

**FISH AND WILDLIFE SERVICE
POLLUTION CONTROL**

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6.1 What is the purpose of this chapter? This chapter provides guidance regarding funding sources that may be available to address environmental remediation, abatement, and compliance projects at U.S. Fish and Wildlife Service (Service) facilities.

6.2 What are the authorities for this chapter?

- A.** Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 et seq.).
- B.** Clean Water Act (CWA) (33 U.S.C. 1251 et seq.).
- C.** Clean Air Act (CAA) (42 U.S.C. 7401 et seq.).
- D.** Resource Conservation and Recovery Act, as amended (RCRA) (42 U.S.C. 6901-6992).
- E.** Toxic Substances Control Act (TSCA) (15 U.S.C. 2601-2692).
- F.** Federal Facilities Compliance Act (FFCA) of 1992 (Public Law 102-386).
- G.** Executive Order 12088, Federal Compliance with Pollution Control Standards.
- H.** Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management.
- I.** Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance.

6.3 What terms do you need to know to understand this chapter?

A. Abatement and environmental compliance projects: These projects prevent or eliminate pollution to achieve compliance with applicable environmental standards. Examples include, but are not limited to, projects related to:

- (1) Facility wastewater discharge;
- (2) Asbestos, lead-based paint, and radon mitigation or remediation; and
- (3) Hazardous waste cleanup and disposal.

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B. Hazardous substance:

(1) Hazardous substances include:

- (a) Any substance listed in 40 CFR 302.4, Table 302.4 (“List of Hazardous Substances and Reportable Quantities”);
- (b) CWA hazardous substances listed in 40 CFR 117.3, Table 117.3 (“Reportable Quantities of Hazardous Substances”);
- (c) Hazardous wastes that exhibit any of four characteristics, i.e., ignitability, corrosivity, reactivity, or toxicity, as defined in 40 CFR 261.21 through 40 CFR 261.24 (also see [561 FW 6, Hazardous Waste Management](#));
- (d) Toxic pollutants listed under section 307(a) of the CWA (which you also can find at 40 CFR 401.15.);
- (e) Hazardous air pollutants listed in section 112 of the CAA; and
- (f) Imminently hazardous chemical substances or mixtures that the U.S. Environmental Protection Agency (EPA) has taken action on under section 7 of TSCA.

(2) Although the CERCLA definition of “hazardous substance” does not include petroleum, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, these substances are still considered pollutants under the CWA.

C. Hazardous waste: A solid waste (see [section 6.3H](#) below) with a chemical composition or other properties that are dangerous or potentially harmful to human health or the environment. Hazardous wastes are determined by being on one of EPA’s four lists (F, K, P, or U) or meeting one of four characteristics (ignitability, corrosivity, reactivity, or toxicity) (see [561 FW 6, Hazardous Waste Management](#), Tables 6-2 and 6-3).

D. Potentially Responsible Party (PRP): An individual, company, or other entity that may have caused or contributed to contamination at a site. There are four classes of PRPs:

- (1) Current owners and operators of a facility,
- (2) Past owners and operators of a facility at the time hazardous wastes were disposed of,
- (3) Generators and parties that arranged for the disposal or transport of the hazardous substances, and
- (4) Transporters of hazardous substances.

E. Release (including the threat of release):

(1) A release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous substance.

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(2) This chapter **does not cover** the following releases:

- (a)** Those solely within a workplace and not the environment (we report this type of spill or release to the Regional Safety and Health office);
- (b)** Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;
- (c)** Releases of source, byproduct, or special nuclear material from a nuclear incident (the Atomic Energy Act defines the requirements for such incidents); and
- (d)** The normal application of fertilizer.

(3) See 560 FW 3, Reporting Releases of Hazardous Substances, Oil Discharges, and Contaminated Sites, for more information about reporting those types of releases/sites.

F. Remediation project: A project involving cleanup of hazardous substances released to the environment. Examples include CERCLA response actions (see [561 FW 10, CERCLA Site Cleanup](#)) and the removal and cleanup of leaking underground storage tanks (see [561 FW 7, Underground Storage Tanks](#)).

G. Service facility: Facilities are assets, structures, and public works located on refuges, hatcheries, and other field stations, as well as any location where the Service occupies space, including leased space. In this chapter, “facilities” also include 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, aircraft, vessels, and other vehicles and property.

H. Solid waste: “Solid” is somewhat of a misnomer as the regulations define solid wastes as solid, liquid, semi-solid, or containerized gaseous materials. It is a solid waste if it is:

- (1)** Discarded or has served its intended purpose;
- (2)** Abandoned;
- (3)** Being recycled by being placed on the ground (and that is not the normal use), burned for energy recovery, reclaimed, or accumulated for more than 1 year; or
- (4)** Inherently waste-like (e.g., dioxin wastes).

I. Threat of a release: The definition of “release” includes the threat of release, but the regulations do not define what “threat” means. Courts have held that a substantial threat exists whenever there is a reasonable cause for concern that a discharge or release may occur. For example, a ship running aground, or an employee finding decrepit, abandoned, or discarded barrels or receptacles containing a hazardous substance, pollutant, or contaminant may constitute a threat of release.

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6.4 Who is responsible for administering the program? See Table 6-1.

| Table 6-1: Responsibilities for the remediation, abatement, and environmental compliance program | |
|---|--|
| These employees... | Are responsible for... |
| A. The Director | <p>(1) Budgeting funds for remediation, abatement, and environmental compliance projects in the Service budget; and</p> <p>(2) Requesting that the Regions submit funding proposals for remediation, abatement, and environmental compliance projects.</p> |
| B. The Assistant Director – Business Management and Operations | Budgeting funding through the Construction Plan development process. |
| C. The Chief – National Wildlife Refuge System (NWRS) | Budgeting funding for environmental compliance and cleanup projects conducted on national wildlife refuges through the Refuge Cleanup Fund and the Service Asset and Maintenance Management System. |
| D. The Assistant Director – Fish and Aquatic Conservation | Budgeting funding for environmental compliance and cleanup projects conducted on national fish hatcheries. |
| E. The Assistant Director – Ecological Services | Providing technical assistance to the NWRS and the National Fish Hatchery System (NFHS). |
| F. Regional Directors and the Director, National Conservation Training Center (NCTC) | <p>(1) Requesting funding for and assuring the satisfactory completion of proposed remediation, abatement, and environmental compliance projects for which they are responsible; and</p> <p>(2) Ensuring the timely preparation and submittal of an annual fiscal year report that outlines environmental compliance expenditures and the cleanup status of each Refuge Cleanup Fund remediation, abatement, and cleanup project for which they have responsibility.</p> |
| G. The Chief, Division of Engineering (DEN) | <p>(1) Coordinating the Service's requests for funding from the Department's Central Hazardous Materials Fund and the Service's Construction Plan development process and Emergency Construction Fund;</p> <p>(2) Providing technical assistance to the NWRS and NFHS regarding releases and contaminated sites; and</p> <p>(3) Providing guidance and technical assistance to the Regional Engineers (RENS) and Regional Environmental Compliance Coordinators (RECCs) for the identification, selection, and funding of environmental projects.</p> |
| H. The Chief, Division Restoration and Recovery (in Ecological Services) | Providing technical assistance to NWRS and NFHS staff regarding cleanup of contaminated sites. |
| I. Regional Engineers (RENS)/Regional Environmental Compliance | (1) Identifying and tracking existing and proposed remediation, abatement, and environmental compliance projects discovered during environmental compliance audits; |

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| Table 6-1: Responsibilities for the remediation, abatement, and environmental compliance program | |
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| These employees... | Are responsible for... |
| Coordinators (RECCs) | <p>(2) Assisting with preparation of the annual report (see section 6.6E(2)(e)) in consultation with the Regional Environmental Contaminants Coordinators, NWRS, and NFHS;</p> <p>(3) Providing guidance and technical assistance to NWRS and NFHS staff regarding cleanup of contaminated sites; and</p> <p>(4) Assisting Project Leaders/Facility Managers in determining appropriate funding sources for remediation, abatement, and environmental compliance projects.</p> |
| J. Project Leaders/Facility Managers | <p>(1) Identifying project needs,</p> <p>(2) Submitting requests for funding (see section 6.6), and</p> <p>(3) Submitting annual progress reports (see section 6.6E(2)(e)).</p> |

6.5 How do Project Leaders/Facility Managers identify potential environmental projects? Project Leaders/Facility Managers identify potential projects through:

- A. Compliance audits (see [560 FW 7](#), Environmental Compliance and Environmental Management System Auditing),
- B. Condition assessments (see [372 FW 1](#), Appendix A – *Maintenance Management System Handbook*),
- C. The Contaminants Assessment Process (CAP),
- D. Environmental site assessments associated with real property acquisitions, and
- E. Day-to-day operations.

6.6 What funding sources are available for remediation, abatement, and environmental compliance projects? Once they identify projects, Project Leaders/Facility Managers determine which source of funding is appropriate for their project. The REN/RECC can assist the Project Leaders/Facility Managers in determining the appropriate source from the following funds.

A. Operational Funding. Project Leaders/Facility Managers may use operational funds for minor compliance and removal projects.

B. Deferred Maintenance (DM) Plans. Project Leaders/Facility Managers may use the Service Asset and Maintenance Management System (SAMMS) and the Service's 5-Year DM Planning activity to request deferred maintenance funds for environmental projects involving existing facilities (see [372 FW 1](#)). They will coordinate with Regional Asset Management Coordinators to use SAMMS to document valid DM projects, prepared in accordance with current Departmental guidance. They may include these projects on the Region's priority list.

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C. Service Construction Appropriation. Project Leaders/Facility Managers may request construction funds for environmental projects by sending proposals through the annual 5-Year Capital Improvement Plan development process. Regional Asset Management Coordinators send project priorities to their program office in Headquarters (HQ), consistent with current Departmental guidance, and they may be placed on the 5-year plan. We use this account for large construction projects that do not meet the criteria for DM, such as sewage treatment projects.

D. Emergency Construction Account. The Emergency Construction Account is available to address environmental issues that have critical human health or safety concerns requiring immediate attention. We only use this account for projects that we estimate will cost more than \$100,000. See [360 FW 1, Exhibit 2](#) for detailed procedures.

(1) Process for Requests: Regional Directors submit a written request to the Director for funds from the Emergency Construction Account for specific projects.

(a) The Director sends the requests to the appropriate programmatic Directorate member and the DEN for evaluation. If a project involves cleanup of hazardous substances or oil, the Director also sends the request to the Assistant Director – Ecological Services.

(b) The DEN makes recommendations to the Director and asks for concurrence from the appropriate programmatic Directorate member.

(c) Based on these recommendations, the Director determines whether to fund projects using the Emergency Construction Account.

(2) Types of Projects that Will Be Considered: Following are examples of the types of environmental projects the Director will consider for funding from the Emergency Construction Account:

(a) Emergency response to chemical and hazardous material accidents that cause the release of hazardous substances;

(b) Cleanup of hazardous waste sites where there is a demonstrated need for immediate removal action;

(c) Removal and replacement of leaking underground storage tanks:

(i) To comply with State or Federal law,

(ii) For groundwater remediation if nearby public water supplies or natural resources are threatened, or

(iii) If there is a proven threat to public safety;

(d) Remediation of radon or other hazardous gases or substances that exceed EPA standards or jeopardize human health (see [561 FW 12](#));

(e) Unplanned rehabilitation of existing deteriorated storage facilities for hazardous materials and flammables, if:

(i) The facilities cause an imminent threat of accidental release of toxics by fire or explosion, and

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(ii) The deterioration was caused by factors beyond normal control (normal rehabilitation projects are addressed through SAMMS or the Construction Appropriation (see [sections 6.6B](#) and [6.6C](#)); and

(f) Abatement of friable asbestos that is an immediate threat to human health (see [561 FW 8](#), Asbestos Management).

(3) Coordination: The Chief, DEN coordinates the evaluation and funding of all proposed projects that use Emergency Construction Account funds.

E. Refuge Cleanup Fund. The Refuge Cleanup Fund provides funding for cleanup projects on national wildlife refuges.

(1) The *National Wildlife System Budget Allocation Handbook* provides information on the Refuge Cleanup Fund.

(2) The Director sends a memorandum annually that:

- (a) Invites the Regions to submit funding proposals,
- (b) Provides information on the types of projects that are eligible for funding,
- (c) Outlines criteria used to score the proposals,
- (d) States the deadline for submitting proposals, and
- (e) States the deadline for submitting Regional completion and progress reports.

F. Department of the Interior Central Hazardous Materials Fund.

(1) We may only use the Central Hazardous Materials Fund for CERCLA response actions. To determine if a response to a release or threatened release of hazardous substances is necessary, we must first complete a Preliminary Assessment/Site Inspection (PA/SI) report or the equivalent, as specified by the National Contingency Plan (NCP) (40 CFR 300) (see [561 FW 10](#)).

(2) We must identify and aggressively pursue PRPs to clean up their share of contamination or to recover cleanup costs for their share of contamination on Service-managed land (see [518 DM 2](#)).

(3) Every year the Department asks the bureaus to submit requests for funding from the Central Hazardous Materials Fund for projects that qualify and to provide a status report for each ongoing project.

(a) Project Leaders/Facility Managers must send their proposed projects and status reports to the Environmental Compliance Branch in DEN/HQ.

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(b) Staff in the Environmental Compliance Branch compile the project requests and status reports and send them to the Department.

/sgd/ David Cottingham
ACTING DIRECTOR

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