



Via E-mail

November 14, 2011 (Correction November 29, 2011)

Information Quality Guidelines Staff (Mail Code 2811R)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Request for Correction  
40 CFR §302, Designation, Reportable Quantities, and Notification

To Whom It May Concern:

Artisan EHS Consulting, LLC (Artisan EHS) hereby submits this request for correction of information under the Data Quality Act (also known as the Information Quality Act)<sup>1</sup>, as implemented through the Office of Management and Budget<sup>2</sup> and the United States Environmental Protection Agency (EPA)<sup>3</sup>.

Artisan EHS provides client assistance for chemical emergency release reporting, among other environmental, health, and safety support for industrial and transportation clients. In researching notification requirements for the release of listed hazardous waste K170, clarified slurry oil tank sediment and/or in-line filter separation solids from petroleum refining operations, Artisan EHS encountered errors in 40 CFR §302 with a direct bearing on calculating Reportable Quantities (RQ) for K170 and other listed hazardous wastes.

This Request for Correction includes descriptions of errors, recommendations for correction of errors, discussion of effects of errors, and identification of the requester.

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<sup>1</sup> Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001, P.L. 106-554; 44 U.S.C. § 3516 (notes).

<sup>2</sup> Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (Feb. 22, 2002).

<sup>3</sup> Guidelines for Ensuring Maximizing the Quality, Objectivity, Utility, and Integrity, of Information Disseminated by the Environmental Protection Agency, EPA/260R-02-008 (October 2002).

## Description of Errors

There are two errors in 40 CFR §302.6, Notification requirements. First, there is an erroneous reference at the end of 40 CFR §302.6. The reference '65 FR 87132, Nov.8, 2001' should read '65 FR 67132, Nov. 8, 2000'. 65 Federal Register was published in 2000, not 2001, and there is no page 87132 for 65 or 66 Federal Register. 65 FR 67132, Nov. 8, 2000 is clearly germane to 40 CFR §302.6 and is not included in the reference list. Artisan EHS presumes this is likely a typographical error.

The second error is the omission of information in 40 CFR §302.6(b)(1)(iii). EPA published a Final Rule in 63 Federal Register 42110 - 42189, August 8, 1998<sup>4</sup>, establishing maximum observed constituent concentrations for listed hazardous wastes K169, K170, K171, and K172. The Final Rule added 40 CFR §302.6(b)(1)(iii) to 40 CFR Ch. I (7-1-99 Edition), page 348, including the table of maximum observed constituent concentrations for K169, K170, K171, and K172. EPA later published a Final Rule in 65 Federal Register 67068 - 67113, November 8, 2000<sup>5</sup> establishing maximum observed constituent concentrations for listed hazardous wastes K174 and K175. This Final Rule amended 40 CFR §302.6(b)(1)(iii) in 40 CFR Ch. I (7-1-01 Edition), page 350 - 351. However, this change, while properly replacing the text of 40 CFR §302.6(b)(1)(iii), overwrote the previously existing table of K169, K170, K171, and K172 maximum observed constituent concentrations instead of appending the table of K174 and K175 maximum observed constituent concentrations to the table of the K169, K170, K171, and K172 maximum observed constituent concentrations.

The relevant Federal Register pages and 40 CFR pages are enclosed as attachments.

## Recommendations for Corrective Action

Artisan EHS recommends correcting the erroneous Federal Register reference for 40 CFR §302.6 by replacing '65 FR 87132, Nov.8, 2001' with '65 FR 67132, Nov. 8, 2000', and correcting 40 CFR §302.6(b)(1)(iii) to include the maximum observed

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<sup>4</sup> 63 FR 42189, August 6, 1998, Final Rule, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; adding paragraph (b)(1)(iii) of Section 302.6.

<sup>5</sup> 65 FR 67132, November 8, 2000, Final Rule, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; amending paragraph (b)(1)(iii) of Section 302.6.

constituent concentrations for listed hazardous wastes K169, K170, K171, and K172 (from 40 CFR Ch. I (7-1-99 Edition), page 348):

Waste	Constituent	Max ppm
K169	Benzene .....	220.0
K170	Benzene .....	1.2
	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 .....
Arsenic .....		1,600.0
K172	Benzene .....	100.0
	Arsenic .....	730.0

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. The requested corrections pertain to a likely typographical error and to information that has already been through a rule-making process. These corrections address the information and instructions conveyed from EPA to the United States Government Printing Office in the 65 FR 67132, November 8, 2000 Final Rule, and are reinstating information that was previously published in 40 CFR §302.6(b)(1)(iii). Therefore, further notice and opportunity to comment are not necessary, and these corrections could be issued as a Final Rule; Technical Correction.

### Effects of Errors

Correcting the error in the Federal Register reference for 40 CFR §302.6 will allow users to reference the correct Federal Register Final Rule and preamble, assisting in their understanding of 40 CFR §302.6 emergency release notification requirements. This erroneous reference had a direct bearing on the ability of the requester to recognize the error of information missing from 40 CFR §302.6(b)(1)(iii).

Correcting the error in 40 CFR §302.6(b)(1)(iii) will restore maximum observed constituent concentration data for listed hazardous wastes K169, K170, K171, and K172 as previously published in 40 CFR Ch. I (7-1-99 Edition). This will allow generators, transporters, and disposal facilities handling these wastes to calculate RQs using the

mixture rule<sup>6</sup> developed in connection with the Clean Water Act section 311 regulations, enhancing their ability to suitably address notification requirements in the event of a release of these listed hazardous wastes.

Further, while EPA has provided several guidance documents and EPCRA Question and Answer forums with various examples of use of the mixture rule for calculating mixture-specific RQs, the information missing from 40 CFR §302.6(b)(1)(iii) provides regulatory examples of the use of the mixture rule to calculate RQs for these and other mixtures of hazardous substances, including hazardous wastes, listed in 40 CFR §302.4. To summarize the application of the mixture rule, where the person<sup>7,8</sup> in charge of a facility<sup>9,10</sup> has knowledge of the concentration(s) of a hazardous substance(s) in a mixture, the mixture rule allows calculation of an RQ specific for the mixture based on the concentration(s) of a hazardous substance(s) in the mixture, instead of using the published RQ that assumes 100% of a mixture is comprised of the mixture's hazardous substance with the lowest RQ. In 63 FR 42175, August 6, 1998, EPA modified its interpretation of the mixture rule, allowing the use of maximum observed constituent concentrations in listed hazardous wastes K169, K170, K171, and K172 to calculate an RQ, even if the person in charge does not know the specific hazardous substance constituent concentration of the K169, K170, K171, or K172 waste. In 65 Federal

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<sup>6</sup> 44 FR 50767, August 29, 1979, Final Rulemaking; Water Programs; Determination of Reportable Quantities for Hazardous Substances; and 50 FR 13463, April 4, 1985, Final Rule; Notification Requirements; Reportable Quantity Adjustments; 'Discharges of mixtures and solutions are subject to these regulations only where a component hazardous substance of the mixture or solution is discharged in a quantity equal to or greater than its reportable quantity'.

<sup>7</sup> 40 CFR §302 defines person 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'.

<sup>8</sup> 40 CFR §355 defines person as 'any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body'.

<sup>9</sup> 40 CFR §302 defines facility as '(1) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (2) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel'.

<sup>10</sup> 40 CFR §355 defines facility as 'all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person that controls, is controlled by, or under common control with, such person). Facility includes manmade structures, as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft'.

Register 67121 - 67122, EPA reiterates their interpretation of the mixture rule allowing the use of maximum observed concentrations of constituents in listed hazardous wastes K174 and K175. EPA also notes that if the person in charge of a facility has specific information of constituent concentrations in their waste, they can use those data in calculating an RQ for the waste, instead of using the maximum observed constituent concentrations in 40 CFR §302.6(b)(1)(iii).

### **Identity of the Requester**

The requester's contact information is:

Artisan EHS Consulting, LLC  
104 Knoxwood Court  
Anderson, South Carolina 29621  
Telephone: 864-934-1243  
Facsimile: 864-469-4530  
E-mail: info@artisanehs.com

Thank you for your consideration. If there are questions concerning this Request for Correction, I can be reached using any of the above contact information.

Respectfully,



David M. Comen, CIH, CHMM  
President, Artisan EHS Consulting LLC

Attachment 1	40 CFR Ch. I (7-1-98 Edition), page 347
Attachment 2	63 FR 42189, August 6, 1998
Attachment 3	40 CFR Ch. I (7-1-99 Edition), page 348
Attachment 4	40 CFR Ch. I (7-1-00 Edition), page 349
Attachment 5	65 FR 67132 – 67133, November 8, 2000
Attachment 6	40 CFR Ch. I (7-1-01 Edition), pages 350 – 351

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## § 302.6

reportable quantity (RQ) for that substance. The RQs in table 302.4 are in units of pounds based on chemical toxicity, while the RQs in appendix B to table 302.4 are in units of curies based on radiation hazard. Whenever the RQs 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; or

(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.

(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 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.

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[NOTE: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Regulatory syno- nyms	Statutory	Code†	RCRA waste No.	Final RQ	
			RQ			Category	Pounds (Kg)
K169 <sup>‡</sup> ..... Crude oil storage tank sedi- ment from petroleum refin- ing operations.			1*	4	K169	A	10(4.54)
K170 <sup>‡</sup> ..... Clarified slurry oil tank sedi- ment and/or in-line filter/ separation solids from pe- troleum refining operations.			1*	4	K170	X	1 (0.454)
K171 <sup>‡</sup> ..... Spent hydrotreating catalyst from petroleum refining op- erations. (This listing does not include inert support media.)			1*	4	K171	X	1 (0.454)
K172 <sup>‡</sup> ..... Spent hydrorefining catalyst from petroleum refining op- erations. (This listing does not include inert support media.)			1*	4	K172	X	1 (0.454)

† Indicates the statutory sources as defined by 1, 2, 3, and 4 below.

1\*—Indicates that the 1-pound RQ is a CERCLA statutory RQ.

‡ See 40 CFR 302.6(b)(1) for application of the mixture rule to this hazardous waste.

19. Section 302.6 is amended by revising paragraphs (b)(1)(i) and (b)(1)(ii) and by adding paragraph (b)(1)(iii) to read as follows:

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\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(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
	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
	Benzene .....	500.0
K171 .....	Arsenic .....	1,600.0
	Benzene .....	100.0
K172 .....	Benzene .....	100.0
	Arsenic .....	730.0

\* \* \* \* \*

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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

40 CFR Ch. I (7-1-99 Edition)

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



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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

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
September 29, 2000	Listing of Hazardous Wastes K174 and K175.	65 FR 67132	May 7, 2001.

TABLE 2.—SELF IMPLEMENTING PROVISIONS OF THE SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
May 7, 2001	Prohibition on land disposal of K174 and K175 wastes, and prohibition on land disposal of radioactive waste mixed with K174 and K175 wastes, including soil and debris..	3004(g)(4)(C) and 3004(m)	November 8, 2000. 65 FR 67132.

\* \* \* \* \*

**PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION**

13. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

14. In § 302.4, Table 302.4 is amended by adding the following new entries in alphanumeric order at the end of the table to read as follows:

**§ 302.4 Designation of hazardous substances.**

\* \* \* \* \*

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES  
[Note: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA waste No.	Category	Pounds (KG)
K174 <sup>†</sup>			1*	4	K174	X	1(0.454)
K175 <sup>†</sup>			1*	4	K175	X	1(0.454)

† Indicates the statutory sources as defined by 1, 2, 3, and 4 below.

1\*—Indicates that the 1-pound RQ is a CERCLA statutory RQ.

4—Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001.

<sup>†</sup> See 40 CFR 302.6(b)(1) for application of the mixture rule to this hazardous waste.

15. Section 302.6 is amended by revising paragraph (b)(1)(iii) to read as follows:

**§ 302.6 Notification requirements.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*  
(iii) For waste streams K169, K170, K171, K172, K174, and K175, 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
K174 .....	2,3,7,8-TCDD .....	0.000039
	1,2,3,7,8-PeCDD .....	0.0000108
	1,2,3,4,7,8,-HxCDD .....	0.0000241
	1,2,3,6,7,8,-HxCDD .....	0.000083
	1,2,3,7,8,9,-HxCDD .....	0.000062
	1,2,3,4,6,7,8-HpCDD .....	0.00123
	OCDD .....	0.0129
	2,3,7,8-TCDF .....	0.000145
	1,2,3,7,8-PeCDF .....	0.0000777
	2,3,4,7,8-PeCDF .....	0.000127
	1,2,3,4,7,8-HxCDF .....	0.001425
	1,2,3,6,7,8-HxCDF .....	0.000281
	1,2,3,7,8,9-HxCDF .....	0.00014
	2,3,4,6,7,8-HxCDF .....	0.000648
	1,2,3,4,6,7,8-HpCDF .....	0.0207
	1,2,3,4,7,8,9-HpCDF .....	0.0135
	OCDF .....	0.212
K175 .....	Mercury .....	9200

\* \* \* \* \*

[FR Doc. 00-25928 Filed 11-7-00; 8:45 am]

BILLING CODE 6560-50-P

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on radiation hazard. Whenever the RQs 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

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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, K172, K174, and K175, 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:

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Waste	Constituent	max ppm
K174	2,3,7,8-TCDD	0.000039
	1,2,3,7,8-PeCDD	0.0000108
	1,2,3,4,7,8-HxCDD	0.0000241
	1,2,3,6,7,8-HxCDD	0.000083
	1,2,3,7,8,9-HxCDD	0.000062
	1,2,3,4,6,7,8-HpCDD	0.00123
	OCDD	0.0129
	2,3,7,8-TCDF	0.000145
	1,2,3,7,8-PeCDF	0.0000777
	2,3,4,7,8-PeCDF	0.000127
	1,2,3,4,7,8-HxCDF	0.001425
	1,2,3,6,7,8-HxCDF	0.000281
	1,2,3,7,8,9-HxCDF	0.00014
	2,3,4,6,7,8-HxCDF	0.000648
	1,2,3,4,6,7,8-HpCDF	0.0207
	1,2,3,4,7,8,9-HpCDF	0.0135
	OCDF	0.212
K175	Mercury	9200

(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 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; 65 FR 87132, Nov. 8, 2001]

**§ 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,