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## DEEP's Proposed Release Reporting Regulations Now Ready for Comment

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by Diane W. Whitney

DEEP does not currently have regulations in place governing release/spill reporting. The regulations proposed in 2009 required that all spills over one gallon in volume and all historical spills be reported. Those have served as guidelines since 2009 but were never officially adopted. Now DEEP has published new proposed regulations governing the required reporting of releases of oil, petroleum, chemical liquids and harmful hazardous wastes and accepted comments on the new regulations until August 20, 2020. We describe below the new requirements and how they differ from the previously proposed regulations.

Releases are divided into three categories, as follows:

### Category 1 includes :

1. Releases to a waterway; releases from an underground storage tank (UST); releases of PCBs, halogenated solvents, and certain pesticides;
2. Releases of unknown substances or unknown quantities;
3. Releases posing a risk or potential risk to human health, public safety, or the environment; or
4. Releases containing 30% or more of a material listed in Appendix A, which includes materials in the EPA Risk Management Plan, the EPA Extremely Hazardous Substance List, the FBI-ITF 40 Priority Chemicals List, the Conn. Department of Public Health mandated toxic chemicals list, and certain banned and restricted pesticides

### Category 2 includes:

1. Oil or petroleum releases of 5 gallons or more, except releases to containment; and

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2. Oil or petroleum releases of less than 5 gallons that are not cleaned up within 1 hour from the time of release.

### Category 3 includes:

1. Releases of materials other than oil or petroleum of 10 pounds or more, or 1.5 gallons or more, except releases to containment; and
2. Releases of less than 10 pounds or 1.5 gallons that are not cleaned up within 1 hour.

### **ALL RELEASES IN THESE THREE CATEGORIES MUST BE REPORTED, WITH THE FOLLOWING EXCEPTIONS:**

#### Releases do not have to be reported if:

1. There is a permit for the release, even if permit limits are exceeded
2. A state or federal law or judgement allows the release
3. The release is of an inconsequential amount and contained under a lab hood
4. The release occurs in an agricultural activity in accordance with Best Practices for Agriculture
5. The release is a minor sheen from a road, driveway or parking lot from vehicular use
6. The release is of a food product that does not create an emergency
7. It is domestic sewage of less than 100 gallons
8. It is radioactive waste not mixed with reportable materials
9. It is to impervious containment and is cleaned within 1 hour and does not exceed 200 pounds or create an emergency

### **TYPES OF REPORTS AND REQUIRED ACTION**

1. Initial Report and Action – within one hour of discovery
  - Include contact information for reporter, responsible party and property owner; date, time and duration of release and whether it has stopped; cause, substance, and quantity released and recovered; location medium impacted, sensitive receptors affected or at risk; injuries, response action taken, licensed contractor hired to respond.
  - Immediately contain, remove or mitigate the spill to the satisfaction of the Commissioner

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### 2. Follow Up report if Requested by the Commissioner

- Prepared by the responsible party and including confirmation of the information originally reported; a chronology of events regarding the release including completion of the response; a description of impacts or potential impacts of the release, including a map and analytical data; and any supplemental information requested by the Commissioner.

### ANALYSIS OF DIFFERENCES BETWEEN THIS PROPOSAL AND THAT MADE IN 2009

The 2009 proposed spill reporting regulations required that all spills over one gallon and all historic spills be reported. It is estimated that the number of releases required to be reported under the new proposed regulations is 50% less than was previously the case.

For more information on DEEP's changes to the Remediation Standard Regulations, please contact any member of our Environmental Practice Group.

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