

**Forest Service Manual
National Headquarters - Washington Office
Washington, DC**

**Forest Service Manual 2100 – Environmental Management
Chapter 2160 - Hazardous Materials Management**

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Date approved:

Responsible Staff:

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Digest: Following is an explanation of the changes throughout the directive by section.

2163 - 2167.22: Incorporates direction to FSM 2164 to 2164.05 on hazardous substance management formerly in interim directive 2160-94-1 and adds additional parent text direction on the management of hazardous materials, including requisite environmental and safety and health programs.

Table of Contents

2163 - Hazardous Waste Management.....	4
2163.01 - Authority	4
2163.02 - Objective	4
2163.03 - Policy.....	4
2163.04 - Responsibility	5
2163.05 - Definitions	5
2163.06 - Reference	6
2163.1 - Generation	6
2163.11 - Generator Category	6
2163.2 - On-Site Management	7
2163.3 - Transportation of Hazardous Waste.....	8
2163.31 - Off-Site Transportation of Hazardous Waste	8
2163.32 - On-Site Transportation of Hazardous Waste	8
2163.33 - Manifest	8
2163.4 - Disposal	9
2163.5 - Hazardous Waste Pollution Prevention	9
2163.6 - Hazardous Waste Contingency Planning	10
2164 - Hazardous Substance Management.....	10
2164.01 - Authority	10
2164.03 - Policy.....	11
2164.04 - Responsibility	12
2164.04a - Chief	12
2164.04b - Washington Office, Director of Engineering	12
2164.04c - Regional Foresters and Station Directors.....	13
2164.04d - Forest Supervisors.....	16
2164.05 - Definitions	18
2164.06 - Reference	19
2165 - Response To Hazardous Materials Releases.....	20
2165.01 - Authority	20
2165.02 - Objective	20
2165.03 - Policy.....	21
2165.04 - Responsibility	21
2165.05 - Definitions	21
2165.1 - Response Planning	21
2165.11 - Planning for Hazardous Waste Releases from Forest Service Facilities	21
2165.12 - Planning for Incidental Releases of Hazardous Chemicals and Oil from Forest Service Facilities.....	22
2165.13 - Planning for Large Releases of Hazardous Materials from Forest Service Facilities.....	22
2165.14 - Planning for Hazardous Materials Releases from Third Parties.....	23
2165.15 - Community Involvement Planning Requirements	23

Forest Service Manual 2100 – Environmental Management
Chapter 2160 - Hazardous Materials Management
Amendment: 2100-1994-3
Effective date: November 10, 1994

2165.2 - Written Response Plan	24
2165.3 - Reporting	24
2165.31 - Responsibility for Reporting to National Response Center	24
2165.32 - Responsibility for Reporting to Local Emergency Planning Committee (LEPC) or State Emergency Response Commission (SERC)	25
2165.4 - Recordkeeping	25
2165.5 - Training	25
2166 - Real Property Conveyances and Acquisitions	25
2166.05 - Definitions	25
2166.1 - Federal Real Property Containing Hazardous Substances.....	26
2166.2 - Federal Real Property Not Containing Hazardous Substances or Petroleum Products	27
2166.3 - Federal Real Property Containing Oil	28
2166.4 - Acquisition of Real Property	28
2167 - Related Programs.....	29
2167.01 - Authority	29
2167.1 - Other Hazardous Materials	29
2167.11 - Explosives	29
2167.12 - Pesticides.....	30
2167.13 - Asbestos	30
2167.14 - Radioactive Materials	30
2167.14a - Radon	30
2167.14b - Radioisotopes and Radiological Equipment.....	31
2167.15 - Underground Storage Tanks.....	31
2167.16 - Wood Preservatives	31
2167.17 - Lead.....	31
2167.18 - Fire Suppression Safety	31
2167.2 - Safety and Health	31
2167.21 - Medical Surveillance	31
2167.22 - Accident Investigation, Notification, and Reporting.....	32

2163 - Hazardous Waste Management

This section addresses reduction of wastestreams and compliance with Federal regulations for accumulation, transportation, and disposal of hazardous wastes generated by small quantity generators and conditionally exempt small quantity generators. Additional requirements apply to large quantity generators and facilities that are permitted to treat, store, and dispose of hazardous waste. Because Forest Service facilities do not generally fall into the latter categories for large quantity generators and treatment, storage, and disposal facilities, only cross-references to the applicable Federal regulations are provided. Units are responsible for identifying any additional requirements for compliance with applicable State and local environmental regulations.

2163.01 - Authority

(FSM 2160.1).

1. Resource Conservation and Recovery Act (RCRA) (FSM 2160.1, para. 4).
2. Title 40, Code of Federal Regulations, Parts 260-279 (40 CFR 260-279), set forth the requirements established by the Environmental Protection Agency for hazardous waste generators, transporters, treatment, storage, and disposal facilities.
3. Agriculture Property Management Regulations, chapter 104, part 42, Disposal of Hazardous Materials (FSM 2160.1, para. 16) prescribes USDA requirements for disposal and reutilization of hazardous material.

2163.02 - Objective

To develop an overall program for hazardous material use and waste management resulting in the lowest possible generation of hazardous waste.

2163.03 - Policy

1. Clean up and recycle, or otherwise properly dispose of, all unused and/or unneeded accumulated chemicals.
2. Comply with all applicable aspects of Resource Conservation and Recovery Act (RCRA) generation, transportation, and disposal rules and all applicable State and local hazardous waste regulations.
3. Ensure that all containers of waste materials, including nonhazardous wastes, are marked indicating the contents of the container.
4. Establish appropriate long-term waste minimization and generator compliance programs.

5. Treat, store, and dispose of all RCRA hazardous waste in permitted off-site facilities. No RCRA treatment, storage, or disposal permits should be obtained for National Forest System lands or lands leased by the Forest Service.

2163.04 - Responsibility

(FSM 2160.4, FSM 2160.43b-d, FSM 2161.04c).

2163.05 - Definitions

Acutely Hazardous Wastes. Wastes that the Environmental Protection Agency has determined to be so dangerous in small amounts that they are regulated the same way as are large amounts of other hazardous wastes. See 40 CFR 261.33(e) for a list of acutely hazardous wastes.

Conditionally Exempt Small Quantity Generator. A facility that generates no more than 100 kilograms (about 220 pounds) of hazardous waste and no more than 1 kilogram (about 2.2 pounds) of acutely hazardous waste in any calendar month and never stores more than 1,000 kilograms of hazardous waste or more than 1 kilogram of acutely hazardous waste at any one time (40 CFR 261.5).

Facility. All contiguous land and structures used for treating, storing, or disposing of hazardous waste (40 CFR 260.10). Note that this definition is broader than that for a facility under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Hazardous Waste Generation. The act or process of producing hazardous waste.

Large Quantity Generator. A facility that generates 1,000 kilograms (about 2,200 pounds) or more of hazardous waste or more than 1 kilogram of acutely hazardous waste in any calendar month.

Manifest. A multicopy shipping document originated by the generator that tracks the hazardous waste from the time it leaves the small quantity or large quantity generating facility until it reaches its final destination (40 CFR 260.10).

On-Site. The same or contiguous property that may be divided by a public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection and that access is by crossing, as opposed to going along, the right-of-way (40 CFR 260.10).

Small Quantity Generator. A facility that generates more than 100 kilograms and less than 1,000 kilograms (between 220 and 2,200 pounds) of hazardous waste and no more than 1 kilogram of acutely hazardous waste in any calendar month and never stores more than 6,000 kilograms of hazardous waste or more than 1 kilogram of acutely hazardous waste at any one time (40 CFR 260.10).

2163.06 - Reference

Environmental Protection Agency. May 1992. Facility Pollution Prevention Guide (EPA/600/R-92/088). (Available through U.S. Department of Commerce, National Technical Information Service, Springfield, VA 22161.)

2163.1 - Generation

Generators of hazardous waste are the first link in the "cradle-to-grave" chain of hazardous waste management established under the Resource Conservation and Recovery Act (RCRA). Under Subtitle C of RCRA determine:

1. If a solid waste as defined in 40 CFR 261.2 is being generated; and
2. If that solid waste is a hazardous waste as defined in 40 CFR 261.3.

2163.11 - Generator Category

The applicability of certain provisions of RCRA regulations is dependent on the volume of hazardous waste a facility generates in a particular month. The generator must determine the appropriate generator category for each month (FSM 2163.05). Note that as the volume of hazardous waste generation varies, the generator category for that particular month may also change and, therefore, the applicable provisions of the RCRA regulations with which the facility must comply will also vary. The provisions of RCRA that apply according to generator category are as follows:

1. Small quantity generators and large quantity generators of hazardous waste are subject to 40 CFR 262, which requires:
 - a. Determining if the waste is hazardous waste (40 CFR 262.11).
 - b. Obtaining a Environmental Protection Agency Identification Number (40 CFR 262.12).
 - c. Preparing waste for transportation (40 CFR 262.30-33).
 - d. Following accumulation and storage requirements (40 CFR 262.34).
 - e. Preparing a manifest for off-site shipments of hazardous waste (40 CFR Part 262, Subpart B).
 - f. Recordkeeping and reporting (40 CFR Part 262, Subpart D).

2. Conditionally exempt small quantity generators have substantially fewer regulatory requirements (40 CFR 261.5); however, they must:

- a. Identify solid wastes and determine if they are hazardous wastes.
- b. Ensure that the waste is sent to a permitted hazardous waste disposal facility, a permitted municipal or industrial solid waste facility, or a recycling facility.

2163.2 - On-Site Management

Hazardous waste generated at Forest Service facilities must be shipped to off-site storage, treatment, recycling, or disposal facilities that are operating in compliance with the applicable Federal, State, and local environmental regulations. Forest Service facilities may temporarily store hazardous wastes on-site without a RCRA storage permit provided the facilities comply with the following provisions:

1. Small quantity generators may accumulate wastes for a maximum of 180 days. If the wastes must be shipped to a treatment or disposal facility that is located over 200 miles away, a small quantity generator may accumulate wastes for up to 270 days. Large quantity generators may accumulate wastes for up to 90 days. Conditionally exempt small quantity generators have no maximum timeframe for waste accumulation.
2. Containers storing wastes are marked with the words "HAZARDOUS WASTE." Small quantity generators and large quantity generators must also mark the container with the date the waste was first placed in that container.
3. Containers are inspected weekly for corrosion and leaks. This provision applies to small quantity generators and large quantity generators only. Maintain an inspection log on site documenting the results of the weekly inspections.
4. Containers used for the accumulation and storage of hazardous waste comply with the specifications outlined in 49 CFR 172.101, Hazardous Materials Table.
5. Containers are in good condition, compatible with the type of wastes stored, and kept closed except when filling. No liquids are stored in open top drums.
6. Appropriate separation is provided for incompatible wastes.
7. Empty containers should be marked "EMPTY." Containers storing nonhazardous wastes should be marked with the name of the contents or "NONHAZARDOUS WASTE."
8. Large quantity generators have a written contingency plan that complies with the requirements of 40 CFR Part 265, Subpart D, Contingency Plan and Emergency Procedures. Small quantity generators comply with the less stringent requirements outlined in FSM 2165.11. Although there is no Environmental Protection Agency regulation requiring a contingency plan

at conditionally exempt small quantity generator facilities, Forest Service facilities in this category should comply with the requirements outlined in FSM 2165.11.

2163.3 - Transportation of Hazardous Waste

2163.31 - Off-Site Transportation of Hazardous Waste

Transporters of hazardous waste are the critical link between the generator and the ultimate off-site hazardous waste treatment, storage, or disposal facility. Transporters must comply with Department of Transportation regulations under 49 CFR 100-199, as well as with Environmental Protection Agency regulations under 40 CFR 263. In addition, many States have transportation regulations that are significantly more stringent than the Federal regulations.

Line officers are responsible for the safe transport of wastes to disposal facilities, even though these wastes are not under their direct control during transport (FSM 2163.04). Use only trained, reliable, and reputable transporters, and ensure that they comply with both the Department of Transportation and Environmental Protection Agency regulations. As a minimum, the transporters shall be required to:

1. Obtain a Environmental Protection Agency identification number.
2. Comply with the manifest system.
3. Handle (and be in a position to handle) any spill or release of materials.

All containers to be used for shipping waste must be acceptable for transport, as outlined in Department of Transportation regulations. Properly label containers for shipment.

Preparation of hazardous waste for shipment is a complex and highly regulated procedure; therefore, consider utilization of one of the many full service contractors that provide this service.

2163.32 - On-Site Transportation of Hazardous Waste

On-site (FSM 2163.05) transportation of hazardous waste does not require a manifest as specified in FSM 2163.31. However, Forest Service employees involved in on-site transportation of hazardous waste must comply with FSH 7109.19, chapter 60.

2163.33 - Manifest

Hazardous waste generated by large quantity and small quantity generators must be accompanied by a Uniform Hazardous Waste Manifest (40 CFR Part 262, Subpart B) when shipped off-site for treatment, storage, or disposal. The Forest Service must:

1. Prepare a manifest for all off-site shipments of hazardous wastes from facilities that are in the small-quantity and large-quantity generator category. Conditionally exempt small-

quantity generators are not required to use the Uniform Hazardous Waste Manifest. However, Forest Service facilities that are in the conditionally exempt small quantity generator category shall establish a similar permanent record of off-site hazardous waste treatment, storage, and disposal activities.

2. Maintain a permanent manifest file for each Forest Service facility. The manifest is a primary document in determining potentially responsible parties at uncontrolled hazardous materials sites and must be maintained as a documentation of Forest Service waste activities.

3. Track the return of the signed manifests. The treatment, storage, or disposal facility must return a signed copy of the manifest to a small quantity generator within 60 days of initiation of the shipment (40 CFR 262.42(b)) and within 45 days for large quantity generators (40 CFR 262.42(a)). The Forest Service must notify Environmental Protection Agency if the manifest is not returned in the specified timeframes.

2163.4 - Disposal

The Forest Service maintains long-term liability for all Forest Service generated hazardous waste. For this reason, carefully consider pollution prevention techniques (FSM 2163.5) prior to hazardous waste disposal. If hazardous wastes must be treated, stored or disposed, carefully select facilities to be used. The line officer shall ensure that the facility is:

1. Permitted to accept the hazardous waste; and
2. Operating in compliance with the permit requirements.

This can be done by requesting, as part of the bid proposal, copies of the appropriate environmental permits and the most recent inspection by a regulatory agency, and by contacting the State and local environmental agencies for information on the facility's compliance and permit status.

Large-quantity and small-quantity generators must send hazardous waste to treatment, storage, and disposal facilities permitted under RCRA. Conditionally exempt small-quantity generators may send hazardous waste to a RCRA hazardous waste facility or to a landfill or other facility approved by the State to manage municipal or industrial solid waste.

2163.5 - Hazardous Waste Pollution Prevention

Comply with the guidelines established in the unit's pollution prevention plan (FSM 2160.43c, para. 3). Minimize wastestreams through source reduction, conservation, proper recycling, and reuse of hazardous materials. Procure only those hazardous chemicals required for an activity to avoid accumulation of excess unused materials that could then become a waste subject to RCRA disposal requirements.

Seek alternative equivalent nonhazardous chemicals or processes that use fewer or no chemicals to accomplish specific tasks; thus, avoiding or reducing hazardous waste disposal requirements.

Develop and address the following practices in a waste minimization program: inventory control, waste segregation, employee training and motivation, material handling improvements, spill control, good housekeeping, and information exchange.

For additional guidance on pollution prevention, see Environmental Protection Agency publication, Facility Pollution Prevention Guide (FSM 2163.06).

2163.6 - Hazardous Waste Contingency Planning

(FSM 2160.43c, FSM 2165).

2164 - Hazardous Substance Management

For related direction on funding of actions required by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), see section 95 of FSH 6509.11g, Service-wide Appropriation Use Handbook. For additional information on CERCLA response actions, see the Forest Service Guide to CERCLA (FSM 2164.06).

2164.01 - Authority

(FSM 2160.1).

1. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; FSM 2160.1, para. 2).
2. Executive Order 12580 (E.O. 12580; FSM 2160.1, para. 15).
3. Agriculture Property Management Regulations, chapter 104, part 42 (FSH 6409.31 - AGPMR 104-42; FSM 2160.1, para. 16).
4. Title 40, Code of Federal Regulations, Part 300 (40 CFR 300), National Oil and Hazardous Substances Pollution Contingency Plan (FSM 2160.1, para. 17).
5. Title 36, Code of Federal Regulations, Part 228 (36 CFR 228), Minerals (FSM 2160.1, para. 18).
6. Title 43, Code of Federal Regulations, Part 11 (43 CFR 11), Natural Resource Damage Assessments (FSM 2160.1, para. 22).
7. Title 7, Code of Federal Regulations, Section 2.60 (7 CFR 2.60), Chief, Forest Service (FSM 2160.1, para. 24).

2164.03 - Policy

1. Ensure that response actions taken by the Forest Service pursuant to CERCLA are consistent with the National Contingency Plan (40 CFR Part 300; 42 U.S.C. 9604(a)). This policy applies whether or not such responses are related to a site on the National Priorities List.

2. Do not use National Forest System lands for permanent treatment, storage, or disposal of Resource Conservation and Recovery Act (RCRA) hazardous wastes or Toxic Substances Control Act (TSCA) toxic substances resulting from CERCLA response actions taken on non-National Forest System lands and lands leased by the Forest Service.

3. Initiate cost recovery actions for cleanup of hazardous substances unless the Regional Forester or Station Director has made and has documented in the administrative record, the decision not to initiate cost recovery actions. Decisions not to initiate cost recovery shall be based only on such factors as the absence of potentially responsible parties; disproportionate litigation risks, such as financial insolvency of potentially responsible parties or absence of evidence implicating these parties; or response costs that are minimal in relation to the expense of recovering the costs. Consult the appropriate Office of General Counsel before making a final determination not to pursue cost recovery.

4. Complete a natural resource damage preassessment screen (43 CFR 11) when there is a discovery or notification of injury to natural resources on National Forest System lands. Initiate a natural resource damage assessment when the results of the preassessment screen indicate further assessment of the injuries is justified (43 CFR 11.23(e)(1-5)).

Consult with the appropriate Office of General Counsel prior to participating in natural resource damage activities where the Forest Service is a potentially responsible party or is a defendant in a lawsuit.

5. Pursue potentially responsible parties in order to have them conduct or fund investigative work, removal actions, remedial actions, and natural resource damage actions resulting from:

- a. Releases of hazardous substances;
- b. Discharges of oil; and
- c. Uncontrolled hazardous materials sites.

6. Serve as the lead agency in planning and implementing remedial actions and removal actions other than emergencies, where the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of the Forest Service. The Forest Service maintains its lead agency responsibilities whether the remedy is selected by the Forest Service for sites that are not on the National Priorities List or by the Environmental Protection

Agency and the Forest Service or by the Environmental Protection Agency alone under CERCLA section 120 (42 U.S.C. 9620) for sites that are on the National Priorities List.

2164.04 - Responsibility

2164.04a - Chief

As the Secretary's designated Natural Resource Trustee (7 CFR 2.60(a)(43)), the Chief of the Forest Service has the authority to conduct assessments of the impact of releases of hazardous substances and discharges of oil on the natural resources on National Forest System lands and to seek restitution from potentially responsible parties for injuries to these resources (42 U.S.C. 9601(14)).

2164.04b - Washington Office, Director of Engineering

It is the responsibility of the Washington Office, Director of Engineering to provide overall program leadership and coordination for the Forest Service Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) program. These responsibilities include:

1. CERCLA Coordinator. Designating a national CERCLA coordinator to provide overall leadership and coordination of the program.

2. Removal and Remedial Actions.

a. Ensuring that removal and remedial action cases are referred to the Office of General Counsel for litigation, if appropriate.

b. Ensuring that an inventory of all cases is maintained based on Regional Office and Station records.

3. Natural Resource Damage Assessment Actions.

a. Coordinating interagency activities, which include:

(1) When appropriate, entering into a memorandum of understanding with the Environmental Protection Agency regarding early notification and participation in settlements and litigation involving potential natural resource damage claims arising from a National Priorities List site.

(2) When appropriate, cooperating with State, tribal, and other Federal natural resource trustees through memorandums of understanding (FSM 1580) that set forth the procedures and responsibilities for inter-trustee notification and coordination.

b. Ensuring that an inventory of all natural resource damage cases based on Regional Office and Station records is maintained.

- c. Providing technical support in the evaluation of damage assessment methods other than those outlined in 43 CFR 11, taking into consideration the amount of damages and the alternate methods considered by the Regional Forester or Station Director for a particular case.
- d. Ensuring that natural resource damage cases are forwarded to Office of General Counsel for referral to the Department of Justice for litigation.

2164.04c - Regional Foresters and Station Directors

The responsibilities in the following paragraphs 1 through 3 may be delegated to a Regional Office Staff Director. It is the responsibility of the Regional Foresters and Station Directors:

1. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Coordinator. To designate a Region or Station CERCLA Coordinator to provide overall leadership and coordination for the unit.

2. CERCLA Response Actions. For CERCLA response actions to:

- a. Coordinate Region or Station planning, preparedness, and response activities with other Federal, State, and local agencies, and private entities. See 40 CFR 300.170 and 300.175(a)(6) for agency responsibilities.
- b. Review, approve, and initiate response actions pursuant to 42 U.S.C. 9604 and 42 U.S.C. 9620. Consult with the appropriate Office of General Counsel on legal issues relating to hazardous materials laws.
- c. Enter into settlements, after consulting with the appropriate Office of General Counsel and obtaining the concurrence of the Department of Justice, if the total CERCLA response cost (FSM 2165.05) for all phases of all response actions at the entire site is equal to or greater than \$500,000 (excluding interest).
- d. Execute settlements involving claims where the total CERCLA response cost for all phases of all response actions at the entire site is under \$500,000 (excluding interest). The Office of General Counsel should be consulted, but the concurrence of the Department of Justice is not necessary for these settlements.
- e. Determine whether cost recovery should be pursued pursuant to section 107 of CERCLA (42 U.S.C. 9607). If cost recovery is not pursued, document the basis for this decision in the administrative record. See 40 CFR 300.800-825 for specific guidance for the creation and maintenance of the administrative record. Notify the Director of Engineering, Washington Office, of all cost recovery cases and decisions including the basis of any decision not to pursue cost recovery.

- f. Sign notices and demand letters to potentially responsible parties informing them of the Forest Service intent to take response action pursuant to CERCLA; and sign information requests pursuant to section 104(e) of CERCLA (42 U.S.C. 9604(e)).
- g. If a request for access to information, entry, or inspection, and samples is denied by a potentially responsible party, issue a compliance order with the concurrence of the Department of Justice directing compliance with the request (42 U.S.C. 9604(e)(5)). Refer denials of the compliance order to the Regional CERCLA Coordinator for forwarding through the Office of General Counsel for Department of Justice enforcement (42 U.S.C. 9604(e)(5)(B)).
- h. Send bills for collection for costs incurred pursuant to section 107(a)(4) of CERCLA (42 U.S.C. 9607(a)(4)).
- i. Ensure that documentation for all costs incurred by each unit from site discovery through cleanup is kept in the site-specific administrative record.
- j. Acquire by purchase, lease, condemnation, donation, or other means, the private property that is needed to conduct a remedial action pursuant to the requirements of 42 U.S.C. 9604(j).
- k. Approve in writing the use of National Forest System lands for the permanent treatment, storage, or disposal of hazardous substances resulting from CERCLA response actions taken on National Forest System lands pursuant to the National Contingency Plan.
- l. Sign Administrative Orders on Consent and other private settlement agreements, if applicable, where the Forest Service is a potentially responsible party after consulting with the appropriate Office of General Counsel. Contact the Department of Justice through the Office of General Counsel concerning the use of the Judgement Fund to pay settlement agreements.
- m. Ensure that Forest Service personnel working at uncontrolled hazardous materials sites receive safety and health training as required by 40 CFR 300.150 and all applicable sections of 29 CFR 1910, General Industry Standards.
- n. Ensure that all Forest Service employees working at uncontrolled hazardous materials sites are furnished with, and required to wear, applicable personal protective clothing and equipment.
- o. Ensure that a medical surveillance program is instituted for Forest Service employees working at uncontrolled hazardous materials sites as required in 29 CFR 1910.120(f).
- p. Provide assistance to the Office of General Counsel in preparation of litigation reports for referrals to the Department of Justice.

3. Natural Resource Damage Assessment Actions. For natural resource damage assessment actions to:

- a. Act as the authorized official on behalf of the Forest Service as Natural Resource Damage Trustee for all natural resource damage actions arising under CERCLA (42 U.S.C. 9607(f)) and the Oil Pollution Act (33 U.S.C. 2701; FSM 2160.1, para. 11).
- b. Make the formal discovery of injury to a natural resource resulting from the release or threatened release of a hazardous substance or discharge of oil.
- c. Notify the Washington Office, Director of Engineering; Office of General Counsel; other trustees; and potentially responsible parties of injuries to natural resources resulting from the release or threatened release of hazardous substances or oil. Encourage involvement by all other trustees in order to avoid duplication of effort; expedite the natural resource damage assessment; and present a coordinated front to the potentially responsible parties.
- d. Ensure that natural resource damage assessment activities are undertaken where necessary and review and approve, as appropriate, each of the following:
 - (1) Preassessment screens;
 - (2) Assessment plans;
 - (3) Damage assessments; and
 - (4) Restoration plans.
- e. Sign notice and demand letters to potentially responsible parties informing them of the Forest Service intent to take a natural resource damage action pursuant to CERCLA section 107(f); sign information requests pursuant to section 104(e) of CERCLA (42 U.S.C. 9604(e)); and send bills for collection for costs incurred pursuant to section 107(a)(4)(C) of CERCLA (42 U.S.C. 9607(a)(4)(C)).
- f. Perform a financial capability analysis based in part on information submitted by potentially responsible parties in response to requests made pursuant to section 104(e) of CERCLA. In addition, investigate other independent sources of financial information to make a determination of the viability of potentially responsible parties.
- g. Determine whether natural resource damage action should be pursued under section 107 of CERCLA (42 U.S.C. 9607). If no natural resource damage has occurred or a decision is made not to pursue a natural resource damage action, this must be documented in the administrative record.

- h. Enter into settlements, after obtaining the concurrence of the Department of Justice, for preliminary and final natural resource damage estimates (FSM 2164.05) for all trustee actions where the the natural resource damage estimates plus total CERCLA response costs are equal to or greater than \$500,000 (excluding interest).
- i. Execute settlements involving claims where the total natural resource damage estimates for all trustee actions plus the total CERCLA response costs are under \$500,000 (excluding interest). The appropriate Office of General Counsel should be consulted, but the concurrence of the Department of Justice is not necessary for these settlements.
- j. When determinations have been made that no quantifiable natural resource damages have occurred on National Forest System lands in connection with specific CERCLA sites and when it is in the best interest of the Government (for example, when the Environmental Protection Agency has requested the Forest Service to sign a covenant in a consent decree), sign a covenant not-to-sue to that effect pursuant to section 122 of CERCLA (42 U.S.C. 9622).
- k. Sign Administrative Orders on Consent and other private settlement agreements, if applicable, where the Forest Service is a potentially responsible party after consulting with the appropriate Office of General Counsel. Contact the Department of Justice through the Office of General Counsel concerning the use of the Judgement Fund to pay settlement agreements.
- l. When appropriate, enter into a memorandum of understanding or interagency agreement (FSM 1580) to cooperate with Federal, State, and tribal natural resource trustees regarding natural resource damage actions.
- m. Coordinate all phases of the natural resource damage assessment actions with the appropriate Office of General Counsel.

2164.04d - Forest Supervisors

It is the responsibility of the Forest Supervisors to:

1. Removal and Remedial Actions:

- a. Conduct the appropriate site investigations and searches for potentially responsible parties.
- b. Recommend options to the Regional Forester and implement the response action selected by the Regional Forester for a site pursuant to sections 104, 121, and 116(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; 42 U.S.C. 9604, 9621, and 9616(a)).

- c. Recommend for Regional Forester approval, staff to act as Remedial Project Managers and On-Scene Coordinators for removal actions and remedial actions.
 - d. If a request for access to information, entry, or inspection, and samples is denied by a potentially responsible party, issue a compliance order with the concurrence of the Department of Justice directing compliance with the request (42 U.S.C. 9604(e)(5)). Refer denials of the compliance order through the appropriate Office of General Counsel for Department of Justice enforcement (42 U.S.C. 9604(e)(5)(B)).
 - e. Establish an administrative record for investigations and response actions taken at each site pursuant to section 113(k) of CERCLA (42 U.S.C. 9613(k)) and 40 CFR 300.800.
 - f. Develop and implement public information and community relations programs for response actions (40 CFR 300.155).
 - g. Prepare response and litigation reports and recommendations for cost recovery response actions and settlements.
2. Natural Resource Damage Assessment Actions:
- a. Notify the Regional Forester of any natural resource injuries that appear to have resulted from the release of a hazardous substance or a discharge of oil.
 - b. Recommend to the Regional Forester the need for a preassessment screen.
 - c. Work with the Regional Office on natural resource damage assessment actions as appropriate.
 - d. Provide the field data necessary to support natural resource damage assessment actions.
3. Forest Service as a Potentially Responsible Party.
- a. Inform the Regional Forester and the appropriate Office of General Counsel if the Forest is notified by the Environmental Protection Agency, the State, or local authorities that the Forest Service is a potentially responsible party at a CERCLA site or, if the Forest has independent knowledge, that it is a potentially responsible party.
 - b. Provide the Environmental Protection Agency, State, and local agencies with all requested information except that which is privileged or confidential.
 - c. Participate in steering committees formed by potentially responsible parties subject to compliance with the Federal Advisory Committee Act (FACA; 5 U.S.C. app. 2, sec. 1 to 15). Consult the appropriate Office of General Counsel to ensure participation is in compliance with FACA.

- d. Consult the appropriate Office of General Counsel at all stages of the process.

2164.05 - Definitions

Administrative Record. Official record containing the factual information, data, and analysis documents that form the basis for the selection of the response action. Specific requirements for the administrative record are found in 40 CFR 300.800.

Lead Agency. The agency that provides the Remedial Project Manager or On Scene Coordinator who plans and implements the response action consistent with the National Contingency Plan (40 CFR 300.5).

National Contingency Plan. The Environmental Protection Agency's plan to provide the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances (40 CFR 300.2).

National Priorities List. The list compiled by the Environmental Protection Agency of hazardous waste sites that are priorities for remedial evaluation and response (40 CFR 300.5).

National Response Team. A team chaired by the Environmental Protection Agency and the U.S. Coast Guard. The team is made up of representatives of several Federal agencies, including the Department of Agriculture. The team is responsible for national response and preparedness planning for releases of hazardous substances and discharges of oil (40 CFR 300.105).

Natural Resource Damage Estimate. This estimate includes past costs and estimated future costs of natural damage preassessment screens and assessments; injury restoration; rehabilitation; acquisition of equivalent natural resources; and loss use values including salaries, per diem, travel, equipment purchased or rented, materials purchased, contractor services, consulting fees, interest, and indirect overhead costs.

Potentially Responsible Parties. The owner or operator of a facility or vessel where a hazardous substance has been deposited, stored, disposed of, or otherwise come to be located; any person who at the time of disposal of a hazardous substance owned or operated the facility; any person who arranged for the treatment, transportation, or disposal of a hazardous substance; or any person who accepts hazardous substances for transport to disposal or treatment facilities selected by such person (42 U.S.C. 9607 (a)).

Release. 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 containing any hazardous substance or pollutant or contaminant) but excluding:

Total CERCLA Response Cost. Includes salaries, per diem, travel, equipment purchased or rented, materials purchased, contractor services, consulting fees, interest, and indirect overhead costs for all CERCLA activities.

1. Any release that results in exposure to persons solely within a workplace;
2. Emissions from engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;
3. Releases of source, by product, or special nuclear material that is subject to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA; 42 U.S.C. 2011 et seq); or
4. Normal application of fertilizer (42 U.S.C. 9601(22)).

Removal Action. Actions taken, pursuant to 40 CFR 300.415, to prevent, minimize, or mitigate damage to the public health or welfare or to the environment that may otherwise result from a release or threat of release of hazardous substances. Types of removal actions, for which the Forest Service has been delegated response authority, are:

1. Time-critical where on-site activity is required within 6 months of the determination that a removal action is appropriate.
2. Nontime-critical where a planning period of at least 6 months exists before on-site activities must be initiated and a determination has been made that a removal action is appropriate.

Trustee. An official of a Federal or State natural resources management agency or Indian tribe who may pursue claims for damages under CERCLA (42 U.S.C. 9607(f)). Federal trustees are designated in Executive Order 12580. Federal, State and Indian tribal trustees are listed in the National Contingency Plan (40 CFR 300, Subpart G).

2164.06 - Reference

United States Department of Agriculture, Forest Service. January 1994. Forest Service Guide to CERCLA (EM-2160-1). (Available through USDA - Forest Service, Engineering Staff, P.O.Box 96090, Washington, DC 20090-6090.)

2165 - Response To Hazardous Materials Releases

2165.01 - Authority

(FSM 2160.1).

1. Resource Conservation and Recovery Act (RCRA; FSM 2160.1, para. 4).
2. Emergency Planning and Community Right-to-Know Act (EPCRA; 42 United States Code section 11001 et seq.; 42 U.S.C. 11001 et seq.; FSM 2160.1, para. 2) establishes release reporting and planning requirements for facilities that handle certain types and volumes of hazardous materials.
3. Occupational Safety and Health Administration (OSHA; FSM 2160.1, para. 1).
4. Requirements for planning for response to releases of hazardous materials are in the following Federal regulations:
 - a. Title 40, Code of Federal Regulations, section 262.34 (40 CFR 262.34) for planning for response to hazardous waste releases.
 - b. 29 CFR 1910.120 for planning for response to:
 - (1) Hazardous chemical releases from Forest Service facilities or operations that are beyond the ability of personnel in the immediate work area to clean up; and
 - (2) Hazardous material releases by third parties on or affecting National Forest System lands such as from permittee operations, illegal abandoned dumps, or transportation accidents.
 - c. 29 CFR 1920.1200 for planning for response to incidental releases of hazardous chemicals from Forest Service facilities or operations that can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate area or by maintenance personnel.
 - d. 40 CFR 355 for involvement in community planning efforts for response to hazardous material releases.

2165.02 - Objective

To develop a coordinated hazardous materials release response program that applies to every level of the organization.

2165.03 - Policy

Develop and maintain a Region, Forest, Station, and Laboratory response plan that outlines procedures for reporting and responding to releases of hazardous materials, including discharges of oil.

2165.04 - Responsibility

Each Regional Forester and Station Director is responsible for the development of response plans. These plans should be developed within the framework of direction in this chapter and should include response actions specific to each unit but consistent with the next higher organizational level's plan.

2165.05 - Definitions

Reportable Quantity. Table 302.4 of 40 CFR 302 lists hazardous substances and associated quantities for each substance. In 40 CFR 302.5(b), additional hazardous substances are specified and associated quantities are provided.

Reportable Quantity Release. If, in a 24-hour period, a quantity equal to or greater than the quantity specified in table 302.4 or in section 302.5 is released, that release (FSM 2164.05) is a reportable quantity for the purposes of reporting to the National Response Center (1-800-424-8802).

2165.1 - Response Planning

2165.11 - Planning for Hazardous Waste Releases from Forest Service Facilities

The Resource Conservation and Recovery Act (RCRA) implementing regulations (40 CFR 262.34(d)) require that small quantity generators comply with the following response planning provisions for temporary storage of hazardous wastes. Although not required by RCRA regulation, Forest Service conditionally exempt small quantity generators should also comply with the provisions outlined in paragraphs 1, 4, 5, and 6. Large quantity generators have additional requirements as outlined in 40 CFR 262.

1. The appropriate types of emergency communication and fire fighting equipment for the types of waste generated are available, are tested periodically, and are in good working order (40 CFR 265.32 - 265.34).
2. Aisle space is available for movement of emergency response equipment through the facility (40 CFR 265.35).
3. Local fire, police, and hospital officials or State or local emergency response teams are contacted in writing to explain the types of wastes handled at the facility and to ask for their cooperation and assistance in handling emergency situations (40 CFR 265.37).

4. The pollution prevention or emergency response program coordinator is designated and on call to coordinate response to any emergency situation (40 CFR 262.34(d)(5)(i)).

5. The following information is posted at telephones (40 CFR 262.34(d)(5)(ii)) in the vicinity of hazardous waste storage areas:

- a. The name and phone number of the pollution prevention or emergency response coordinator (at all times, one employee must be available on the premise or on call to coordinate all emergency response actions).
- b. The phone number of the fire department.
- c. The location of fire extinguishers and other spill response equipment.

6. All employees are thoroughly familiar with their duties should an emergency arise (40 CFR 262.34(d)(5)(iii)).

2165.12 - Planning for Incidental Releases of Hazardous Chemicals and Oil from Forest Service Facilities

In the event of a release of a hazardous chemical or a discharge of oil from a Forest Service facility by Forest Service personnel where the chemical or oil can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate area or by maintenance personnel and where a written site-specific contingency plan is available, Forest Service employees designated in the contingency plan may undertake the cleanup action. The written site-specific contingency plan should include the following:

1. The names and phone numbers of all personnel to contact in the event of a spill, including employees designated to take cleanup action.
2. The location of protective equipment and cleanup and containment equipment.
3. The cleanup or containment actions to take specific to the hazardous chemicals and oils used in the area.

For additional requirements for oil stored in tanks, see 40 CFR Part 112, Oil Pollution Prevention.

2165.13 - Planning for Large Releases of Hazardous Materials from Forest Service Facilities

To prepare for a release of a hazardous material from a Forest Service facility that cannot be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate area or by maintenance personnel:

1. An evacuation plan (29 CFR 1910.38(a)) should be in place.

2. Contracting mechanisms or arrangements with local emergency response authorities for immediate response to such incidents should be in place.

3. Reporting and notification procedures should be established as specified in FSM 2165.2.

2165.14 - Planning for Hazardous Materials Releases from Third Parties

Forest Service response is limited to collecting as much information as possible from a safe distance and immediately reporting that information to the appropriate emergency response authorities in accordance with the unit's contingency plan. The unit emergency response coordinator or other appropriate level of the organization should work with the Local Emergency Planning Committee (LEPC) or the State Emergency Response Commission (SERC), if no LEPC is established, to determine the procedures to follow in the event of a third party hazardous materials release on National Forest System lands or lands leased by the Forest Service.

2165.15 - Community Involvement Planning Requirements

The Emergency Planning and Community Right-To-Know Act (EPCRA; FSM 2165.01) requires facilities to provide State and local governments with information concerning hazardous chemicals present at the facility. Executive Order 12856 (FSM 2160.1, para. 13) makes Federal agencies subject to these requirements. In addition, Executive Order 12856 requires that Federal agencies comply with a more stringent reporting requirement for Toxic Chemical Release reporting by waiving the exclusion for certain classes of industries. The following are the major provisions of EPCRA:

1. Forest Service facilities that use or store extremely hazardous substances in greater than threshold planning quantities must comply with the emergency response preparation and release notification requirements in 40 CFR Part 355, Emergency Planning and Notification. Substances considered extremely hazardous substances and their associated threshold planning quantities are in 40 CFR 355, Appendix A and B.

2. Forest Service facilities that store more than 10,000 pounds of hazardous chemicals or 500 pounds of extremely hazardous substances at any given time must annually report certain information on the type, volume, and location of those chemicals to the State and local emergency planning officials (40 CFR Part 370, Hazardous Chemical Reporting: Community Right-To-Know).

3. Forest Service facilities must report information annually on the releases of the following chemicals to the Environmental Protection Agency (40 CFR 372, Toxic Chemical Release Reporting: Community Right-To-Know) if they:

- a. Have 10 or more full-time employees; and

- b. Use over 10,000 pounds of any of the specific toxic chemicals listed in 40 CFR 372.65 in a calendar year.

2165.2 - Written Response Plan

A written response plan should be prepared for each unit (FSM 2165.04) that routinely handles hazardous materials in greater than consumer-use quantities (FSM 2160.5). The plan should:

1. Outline the unit's procedures for reporting (FSM 2165.3, FSM 2165.31, FSM 2165.32) and responding (FSM 2165.11 - 2165.15) to releases of hazardous materials.
2. Include copies of all site specific contingency plans for that unit (FSM 2165.11, FSM 2165.12).
3. Include names and phone numbers of all emergency response personnel and their assigned responsibilities.
4. Include a diagram that shows the type and location of all hazardous materials at the unit.

2165.3 - Reporting

Region, Station, and field unit response plans shall clearly outline reporting procedures in terms of internal reporting procedures, notification of external authorities, and the basic information required by the National Response Center and, if appropriate, by the Local Emergency Planning Committee (LEPC) or the State Emergency Response Commission (SERC). Reporting procedures shall include names, titles, and telephone numbers (office and home) of the emergency response coordinator and secondary or back-up contacts. Internal reporting shall include notification of the local Forest Service law enforcement officials in cases of illegal dumping of hazardous materials and other similar illegal incidents. Internal reporting shall also include notification of the appropriate Office of General Counsel in cases of illegal dumping having the potential for enforcement action.

2165.31 - Responsibility for Reporting to National Response Center

If any quantity of oil from a Forest Service facility or operation enters the waters of the United States or if a reportable quantity of a hazardous substance is released from a Forest Service facility or operation, the Forest Service must immediately report the incident to the National Response Center (1-800-424-8802).

The Emergency Response Coordinator can often help determine if the incident meets the criteria for reporting to the National Response Center. However, if in doubt regarding applicability of reporting an incident and assistance is not available, note that the law requires an immediate report. If in doubt, report the incident. Be prepared to give detailed information on the site and on specifics regarding the release, type of material spilled, volume spilled, and cleanup actions

ongoing. State and local environmental agencies may have additional release reporting requirements that should be included in the unit response plan.

If the release is from a third party (such as a special use permittee, contractor, mining operation, or operator of a truck, pipeline, and so forth) while on National Forest System lands or lands leased by the Forest Service or if the release has impacts on National Forest System lands or lands leased by the Forest Service, the third party is responsible for reporting to the National Response Center. If no action is being taken by the third party, the appropriate Forest Service unit official should notify the National Response Center and, if necessary, the State and local environmental agencies. It should be made clear that the Forest Service is not responsible for the spill or release when making this report.

For further guidance on specific situations involving the reporting responsibility for abandoned sites, consult the appropriate Office of General Counsel.

2165.32 - Responsibility for Reporting to Local Emergency Planning Committee (LEPC) or State Emergency Response Commission (SERC)

If there is a release of an extremely hazardous substance from a Forest Service facility that uses or stores more than the threshold planning quantities (FSM 2165.15), the Forest Service must immediately report the release to the LEPC or, if no LEPC has been established, to the SERC. Reports to the LEPC or SERC cannot be made in lieu of reporting to the National Response Center. The Forest Service must make separate reports to both organizations if the type and volume of the hazardous material released is regulated by both groups.

2165.4 - Recordkeeping

Each level of the organization involved in a reportable incident shall keep a permanent record of all information related to that incident.

2165.5 - Training

(FSM 2161.4).

2166 - Real Property Conveyances and Acquisitions

2166.05 - Definitions

Authorized Officer. A Forest Service line or staff officer who has been delegated the authority and responsibility to make decisions on real property conveyances and acquisitions.

Hazardous Material. (FSM 2160.1, ex. 01, FSM 2160.5).

Hazardous Substance. (FSM 2160.1, ex. 01, FSM 2160.5).

Oil. (FSM 2160.1, ex. 01).

Rawland. Unimproved land; for example, land without roads, buildings, or utilities.

2166.1 - Federal Real Property Containing Hazardous Substances

1. When entering into a contract for the sale or other transfer of real property (42 U.S.C. 9620(h)(1); 40 CFR 373), the authorized officer must include a notice in the contract that identifies whether hazardous substances were:

- a. Disposed of on the property;
- b. Released on the property in quantities greater than or equal to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) hazardous substance's reportable quantity found at 40 CFR 302.4 (40 CFR 373.3(c)); or
- c. Stored on the property for 1 year or more in quantities greater than or equal to:
 - (1) 1,000 kilograms or the hazardous substance's CERCLA reportable quantity found in 40 CFR 302.4, whichever is greater (40 CFR 373.2(b)); or
 - (2) 1 kilogram if the substance is an acutely hazardous substance found in 40 CFR 261.30 (40 CFR 373.2(b)).

This notice must identify the type and quantity of the hazardous substances and the time at which such storage, release, or disposal occurred.

2. Contaminated property must be cleaned up before transfer (42 U.S.C. 9620(h)(3)). This cleanup requirement does not apply if the person to whom the property is transferred is a potentially responsible party with respect to the hazardous substances on the property.

3. Each deed for property where hazardous substances were stored, released, or disposed of must contain (42 U.S.C. 9620(h)(3)):

- a. Notice of the type and quantity of hazardous substances that were stored for more than 1 year, released, or disposed of on the property.
- b. Notice of the time at which the storage, release, or disposal took place.
- c. Description of the remedial action taken, if any.

d. Where the property is being transferred to someone other than a potentially responsible party, the deed must also contain a covenant (42 U.S.C. 9620(h)(3)(B)) warranting that:

(1) All remedial action necessary to protect human health and the environment with respect to any hazardous substances remaining on the property has been taken before the date of such transfer, and

(2) Any additional remedial action found to be necessary after the date of such transfer will be conducted by the United States.

(3) A clause granting the United States access to property to conduct any additional remedial action found to be necessary after the date of the transfer.

In addition, where the property is being transferred to a potentially responsible party, the authorized officer should include an indemnification clause in the transfer document from the United States in which the grantee agrees to indemnify, defend, and hold the United States harmless from any damage, loss claims, liability, and costs relating from the United States ownership of the property.

2166.2 - Federal Real Property Not Containing Hazardous Substances or Petroleum Products

1. The Community Environmental Response Facilitation Act (CERFA; FSM 2160.1, para. 2) contains provisions regarding the transfer or sale of uncontaminated parcels of Federal real property at Federal installations and facilities. The authorized officer must comply with the requirements of CERFA for real property conveyances if:

a. The real property is being transferred by the United States.

b. Federal government operations are being terminated on the subject property and involve Federal facilities owned and operated by a Federal agency or department. This does not apply to rawland (FSM 2166.05) or Federal land on which private entities, such as permit holders, mine operators, and so forth, conduct operations.

2. If the sale or transfer of the uncontaminated property meets the two criteria listed above, the authorized officer must:

a. Investigate the property to identify the presence or likely presence of a release or a threatened release of hazardous substances or any petroleum product or its derivatives, including aviation fuel and motor oil (42 U.S.C. 9620(h)(4)(A)).

b. Obtain concurrence on the results of the identification and investigation from the Environmental Protection Agency if the property is part of a facility on the National Priorities List (NPL) or from the appropriate State agency if the property is not part of a facility on the NPL. In the case of concurrence from a State agency, if no response

is received within 90 days of receipt of the request by the State, concurrence is deemed to have been obtained.

- c. Identify uncontaminated real property and obtain concurrence from the appropriate agency at least 6 months before termination of operations on real property.
- d. Reserve the right to pursue potentially responsible parties in the transfer documentation.
- e. Include in the deed of transfer for uncontaminated real property:
 - (1) A covenant warranting the United States to conduct any necessary response action after the transfer.
 - (2) A clause granting the United States access to property to conduct response action.

Requirements of the preceding paragraphs 2 to 2e(2) do not apply to interagency transfers; however, all other provisions of CERFA do apply to interagency transfers.

2166.3 - Federal Real Property Containing Oil

1. Where such land is to be transferred to a private party who is not responsible for the oil contamination, the authorized officer shall reach an agreement with the private landowner regarding the responsibility for appropriate response action concerning the oil before completing the transaction. The terms of this agreement and any appropriate "hold harmless" provision should be included as part of the transaction contract or conveyance document. Consult the Regional Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Coordinator and the appropriate Office of General Counsel prior to entering into an agreement.

2. Where such land is to be transferred to a private party who is responsible for the oil contamination, the authorized officer shall note this fact; the provisions for appropriate response action by the responsible party; and any appropriate "hold harmless" provision in the transaction contract or conveyance document. Consult the Regional CERCLA Coordinator and the appropriate Office of General Counsel prior to entering into an agreement.

2166.4 - Acquisition of Real Property

When purchasing or otherwise obtaining real property, or an interest in real property, including acquiring right-of-way easements, the authorized officer should:

- 1. Request the private party landowner notify the Forest Service of any hazardous materials known to have been stored, released, or disposed of on lands the United States is proposing to acquire; and
- 2. Determine whether hazardous materials are known to be present through past use evaluations and on-site examinations prior to entering any real property transaction or contract.

If hazardous materials are known or believed to be present on the private land, the authorized officer should:

1. Carefully consider the potential liability associated with ownership of contaminated property and the cost of removal and remedial action; and
2. Reach an agreement with the private landowner regarding the responsibility for appropriate response action concerning the hazardous materials before completing the transaction. The terms of this agreement and any appropriate "hold harmless" provision should be included as part of the transaction contract or conveyance document. Consult the Regional CERCLA Coordinator and the appropriate Office of General Counsel prior to entering into an agreement. While it is appropriate to enter into an agreement, such an agreement with the former land owner may not fully protect the Forest Service from future liability under CERCLA.

2167 - Related Programs

This section provides direction and cross-references to direction concerning hazardous material in other programs.

2167.01 - Authority

(FSM 2160.1).

2167.1 - Other Hazardous Materials

2167.11 - Explosives

The requirements and procedures for proper handling of explosives are in:

1. FSH 6709.11, Health and Safety Code Handbook, section 9-5, Explosives Storage and Transport.
2. Title 27, Code of Federal Regulations, Part 55, Commerce in Explosives.
3. United States Department of Agriculture, Forest Service. April 1992. Guide for Using, Storing, and Transporting Explosives and Blasting Materials (9271-2815-MTDC) (Available through USDA-Forest Service, Missoula Technology and Development Center, Fort Missoula, Missoula, MT 59801.)
4. United States Department of Agriculture, Forest Service. March 1993. Ground Ignition Systems: An Equipment Guide for Prescribed and Wild Fires (9351-2806-MTDC) (Available through USDA-Forest Service, Missoula Technology and Development Center, Fort Missoula, Missoula, MT 59801.)

2167.12 - Pesticides

Pesticide-use management and coordination direction for pesticide use on National Forest System lands and lands leased by the Forest Service is in FSM 2150. FSH 2109.14, Pesticide-Use Management and Coordination Handbook, provides direction on such topics as pesticide application, storage, transportation, and disposal; spills, accidents, and incidents; and related topics.

2167.13 - Asbestos

Identify and effectively manage all asbestos-containing materials used in Forest Service occupied buildings and activities. For further direction see:

1. FSH 7309.11, section 42.21 (building related materials), which includes requirements for personnel qualifications, inspections, documentation, management, employee awareness, mitigation, and recordkeeping.
2. FSH 6709.11, section 6-16 (automotive brakes/clutch maintenance).
3. FSH 6709.11, section 9-13 (general operations).
4. FSM 6743 for additional direction on asbestos purchase, use, removal, reporting, and training.

2167.14 - Radioactive Materials

2167.14a - Radon

The head of each Federal department or agency that administers a Federally owned building is required to conduct a study to determine the extent of radon contamination in the indoor air of the building (FSH 7309.11, sec. 42.22). The study shall also include radon contamination in the water supply of buildings using a groundwater source such as a well.

The Forest Service shall comply with the following and all additional laws, regulations, and Environmental Protection Agency protocols pertaining to monitoring of radon levels in indoor air and potable water.

1. Implement remedial actions to reduce the average annual radon concentration in the air of buildings occupied by Forest Service employees to 4 picocuries per liter (pCi/l) as recommended by the Environmental Protection Agency;
2. Provide qualified personnel to complete radon monitoring and mitigation; and
3. Maintain the required records and reports of these activities.

2167.14b - Radioisotopes and Radiological Equipment

See FSM 6740, 29 CFR 1910.96, and FSH 6709.11 for additional requirements on the use of radioisotopes and radiological equipment.

2167.15 - Underground Storage Tanks

Forest Service units shall comply with applicable Federal, State, and local regulations with regard to management of underground storage tanks. Federal regulations are codified in 40 CFR 280.

2167.16 - Wood Preservatives

See FSH 7309.11, sec. 42.23, for uses and disposal of wood preservatives. See FSM 2150 for guidance on training and application of pesticides including wood preservatives. State and local environmental regulations may be more stringent than the Federal regulations. The Forest Service must comply with applicable State and local regulations.

2167.17 - Lead

Forest Service units with construction activities where lead is present shall comply with the requirements in 29 CFR 1926.62. Construction activities include demolition, removal or encapsulation, new construction, alteration, repair or renovation, installation of products containing lead, lead contamination/emergency cleanup, transportation, disposal, storage or containment of lead on construction sites, and maintenance operations associated with construction activities. If lead is present at certain action levels or until exposure monitoring data is available for certain specified tasks, the Forest Service must provide medical and exposure monitoring; medical removal protection; personal protective equipment and process engineering controls. Maintain records of all monitoring and medical surveillance.

2167.18 - Fire Suppression Safety

(FSM 5136.2).

2167.2 - Safety and Health

2167.21 - Medical Surveillance

In addition to complying with the medical surveillance requirements in FSM 2160.43, FSM 2162.5, and FSM 2167.17, employees who use or come into contact with certain hazardous chemicals and substances must have a medical examination before to beginning work and annual medical examinations as long as such use or contact continues. This surveillance is carried out to detect any adverse physical effects on the employee. The list of chemicals and substances that trigger the medical examination and surveillance requirement is in 29 CFR Part 1910, Subpart Z. See FSH 6709.12, chapter 20, for further direction.

2167.22 - Accident Investigation, Notification, and Reporting

Accident investigation procedures are in FSH 6709.12 and FSM 5720. Regardless of who conducts the complete investigation, the unit on which the accident occurred shall initiate the investigation.