

Environmental Protection Agency

§ 302.6

in table 302.4 and appendix B to the table are in conflict, the lowest RQ shall apply.

(b) *Unlisted hazardous substances.* Unlisted hazardous substances designated by 40 CFR 302.4(b) have the reportable quantity of 100 pounds, except for those unlisted hazardous wastes which exhibit extraction procedure (EP) toxicity identified in 40 CFR 261.24. Unlisted hazardous wastes which exhibit EP toxicity have the reportable quantities listed in table 302.4 for the contaminant on which the characteristic of EP toxicity is based. The reportable quantity applies to the waste itself, not merely to the toxic contaminant. If an unlisted hazardous waste exhibits EP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed in table 302.4 for those contaminants. If an unlisted hazardous waste exhibits the characteristic of EP toxicity and one or more of the other characteristics referenced in 40 CFR 302.4(b), the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

[51 FR 34547, Sept. 29, 1987, as amended at 54 FR 22538, May 24, 1989]

§ 302.6 Notification requirements.

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

(b) Releases of mixtures or solutions (including hazardous waste streams) of

(1) Hazardous substances, except for radionuclides, are subject to the following notification requirements:

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

(ii) If the quantity of one or more of the hazardous constituent(s) of the

mixture or solution is unknown, notification is required where the total amount of the mixture or solution released equals or exceeds the RQ for the hazardous constituent with the lowest RQ; or

(iii) For waste streams K169, K170, K171, and K172, knowledge of the quantity of all of the hazardous constituent(s) may be assumed, based on the following maximum observed constituent concentrations identified by EPA:

Waste	Constituent	Max ppm
K169	Benzene	220.0
	K170 Benzene	1.2
K170	Benzo (a) pyrene	230.0
	Dibenz (a,h) anthracene	49.0
	Benzo (a) anthracene	390.0
	Benzo (b) fluoranthene	110.0
	Benzo (k) fluoranthene	110.0
	3-Methylcholanthrene	27.0
	7,12-Dimethylbenz (a) anthracene	1,200.0
K171	Benzene	500.0
	Arsenic	1,600.0
K172	Benzene	100.0
	Arsenic	730.0

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

(i) If the identity and quantity (in curies) of each radionuclide in a released mixture or solution is known, the ratio between the quantity released (in curies) and the RQ for the radionuclide must be determined for each radionuclide. The only such releases subject to this section's notification requirements are those in which the sum of the ratios for the radionuclides in the mixture or solution released is equal to or greater than one.

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

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

§ 302.7

40 CFR Ch. I (7-1-00 Edition)

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

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

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

(2) Releases of naturally occurring radionuclides from land disturbance activities, including farming, construction, and land disturbance incidental to extraction during mining activities, except that which occurs at uranium, phosphate, tin, zircon, hafnium, vanadium, monazite, and rare earth mines. Land disturbance incidental to extraction includes: land clearing; overburden removal and stockpiling; excavating, handling, transporting, and storing ores and other raw (not beneficiated or processed) materials; and replacing in mined-out areas coal ash, earthen materials from farming or construction, or overburden or other raw materials generated from the exempted mining activities.

(3) Releases of radionuclides from the dumping and transportation of coal and coal ash (including fly ash, bottom ash, and boiler slags), including the dumping and land spreading operations that occur during coal ash uses.

(4) Releases of radionuclides from piles of coal and coal ash, including fly ash, bottom ash, and boiler slags.

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

[50 FR 13474, Apr. 4, 1985, as amended at 54 FR 22538, May 24, 1989; 54 FR 33481, Aug. 14, 1989; 63 FR 13475, Mar. 19, 1998; 63 FR 42189, Aug. 6, 1998; 64 FR 13114, Mar. 17, 1999]

§ 302.7 Penalties.

(a) Any person—

(1) In charge of a vessel from which a hazardous substance is released, other than a federally permitted release, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone,

(2) In charge of a vessel from which a hazardous substance is released, other than a federally permitted release, which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), and who is otherwise subject to the jurisdiction of the United States at the time of the release, or

(3) In charge of a facility from which a hazardous substance is released, other than a federally permitted release, in a quantity equal to or greater than that reportable quantity determined under this part who fails to notify immediately the National Response Center as soon as he has knowledge of such release shall be subject to all of the sanctions, including criminal penalties, set forth in section 103 of the Act with respect to such failure to notify.

(b) Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) This section shall not apply to the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or to the handling and storage of such a pesticide product by an agricultural producer.

§ 302.8 Continuous releases.

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

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