

Local procedures should clearly define the responsibilities of the responsible party such as being financially liable for:

- Response, control and containment of hazardous materials.
- Equipment and material cost incurred by the local responders from the hazardous materials incident.

The responsible party is responsible for obtaining a clean-up contractor to take over from the local responder to remove and remediate the hazardous material/waste.

3. Contractor Response Capabilities and Experience

When selecting a cleanup contractor, it is important to verify contractor's previous experience with hazardous chemicals or similar incidents. Conduct reference checks on contractors' performance history. For example:

- Response time, contractor has the personnel available to have an onsite representative within 4 hours of initiation.

- Do they have previous projects, reports or customer reviews demonstrating their capabilities.
- Does their experience include a variety of contaminants such as arsenic, creosote, lead, mercury, oil, pesticides, asbestos and hazardous waste.
- What United Nations (UN) Class Hazard Codes that indicate compatibility are they qualified to handle (explosives, gases, flammable, oxidizers, toxics, radioactive, corrosive).
- Are they a [NC DOT Contracted Service Unit](#) and approved to remove contaminated materials (NCDOT, 2023).
- Are they hazardous waste transporters with USEPA identification numbers.

Depending on the scale of the project, does the company have:

- The personnel and equipment capability to respond, remediate and restore the contaminated area.
- Reasonable down payment/minimum deposit requirements.
- Billing and payment collection.
- Legal representation to obtain payment from the responsible party.

Example Emergency Response Skills

- Abandonments
- Ambient air monitoring
- Containment and countermeasure
- Emergency response preparedness planning
- Flood, hurricane and other natural disasters
- Mercury spills
- Oil spills
- Transportation and industrial facility fires

Example Remediation Skills

- Contaminated hazardous substance removal
- Contaminant Fate and Transport
- Cleanup and mitigation
- Containment systems
- Environmental Sampling and Analytical Methods
- Groundwater and surface water treatment
- Sheet piling, liner, and cap installation
- RCRA Hazardous waste determinations
- Remediation documentation
- Site preparation
- Soil excavation and confirmation soil sampling
- Soil solidification

- Transportation and disposal
- Waste handling and analysis

Example Restoration Skills

- Asphalt paving
- Backfill
- Road construction
- Re-seeding, re-planting
- Silt control installation
- Site grading
- Sod, tree and shrub installation
- Storm sewer installation
- Stream restoration

3.1. Equipment

Cleanup contractors are to have the proper personnel protection equipment (PPE) for their workers. Emergency managers may use the Emergency Response Guidebook, hazardous chemical safety data sheet (SDS), National Institute for Occupational Safety and Health (NIOSH) pocketbook, CAMEO (Computer-Aided Management of Emergency Operations) chemicals, etc. to determine PPE requirements and verify the contractors are properly equipped for level A, B, C or D entries according to US Department of Health and Human Services (CHEMM, 2023).

- Level A protection should be worn when the highest level of respiratory, skin, eye and mucous membrane protection is needed. A typical Level A ensemble includes:
 - Positive pressure (pressure demand), self-contained breathing apparatus (SCBA) (NIOSH approved), or positive pressure supplied air respirator with escape SCBA.
 - Fully encapsulating chemical protective suit.
 - Gloves, inner, chemical resistant.
 - Gloves, outer, chemical resistant.
 - Boots, chemical resistant, steel toe and shank; (depending on suit boot construction, worn over or under suit boot).
- Level B protection should be selected when the highest level of respiratory protection is needed, but a lesser level of skin and eye protection is needed. Level B protection is the minimum level recommended on initial site entries until the hazards have been further identified and defined by monitoring, sampling, and other reliable methods of analysis, and equipment corresponding with those findings utilized. A typical Level B ensemble includes:
 - Positive-pressure (pressure-demand), self-contained breathing apparatus (NIOSH approved), or positive-pressure supplied air respirator with escape SCBA.

- Chemical resistant clothing (overalls and long-sleeved jacket, coveralls, hooded two-piece chemical splash suit, disposable chemical resistant coveralls).
- Gloves, outer, chemical resistant.
- Gloves, inner, chemical resistant.
- Boots, outer, chemical resistant, steel toe and shank.
- Level C protection should be selected when the type of airborne substance is known, concentration measured, criteria for using air-purifying respirators met, and skin and eye exposure is unlikely. Periodic monitoring of the air must be performed. A typical Level C ensemble includes:
 - Full-face or half-mask, air-purifying respirator (NIOSH approved).
 - Chemical resistant clothing (one piece coverall, hooded two-piece chemical splash suit, chemical resistant hood and apron, disposable chemical resistant coveralls).
 - Gloves, outer, chemical resistant.
 - Gloves, inner, chemical resistant.
 - Boots, steel toe and shank, chemical resistant.
- Level D protection is primarily a work uniform and is used for nuisance contamination only. It requires only coveralls and safety shoes/boots. Other PPE is based upon the situation (types of gloves, etc.). It should not be worn on any site where respiratory or skin hazards exist.

The cleanup equipment is situation dependent. Example equipment are:

- Personal protection equipment
- Spill kits (universal, oil only, hazmat)
- Booms and absorbents
- Decontamination kits
- Drum overpacks
- Lab-packing kits
- Neutralizers
- Meters/Monitors, such as organic vapor analyzers, combustible gas indicators, toxic gas meters, portable gas chromatographs, pH/conductivity meters, and radiation monitors
- Non-sparking tools
- Sampling Supplies (bottles, jars, preservatives, labels, chain-of-custody forms/labels, decontamination agents, etc.)
- Field Chemistry Supplies (pH and other indicator papers, test tubes vials, flasks, cotton swabs, propane torches, etc.)
- Supplies to keep workers warm, cool or hydrated (drinking water, ice, etc.)

3.2. Trainings

Working around hazardous chemicals demands a level of training and skillsets to minimize exposure to the responders and cleanup contractors. Cleanup contractor workers should be adequately trained in their role, level of handling and exposure to hazardous substances.

There are multiple roles and levels that apply to hazardous substances incidents. The trainings listed below applies to both the cleanup contractors and responders involved in a hazardous substance incident and are beneficial in the cleanup contractor vetting process. Most of the industry and clean up companies training programs are based on US Occupational Safety and Health Administration (OSHA) 8-, 24- or 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) courses with an annual refresher. There are three levels under 29 CFR Part 1910.120 Hazardous Waste Operations and Emergency Response.

Emergency Response

- First Responder
- HAZMAT Technician
- HAZMAT Specialist
- Incident Commander

Cleanup of Contaminated Hazardous Waste Sites

- 40-hour HAZWOPER Site Worker
- 24-hour HAZWOPER Site Worker
- HAZWOPER Supervisor

Treatment, Storage, and Disposal (TSD) of Hazardous Waste

- 24-hour HAZWOPER Site Worker

3.2.1. Awareness Training

Personnel responding to the scene should have prior training and be familiar with the potential hazards and exposures based on OSHA 29 CFR Part 1910.120(q)(6)(i). For support personnel, an awareness overview or tailgate meeting should be given at the beginning of the incident.

- Trained to initiate emergency response chemical release notifications.
- Understanding the safety zones, including site security and control (USEPA, Emergency Response and USOSHA HAZWOPER):
 - *Support zone* (cold zone) is the area of the site that is free from contamination and that may be safely used as a planning and staging area.

- *Contamination reduction zone* (warm zone) is the transition area between the exclusion and support zones. This area is where responders enter and exit the exclusion zone and where decontamination activities take place.
- *Exclusion zone* (hot zone) is the area with actual or potential contamination and the highest potential for exposure to hazardous substances. Only personnel with the proper personnel protection equipment and training enter this zone.
- Ability to recognize the presence of hazardous substances in an emergency.
- An understanding of the potential outcomes from a hazardous chemical release.
- Background information on hazardous substances.
- Health effects of hazardous substances (acute and chronic).
- Worker protection, PPE.
- Identify needs for additional equipment and resources.

3.2.2. Operation Training

This is for workers overseeing cleanup operations and/or containing the release from a safe distance, based on OSHA 29 CFR Part 1910.120(q)(6)(ii).

- Familiar with federal, state and local hazardous substance regulations (CERCLA, EPCRA, HMTA, USOSHA, RCRA, USDOT, etc.).
- Knowledge of the basic hazard and risk assessment techniques.
- Knowledge of proper methods of handling hazardous substances and waste, including waste handling (onsite accumulation and management), transportation and disposal.
- Establishment site work zones (exclusion, contamination reduction, support).
- Partner with local responders/implement protection measures for nearby persons, property, or the environment from the effects of the release.
- Developing and maintaining site health and safety plans.
- Determining awareness-level personnel and public protective actions.
- Respirator use, care, and fit testing.
- Protective clothing donning, use, and handling.
- Appropriate and proper worker decontamination procedures.
- Know how to perform basic control, containment and/or confinement operations.
- Knowledge of the Incident Command System.

3.2.3. Hazmat Technician Training

This is for workers who are physically working to respond to the release, stop the release, and/or conduct cleanup operations. Contractors will have their own training programs and requirements based on OSHA 29 CFR Part 1910.120(q)(6)(iii).

- Know how to implement the employer's emergency response plan.
- Be able to function within an assigned role in the response plan and/or incident command system.

- Completion of a hazardous material technician certification course, typically 24-hour training minimum.
- Be able to function within an assigned role in the Incident Command System.
- Trained in hazardous substances operations.
- Proficiency in hazardous substance chemistry and able to identify known and unknown hazardous substances.
- Read and interpret safety data sheets.
- Identify hazardous substances risks and protective actions.
- Trained in hazardous substances detection, monitoring and sampling.
- Trained in personal protection, including respirator selection, use, fit-testing, and protective clothing.
- Be able to perform advance control, containment, and/or confinement operations within resource capabilities.
- Trained in evidence preservation.
- Trained in establishing decontamination units.
- Trained in heavy equipment operation (if applicable).
- Understand termination procedures.

3.2.4. Additional Trainings and Regulatory Standards

Below are example trainings and certifications that are good indications cleanup contractor workers are trained and qualified to respond to a hazardous substance incident.

- CERCLA 40 CFR Part 300.440 Procedures for Planning and Implementing Off-Site Response Actions
- FEMA Incident Command System and Introduction to National Incident Management System. The following training courses are recommended:
 - Emergency Management Institute, National Emergency Management Academy
 - IS-5.A: An Introduction to Hazardous Materials
 - IS-230 Fundamentals of Emergency Management
 - IS-235 Emergency Planning
 - National Incident Management System (NIMS):
 - IS 100 Introduction to the Incident Command System
 - IS 200 Basic Incident Command System for Initial Response
 - IS 700 Introduction to the National Incident Management System
 - IS 800 National Response Framework (NRF), an Introduction
 - Trainings are available at
 - FEMA EMI - <https://training.fema.gov/is/crslist.aspx>
 - FEMA ICS - <https://training.fema.gov/emiweb/is/icsresource/trainingmaterials/>
- Hazardous Materials Regulations (HMR; Title 49 CFR Parts 171-180)
- NFPA 1072 Hazardous Materials Awareness & Operations Training

- Oil Pollution Act 90, legislation intended to avoid oil spills from vessels and facilities
- OSHA Regulations for Hazardous Materials Workers; 29 CFR 1910 Sections 106, 120, 133, 134, 144, and other applicable sections
- OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER)
 - In general industry, 29 CFR 1910.120; and construction 29 CFR 1926.65 established health and safety requirements for employers engaged in these operations, as well as responses to emergencies involving releases of hazardous substances
- RCRA 40 CFR 263 Standards Applicable to Transporters of Hazardous Waste
- RCRA 40 CFR 279 related to used oil
- RCRA 40 CFR 262 related to hazardous waste generators, container management, storage and disposal requirements
- USCG Oil Spill Removal Organization (OSRO) certified
- USDOT Regulations related to the transportation of hazardous materials; 49 CFR 100 - 199
- USDOT PHMSA Hazardous Materials Transportation Training
- USEPA Hazardous Waste Transportation Requirements
<https://www.epa.gov/hw/hazardous-waste-transportation>

3.3. Health and Safety Program

Cleanup companies should have robust health and safety programs in place that include the minimum health and safety standards and specific procedures for the emergency response project. Under the OSHA 1910, each employer is responsible for the safety and health of its workers and for providing a safe and healthful workplace. Employers must protect workers from anticipated hazards associated with participation in response and recovery operations for hazardous substances. Companies may have one health and safety plan that covers all types of hazardous substance cleanup operations, others may have plans tailored to the specific type of incident.

Hazardous substance and waste cleanup is to be completed by trained and competent personnel. The health and safety or other training program should include how new hires and/or new trainees are mentored, monitored and prepared for hazardous substance cleanups.

In addition to cleanup contractor workers following the health and safety programs, verify they require subcontractors to also follow the program; or that the contractor has a procedure in place for vetting the subcontractor's health and safety program.

3.4. Hazardous Waste Transportation and Disposal

Cleanup contractors may have in-house capabilities to transfer hazardous waste, or they may rely on a subcontractor. Part of the cleanup process is validating that hazardous waste transporters and disposal facilities are properly notified and/or permitted with USEPA and NCDEQ.

Hazardous waste transporters must obtain USEPA identification numbers and register 10-day facilities with the Hazardous Waste Section of NCDEQ. They are required to:

- Notify the NCDEQ Hazardous Waste Section and receive an USEPA identification number and register with the Section to obtain a separate NCDEQ registration number for 10-day transfer facilities.
- Accept and transport only hazardous waste that is listed on the manifest.
- Comply with all hazardous waste manifest procedures.
- Prepare a land disposal restriction form to accompany the hazardous waste manifest.
- Deliver the hazardous waste to the designated RCRA permitted treatment, storage, disposal facility, 10-day transfer facility, or next designated transporter.
- Keep a copy of the signed final manifest for three years after the date of acceptance by the transporter.
- In the event of a hazardous waste spill during transportation a transporter must take immediate actions necessary to protect human health and the environment.

NCDEQ Hazardous Waste Transporter Information (NCDEQ, Hazardous Waste Transporter Information, 2023):

<https://deq.nc.gov/about/divisions/waste-management/hazardous-waste-section/compliance-and-enforcement/hazardous-waste-transporter-information>

NCDEQ Notification Forms (NCDEQ, Hazardous Waste Section Forms, 2023):

<https://www.deq.nc.gov/about/divisions/waste-management/hazardous-waste-section/hazardous-waste-section-forms#HazardousWasteGeneratorandTreatmentStorageandDisposalFacilityNotifications-11103>

Hazardous Waste Manifest Instructions (EPA, Uniform Hazardous Waste Manifest: Instructions, Sample Form and Continuation Sheet, 2023):

<https://www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet>

USEPA Hazardous Waste Transportation Information (EPA, Hazardous Waste Transportation, 2023):

<https://www.epa.gov/hw/hazardous-waste-transportation>

USEPA Hazardous Waste Information (Learn the Basics of Hazardous Waste, 2023):

<https://www.epa.gov/hw/learn-basics-hazardous-waste>

4. Authority to Stop Work

Emergency Managers and responders have the authority to stop cleanup work if they deem a cleanup contractor unqualified for a response or unsafe working conditions that could cause an incident or injury.

4.1. Deregistering Cleanup Contractors

Local entities are recommended to have policies and procedures in place for contractors to be deregistered from the authorized list or placed on a suspended or debarred list for performing inadequate cleanup, demonstrate unqualified for the response or have repeat occurrences of accidents or injuries.

An example is a contractor claiming to be a hazardous waste transporter, when they do not have an USEPA transporter identification number, they do not use a manifest identifying the hazardous waste or maintain documentation of delivery to a designated hazardous waste facility; responders witness contractors not wearing proper PPE or insufficient decontamination; or repeat/multiple preventable contractor injuries or illnesses occur.

5. Resources

5.1. Example NC Ordinances and Certifications Programs

City Ordinances

- Greensboro Code of Ordinances Chapter 10 – Fire Prevention and Protection Article III. Response to Hazardous Materials Emergencies, Fees and Charges. <https://library.municode.com/nc/greensboro/codes/>

County Ordinances and Cleanup Contractor Procedures

- Alamance [Ordinance-Spill-Clean-Up-Recovery](#)
- Forsyth Chapter 9 Emergency Management Article III. Financial Responsibility for Responsibility for Emergencies Involving Hazardous Materials. https://library.municode.com/nc/forsyth_county/codes/
- Orange Part I – General Ordinances Chapter 14 – Emergency Management and Emergency Services Article V. Oil Pollution and Hazardous Substances Control. https://library.municode.com/nc/orange_county/codes/
- Wake LEPC [Application and Standards for Cleanup Contractors](#) with example contractor application form.

5.2. State

North Carolina regulations for hazardous materials are summarized on the [North Carolina Emergency Management Hazardous Materials](#) website.

North Carolina Emergency Management Act [N.C.G.S Chapter 166A, Article 2](#)

- **Regional Response Team** covers the hazardous materials emergency response program including contracts, equipment loans, regional response team advisory committee, and recovery cost from a hazardous materials response.
- **Emergency Planning and Fee Schedule** §166A-29 covers emergency planning fees for fixed facilities including annual Tier II and fee exemptions.

Department of Labor and Labor Regulations [N.C.G.S. Chapter 95 Article 18](#) Identification of Toxic or Hazardous Substances

Identification of Toxic or Hazardous Substances defines hazardous chemicals adopted by the Occupational Safety and Health Division of the North Carolina Department.

Oil Pollution and Hazardous Substances Control [N.C.G.S. Chapter 143 Article 21A](#) to support applicable provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 and the National Contingency Plan.

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Regulations

2 CFR Part 200 Subpart D Procurement Standards	14
29 CFR Part 1910.120 Hazardous Waste Operations and Emergency Response	21
40 CFR Part 261 Identification and Listing of Hazardous Waste.....	2
40 CFR Part 300.440 Procedures for Planning and Implementing Off-Site Response Actions.....	23
49 CFR Part 107 Hazardous Materials Program Procedures.....	7
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LOCAL EMERGENCY PLANNING COMMITTEE Cleanup Contractor Application



Agency Name: Click or tap here to enter text.
 Physical Address: Click or tap here to enter text.
 Mailing Address: Click or tap here to enter text.

Cleanup contractor and vendor application for addition to the approved/preferred cleanup contractor list. This list will be used by [Local EM or LEPC] on a rotating basis. The list will be provided to responsible parties to aid their selection in a cleanup contractor. [Local EM or LEPC] does not endorse any contractor. The goal is for qualified and competent contractors to complete hazardous substance and waste cleanup to prevent additional injury or harm to those working the incident, the public and the environment.

The application period is open annually from Click or tap to enter a date. to Click or tap to enter a date. Forms must be submitted to Click or tap here to enter text. by Click or tap to enter a date.

Cleanup Contractor Application Form		
Application Date	Click or tap to enter a date.	Submitter Name: Click or tap here to enter text.
Company Name		Click or tap here to enter text.
	Physical Address	Mailing Address
Number and Street:	Click or tap here to enter text.	Click or tap here to enter text.
City:	Click or tap here to enter text.	Click or tap here to enter text.
State:	Click or tap here to enter text.	Click or tap here to enter text.
Zip Code:	Click or tap here to enter text.	Click or tap here to enter text.
Contact	Primary	24-Hour Emergency Contact
Name:	Click or tap here to enter text.	Click or tap here to enter text.
Title:	Click or tap here to enter text.	Click or tap here to enter text.
Address:	Click or tap here to enter text.	Click or tap here to enter text.
Phone:	Click or tap here to enter text.	Click or tap here to enter text.
Fax:	Click or tap here to enter text.	Click or tap here to enter text.
Email:	Click or tap here to enter text.	Click or tap here to enter text.

Document Experience (Check box for experience and attach supporting documentation as part of submittal if applicable)

Capabilities for Level of Response

- Level A, Estimate Number of Personnel: Click or tap here to enter text.
- Level B, Estimate Number of Personnel: Click or tap here to enter text.
- Level C, Estimate Number of Personnel: Click or tap here to enter text.
- Level D, Estimate Number of Personnel: Click or tap here to enter text.

Contamination Experience: Contractor has prior experience handling and cleaning up: Arsenic Creosote Lead Mercury Oil Pesticides Asbestos Radioactive Waste Other: Click or tap here to enter text.

Regulations Company Personnel are Knowledgeable:

Permitted

NC DOT Contracted Service Unit Hazardous Waste Transporter, EPA ID: Click or tap here to enter text.



LOCAL EMERGENCY PLANNING COMMITTEE Cleanup Contractor Application



Capable of handling/shipping DOT Class Hazards: [Click or tap here to enter text.](#)

Insurance

- Workers Certificate of Insurance Liability Insurance Certificate Commercial General Liability Insurance
- Auto Liability Company Health and Safety Plan/Program

Cost Estimates (subject to change and addressed at time of contract)

- Cleanup Equipment Fee Structure Personnel and Labor Fee Structure

Describe Company Response Capabilities and Response Time within the [Local EM or LEPC]:

[Click or tap here to enter text.](#)

I certify that I have personally examined and am familiar with the information submitted in this application. I believe that the submitted information is true, accurate and complete.

[Click or tap here to enter text.](#)

Name and Title of Submitter

[Click or tap here to enter text.](#)

Signature

[Click or tap to enter a date.](#)

Date Signed

Annex B

Environmental Protection Agency Factsheet on Oil Discharge Reporting Requirements



Oil Discharge Reporting Requirements

How to Report Oil Discharges to the National Response Center and EPA

If a facility or vessel discharges oil to navigable waters or adjoining shorelines, waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or Deepwater Port Act of 1974, or which may affect natural resources under exclusive U.S. authority, the owner/operator is required to follow certain federal reporting requirements. These requirements are found in two EPA regulations – 40 CFR part 110, Discharge of Oil regulation, and 40 CFR part 112, Oil Pollution Prevention regulation. The Discharge of Oil regulation provides the framework for determining whether an oil discharge to inland and coastal waters or adjoining shorelines should be reported to the National Response Center. The Oil Pollution Prevention regulation, part of which is commonly referred to as the “SPCC rule,” identifies certain types of discharges from regulated facilities that also need to be reported to EPA. Although these reporting requirements were not changed by EPA’s recent modifications of the SPCC rule, this Fact Sheet will help facilities with the Reportable Discharge History criterion associated with the qualified facility option and the oil-filled operational equipment option offered in the recent SPCC modifications.

Who is subject to the Discharge of Oil regulation?

Any person in charge of a vessel or of an onshore or offshore facility is subject to the reporting requirements of the Discharge of Oil regulation if it discharges a harmful quantity of oil to U.S. navigable waters, adjoining shorelines, or the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or Deepwater Port Act of 1974, or which may affect natural resources under exclusive U.S. authority.

What is a “harmful quantity” of discharged oil?

A harmful quantity is any quantity of discharged oil that violates state water quality standards, causes a film or sheen on the water’s surface, or leaves sludge or emulsion beneath the surface. For this reason, the Discharge of Oil regulation is commonly known as the “sheen” rule. Note that a floating sheen alone is not the only quantity that triggers the reporting requirements (e.g., sludge or emulsion deposited below the surface of the water may also be reportable).

Under this regulation, reporting oil discharges does not depend on the specific amount of oil discharged, but instead can be triggered by the presence of a visible sheen created by the discharged oil or the other criteria described above.

To whom do I report an oil discharge?

A facility should report discharges to the National Response Center (NRC) at 1-800-424-8802 or 1-202-426-2675. The NRC is the federal government’s centralized reporting center, which is staffed 24 hours per day by U.S. Coast Guard personnel.

If reporting directly to NRC is not practicable, reports also can be made to the EPA regional office or the U.S. Coast Guard Marine Safety Office (MSO) in the area where the incident occurred.

When must I report to NRC?

Any person in charge of a vessel or an onshore or offshore facility must notify NRC immediately after he or she has knowledge of the discharge.

What information do I need to report?

NRC will ask a caller to provide as much information about the incident as possible including:

- Name, organization, and telephone number
- Name and address of the party responsible for the incident
- Date and time of the incident
- Location of the incident
- Source and cause of the discharge
- Types of material(s) discharged
- Quantity of materials discharged
- Danger or threat posed by the discharge

- Number and types of injuries (if any)
- Weather conditions at the incident location
- Other information to help emergency personnel respond to the incident

How are reports to NRC handled?

NRC relays information to an EPA or U.S. Coast Guard On Scene Coordinator (OSC), depending on the location of the incident. After receiving a report, the OSC evaluates the situation and decides if federal emergency response action is necessary.

If I report a discharge to NRC, do I also report to EPA?

If a facility is regulated under the SPCC rule and has a reportable discharge according to EPA regulations (see below), it must be reported to both NRC and EPA.

What are the oil discharge reporting requirements in the SPCC rule?

Any facility owner/operator who is subject to the SPCC rule must comply with the reporting requirements found in §112.4.

A discharge must be reported to the EPA Regional Administrator (RA) when there is a discharge of:

- More than 1,000 U.S. gallons of oil in a single discharge to navigable waters or adjoining shorelines
- More than 42 U.S. gallons of oil in each of two discharges to navigable waters or adjoining shorelines occurring within any twelve-month period

When determining the applicability of this SPCC reporting requirement, the gallon amount(s) specified (either 1,000 or 42) refers to the amount of oil that actually reaches navigable waters or adjoining shorelines, not the total amount of oil spilled.

What do I need to submit to EPA?

The owner/operator must provide the following:

- Name and location of the facility
- Owner/operator name
- Maximum storage/handling capacity of the facility and normal daily throughput
- Corrective actions and countermeasures taken, including descriptions of equipment repairs and replacements

- Adequate description of the facility, including maps, flow diagrams, and topographical maps, as necessary
- Cause of the discharge to navigable waters, including a failure analysis
- Failure analysis of the system where the discharge occurred
- Additional preventive measures taken or planned to take to minimize discharge reoccurrence
- Other information the RA may reasonably require

An owner/operator must also send a copy of this information to the agency or agencies in charge of oil pollution control activities in the state in which the facility is located.

What happens after a facility submits this information to EPA?

The EPA Regional Administrator will review the information submitted by the facility and may require a facility to submit and amend its SPCC Plan. Facilities and equipment that qualified for the new streamlined requirements may lose eligibility for those options as determined by the Regional Administrator. A state agency may also make recommendations to EPA for a facility to amend its Plan to prevent or control oil discharges.

For More Information

Review the Discharge of Oil regulation (40 CFR part 110)

<http://www.gpoaccess.gov/cfr/>

Review the Oil Pollution Prevention regulation (40 CFR part 112)

<http://www.gpoaccess.gov/cfr/>

Visit the EPA Office of Emergency Management Web site

www.epa.gov/emergencies

Call the Superfund, TRI, EPCRA, RMP, and Oil Information Center

(800) 424-9346 or (703) 412-9810

TDD (800) 553-7672 or (703) 412-3323

www.epa.gov/superfund/resources/infocenter

To Report an Oil or Chemical Discharge

Contact the National Response Center

(800) 424-8802 or (202) 267-2675

TDD (202) 267-4477

<http://www.nrc.uscg.mil/index.html>

Annex C

Best Practices for Validating Hazardous Substance Cleanup Contractors Checklists



Best Practices for Validating Hazardous Substance Cleanup Contractors Checklists

Disclaimer

The information in this guidance document is drawn from sources believed to be reliable. North Carolina Emergency Management makes no claims, promises, guarantees, and expressly disclaims liability for errors and omissions, in connection with any of this information. Moreover, it should not be assumed that every acceptable procedure is included, or that special circumstances may not warrant modified or additional procedures. The user should be aware that changing regulations or practices may require changes in the recommendations contained herein. Appropriate steps should be taken to ensure that the information is current, when used. These recommendations should not be confused with federal, state, provincial, municipal, or insurance requirements.

Initial Requirements

Notifications

See Section 2.1 Notification Process for petroleum vs hazardous substance spills

- 911/Local/LEPC
- 24-Hour Watch (SERC)
1-800-858-0368
- National Response Center
1-800-424-8802

National Response Center

Report as soon as possible by responsible party, responder or any witness: Your name, location, organization, and telephone number

- Name and address of the party responsible for the incident; or name of the carrier or vessel, the railcar/truck number, or other identifying information
- Date and time of the incident
- Location of the incident
- Source and cause of the release or spill
- Types of material(s) released or spilled
- Quantity of materials released or spilled

- Medium (e.g., land, water) affected by release or spill
- Danger or threat posed by the release or spill
- Number and types of injuries or fatalities (if any)
- Weather conditions at the incident location
- Whether an evacuation has occurred
- Other agencies notified or about to be notified
- Any beneficial response information that may help emergency personnel

Responsible Party

The person, company, agency or entity that has control over the fuel, oil or other hazardous substance (transporter/shipper)

- Provide primary point of contact
- Able to initiate response/cleanup contractor within a few hours based on stabilization and containment needs
- Responsible for expenses and overseeing cleanup, removal and disposal of hazardous substance/waste



Hazardous Substance Transporters

Documentation transporters should be able to provide upon request (dependent on transporting by Federal Highway and the type of hazardous substance)

- USDOT Hazmat Reg. No. / PHMSA Certificate of Registration
- Incident reporting
- Shipping papers
- Placard and marked vehicle
- Product compatibility
- Blocking and bracing
- FMCSA Hazardous Materials Safety Permit (HMSP)
- FMCSA MCS-90 Insurance

Response Agency (with proper PPE/until transfer to cleanup contractor)

- Identify effects and risks on the public, property, and environment
- Isolate and contain hazardous substance/waste
- Assist in obtaining information on the vehicle type, placards, container or tank type, labeling and manifest
- Elevating through State 24-Hour Watch to Environmental Quality/EPA if responsible party is unwilling to initiate cleanup
- Verify hazardous substance carrier's USDOT number (if applicable)
<https://mobile.fmcsa.dot.gov/app/>

Cleanup Contractor

- Certificate of Insurance (COI) proof
- Provide estimate response arrival and cleanup timeline
- Demonstrate proper PPE and decontamination methods

- The personnel and equipment capability to respond, remediate and restore the contaminated area
- Personnel trained by OSHA standards depending on role/exposure potential
- Health and Safety Program in place
- Obtain all necessary permits and EPA identification numbers
- Maintain manifest documentation
- Lab Analysis/Sample Results – Submit to DEQ (as required) and locals (upon request)

Remediation

- Plans to locate and mark all buried utilities and pipelines such as water, sewer and gas, buried telecommunications cable and buried electrical utilities prior to excavation.
- Remediation activities of soil and groundwater contaminant levels must meet applicable State and Federal cleanup standards
- RCRA-compliant storage containers for temporary on-site accumulation of hazardous waste
- RCRA regulated hazardous waste in transport, soil remediation and clean up must be conducted in accordance with the NCDEQ Generator Closure Guidelines

Contractor Financial Capabilities (optional)

- Reasonable down payment/minimum deposit requirements
- Billing and payment collection
- Legal representation to obtain payment from the responsible party



Sub-Contractors

- Responsible Party/Prime Cleanup
Contractor has confirmed subcontractor
is competent

Disposal

- Storage, transportation, treatment and disposal of hazardous substances and/or waste according to Federal, State and local safety and environmental regulations
- Obtain all necessary permits and EPA identification numbers
- Register with the Hazardous Waste Section to obtain a separate NCDEQ registration number for 10-day transfer facilities (if applicable)
- Accept and transport only hazardous waste that is listed on the manifest
- Comply with all hazardous waste manifest procedures
- Prepare a land disposal restriction form to accompany the hazardous waste manifest
- NC DOT Contracted Service Unit and approved to remove contaminated materials
- Ultimate disposal at RCRA permitted and approved Treatment, Storage and Disposal Facilities (TSDFs), 10-day transfer facility, or next designated transporter
- Document disposal from initial location(s) to ultimate disposal location(s) with signed hazardous waste manifests

Documentation

- Provided to agency overseeing incident
- Chain of Custody (samples, hazardous materials/hazardous waste)
 - Manifest
 - Sampling Results