

Spill Response Policy and Procedures

Table of Contents

Program Description.....	2
Authority.....	2
Mission Statement.....	2
Objective.....	2
Terminology.....	2
Spill Response Flowchart.....	3
Clean-Up Approach.....	3
A. Emergency Situations	3
B. Non-Reportable Spills Discovered by EESs	3
C. Alert Central Office of the Spill.....	4
D. Identify the Responsible Person.....	4
E. ACCP Eligibility	5
F. Need for a Consultant.....	6
G. Spill Response Situations	6
<i>Road Surface</i>	6
<i>Surface Water</i>	7
<i>Soil Contamination</i>	7
H. Sampling	7
I. Storage of Excavated Soil	8
J. Disposal of Soil.....	8
<i>Landspreading</i>	8
<i>Landfilling</i>	9
<i>Debris disposal</i>	9
Report Submittal.....	9
A. Violations	9
B. Narrative Contents	10

Program Description

The spill response program provides oversight at clean ups of pesticide and fertilizer contamination that results from sudden accidental spills (acute spills). The program helps minimize contamination of surface water, groundwater and the surrounding environment by ensuring that all agricultural chemical cleanups are conducted effectively and in a timely manner.

Authority

DATCP's authority to implement this program can be found in ch. [94.73](#) and ch. [292](#), Wis. Stats.

Mission Statement

To protect human health and welfare from spilled agricultural chemicals, and to restore soil and water resources through an effective response and cleanup.

Objective

To ensure an adequate emergency response is taken at each agricultural chemical spill site to restore soil and water quality.

Terminology

Agricultural chemical - A substance that is a fertilizer or a non-household pesticide and is defined as a hazardous substance in s. 292.01(5), Wis. Stats.

Emergency - A situation where there is an actual or imminent threat to public health, safety, or the environment that requires an immediate response.

Emergency response - An action required in situations in which there is an actual or imminent threat to public health, safety or the environment. DNR is the lead agency for emergency response per the [Memorandum of Understanding](#) (MOU).

First responder - A person who has had specific training to respond to emergency spill scenarios, typically a DNR warden or official designee of DNR. DATCP personnel are not trained as first responders.

First-on-scene - A person different from the first responder in that it can be anyone (DNR, DATCP, others) that arrives at a spill site.

Hazardous substance - (Paraphrased from ch. 292, Wis. Stats.) Any substance which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to

human health or the environment because of its quantity, concentration, or physical, chemical or infectious characteristics.

Reportable agrichemical spill - A spill of an agricultural chemical that has adversely impacted or threatens to impact public health, welfare of the environment. If there is no imminent threat, then the reporting requirements are based upon the following levels:

- Dry Fertilizer - **250** pounds or greater
- Liquid Fertilizer - **25** gallons or greater
- Pesticide - if the amount spilled would cover more than one acre of land (43,560 ft²) when applied according to the label instructions.

Responsible person (RP) - A person who owns or controls an agricultural chemical that is discharged, a person who causes a discharge, a person on whose property an agricultural chemical is discharged or that persons successor in interest.

Spill response team - The team includes the applicable EES, the Spill Coordinator and the EQ Section Chief or a Compliance Section supervisor.

Spill Response Flowchart

See the [Spill Response Flowchart](#).

Clean-Up Approach

Outlined below are the steps that should be taken when responding to a spill of an agricultural chemical. Most of the information below will correspond to a box in the flowchart above.

A. Emergency Situations

If DATCP is first-on-scene and it is an emergency situation, immediately call 911 or the local emergency authorities. If first-on-scene, it is DATCP's responsibility to protect public health, safety and the environment through assistance with the following:

1. Identification and control of the source of the discharge.
2. Prevention and/or reduction of the movement of the spilled product.
3. Inform RP of responsibility to contact DNR at (800) 943-0003 to notify them of the discharge. Use the [Spill Contact List](#) to notify the appropriate staff.

B. Non-Reportable Spills Discovered by EESs

The following scenarios outline the approach to be used when dealing with non-reportable spills. The field staff must take photographs to document the situation and submit an activity report with the mounted photographs. Once sample results are received for these scenarios staff from the Compliance and Environmental Quality sections will need to discuss 1.) whether a clean-up is

necessary 2.) whether a compliance action is warranted, 3.) who (DATCP or consultant) will oversee any needed clean-up actions and 4.) which DATCP staff will be responsible for following up on any additional actions.

Scenario 1

When environmental damage (dead vegetation) is visible appropriate soil or water samples should be collected and submitted to the lab. These samples should be coded as remediation samples (40-06) on the sample collection record, with “priority analysis” written in the comments section of the Sample Collection Record.

Scenario 2

When granules or product is visible a sample of the product should be collected and put on documentary hold. These samples should be coded as remediation samples (40-06) on the sample collection record. In addition to collecting a sample a written warning should also be issued to the facility manager and they should be asked to immediately clean up the spilled material. Following cleanup of the product an environmental sample should be collected (preferably during the same visit) to confirm the cleanup was effective.

C. Alert Central Office of the Spill

The field staff must notify the Spill Coordinator in the Madison office as soon as possible. If the Spill Coordinator is not available, then the field staff should inform the Compliance Section Supervisor or the EQ Section Supervisor (in that order) about the spill. The Spill Coordinator must notify other agencies about any spills that occur, so contact the Spill Coordinator as soon as possible. The field staff person should also confirm the information on the [ACCP Discharge Report](#) form is true and accurate. Any major discrepancies should be noted to the Spills Coordinator.

D. Identify the Responsible Person

In most spill cases the RP is known because they have reported the spill. Once a RP has been identified, the EES must notify them of their legal responsibilities through the use of the [Spiller Responsibility Sheet](#). All of the information on this form must be explained to the RP including the information about what the RP can expect to go through while cleaning up the spill. The EES should obtain the signature of the RP or RP’s representative on the last page of the Spiller Responsibility Sheet and remove and retain this signature page to signify that the RP received the information on the form. Leave the informational part of the form with the RP. The signed signature page should become part of the spill report narrative that the EES sends to the Compliance Section Supervisor.

In cases where the responsible party for an agrichemical spill is not cooperating with DATCP field staff, DATCP can seek DNR staff assistance. DNR has authority under s. 292.11, Wis. Stats. to require spill cleanup for any hazardous material. DNR has access to a zone contractor that can be utilized to clean up the spill and then seek cost recovery from the RP through their statutory authority. In working with DNR staff, we will basically indicate that the RP has a choice, they can cooperate with DATCP staff and follow our procedures, or they can fall under the jurisdiction of

the DNR staff. In many cases, this is all it takes to get an RP to take action. The key is that someone will clean up the spill.

If a RP chooses to be non-responsive, the EES should contact the Spill Coordinator. They will contact their counterpart at DNR and indicate we have an unresponsive RP. The suggested next step is for the DATCP EES and the Conservation Warden for the area, (or the DNR EES) to arrange a site visit with the RP. At that visit the authority to require clean up and the procedures used by each agency to address spills will be explained. The RP will then be asked what their intentions are for completing the cleanup. Hopefully this will lead to the RP taking appropriate measures to restore the environment.

If a responsible person can't be identified, the EES should contact central office (Spill Coordinator, Compliance Section Chief or EQ Section Chief) to determine the next steps in the cleanup process. In many situations, a DNR zone contractor can be used. Through its zone contract, the DNR can hire a contractor to contain the spill and minimize the damage. The spill response team should work with DNR staff to assess the site and determine if zone contract money can be used. The DNR also has the ability to recover costs from the RP once the RP has been identified. When DATCP staff contact DNR staff about the use of a zone contractor they should be prepared to answer the following questions:

- a. WHO - Identity potentially responsible person(s), if available.
- b. WHAT - Identity of the substance(s) and quantity discharged. The discharged substance must be classified as a hazardous substance, or contain a hazardous substance.
- c. WHERE - The location of the discharge.
- d. WHEN - Justification of the need for immediate action. This will normally be that the RP cannot be identified and the possible outcomes of not taking action.

E. ACCP Eligibility

The EES should maintain a focus on the cleanup of the spill. All questions regarding eligibility for ACCP reimbursement should be deferred to the ACCP Auditor. ATCP 35 requires that the RP obtain a minimum of three bids for remedial activities that cost more than \$3,000. When cleanup actions are taken on an emergency basis, the RP is not required to obtain bids. The intent of this exemption is to encourage rapid response to minimize the environmental impact. If discovery or reporting has been significantly delayed, or if the conditions at the site are not expected to deteriorate during the time required completing the bidding process, this exemption may not apply.

Because transportation spills are reimbursable based upon the site at which the load originated from, it is important that you document which facility or location the product came from. This will enable ACCP staff to later determine the appropriate deductible level. Transportation spills can be reimbursed, but spills by a common carrier (e.g. railcar in transit) are not eligible. Again, the EES should check with the ACCP Auditor before offering guidance regarding the reimbursement program.

F. Need for a Consultant

The Spill Coordinator and the EES should always discuss the need to hire a consultant and agree upon the approach. The main item to consider is the expected amount of time DATCP will be involved in assisting with the cleanup of this spill. Generally, if the EES and the Spill Coordinator agree that the spill can be cleaned up with two or fewer confirmation sampling events by DATCP staff, then a consultant will not normally be required. However, the RP should be asked to hire a consultant when any of the following apply:

1. The spill was a large volume or covered an extensive area.
2. The spill likely impacted groundwater.
3. The spill area is not well-defined (i.e., fire).
4. The RP is not willing to respond to the discharge (see Section D above).
5. A significant amount of time has elapsed since the spill occurred.
6. If, after the first excavation, the sample results from the initial sampling indicate that more than 30% are still impacted.
7. The spill is located at an ongoing remediation site.

If the spill response team agrees that a consultant should be hired, the RP should be provided with a list of [consultants](#). Any applicable immediate response activities should continue while the RP is in the process of hiring a consultant. The request to hire a consultant can initially be verbal but should be followed up with a letter from the Spill Coordinator or the EES. Note: If it is initially determined that a consultant should be hired, the EES should still document their response efforts with a narrative and provide field assistance as necessary.

G. Spill Response Situations

Road Surface

Dry Fertilizer - Each year the department deals with situations where a dry fertilizer has been spilled along a length of road. The most effective spill response in these situations is to contact the nearest local community with a collection-type street sweeper and use the sweeper to recover the spilled dry fertilizer from the roadway. This method of recovery allows the responsible person to easily reuse the product as originally intended.

Liquid Fertilizer or Pesticide - The department also deals with spills where a liquid fertilizer or pesticide has been spilled along a length of road. In these situations, the department's spill response has also involved a local street sweeper. But in these instances we've had the sweeper add water as it sweeps the roadway repeatedly until it has recovered as much of the spilled material as possible. Recovered water can then be tested and disposed at a treatment plant, landspread under permit, or used as makeup water in a future crop application if it can be done in accordance with label requirements.

Surface Water

The least common type of department spill response involves surface water. In rare situations an agrichemical is spilled and it directly impacts surface water. Depending upon the size of the surface water body the department has required the use of pumps and tanks to recover much of the spilled product from a surface water body. This spill response approach will typically only work in situations involving water in a ditch or small wetland.

Soil Contamination

This is the most common type of spill response for the department. See the “corrective action” section of the Spiller Responsibility Sheet for guidance in determining the depth of the excavation area. Additional procedures for sample collection, soil stockpiling and disposal are outlined below.

H. Sampling

If an environmental consultant is not hired, the EES will need to collect samples to determine the horizontal and vertical extent of contamination. Sampling to define the horizontal extent is only necessary when the impact upon the soil is not visible at the surface (i.e. wetted soil surface or spilled product is not present). Contact the Spills Coordinator or your Supervisor to help develop the surface sampling approach.

Sampling to determine the vertical extent (i.e. confirmation sampling) is typically done after excavation. Confirmation sampling falls into two categories: ditch/linear spills and field/area spills. Be sure to follow the [sample preparation and handling procedures](#) and prior to submitting spill samples for analysis send an email to your Supervisor, Spill Coordinator and the agrichemical Lab Supervisor to alert them that these samples are on the way to the lab. Be sure to include the tracking number in the email so that the lab can follow the shipping route of the sample for arrival.

The EES should contact one of the spill response team members if more than ten samples are to be collected. The following [diagram](#) may be useful in determining where to sample and how many samples to obtain. The general confirmation spill sampling requirements are explained below.

1. Field/Area Spills: The EES should collect a background sample from a location upgradient of the spill source at a depth equal to the deepest depth of excavation. The EES should collect a confirmation sample from every 50' by 50' area. Excavation bottom samples should be obtained near the sidewalls as an alternative to sidewall sampling.
2. Ditch/Linear Spills: The EES should collect a background sample from a location upgradient of the spill source at a depth equal to the deepest depth of excavation. The EES should collect one sample from each end of the excavation and every 50' along the base of the excavation. For ditch/linear spills less than 50 feet in length, a middle-excavation sample should still be obtained in addition to the end samples.

I. Storage of Excavated Soil

Any contaminated soil must be stockpiled on an impervious surface and should be placed under a roof or covered with plastic sheeting. Any covering should be secured against the elements and access by wildlife. Any deviation from these procedures should be discussed with the Spill Coordinator.

J. Disposal of Soil

Landspreading

If soil is excavated as part of a spill response and the soil is to be land-spread, the EES should develop the proposed land-spreading application rate for the contaminated soil. The proposed application rate and site information should be discussed with the Spill Coordinator. If the spill was a nitrogen fertilizer, the land-spreading application rate should be based on recommendations from Tables 20 and 22 from the following report: [A2809](#) Soil Test Recommendations for Field, Vegetable and Fruit Crops.

Landspreading can normally occur in the spring after the frost is out of the ground and field moisture conditions allow for vehicular traffic. Fall landspreading can normally occur when the application site has less than two inches of frost. The following table should be used:

Product	Maximum Spreading Rates	
	Prior to July 31	After July 31
Pesticides	Use pesticide label rate * or ATCP 30 rate for Atrazine	Use 1/4 pesticide label rate* or 1/10 ATCP 30 rate for Atrazine in Prohibition Area or 1/4 ATCP 30 rate for Atrazine not in Prohibition Area
Nitrogen	Table 20 or 22 rates from A2809	50 lbs./Acre

1. Prior to authorizing any land-spreading, the EES should visually inspect the land-spreading site to ensure it is suitable. Such things as crop type, soil type, slope of the land and setbacks from wells and surface water should be examined. Once these items have been addressed, the EES or the Spill Coordinator can complete the [ACCP LS Permit](#).
2. The EES should also provide the [ACCP LS Post-Application Report](#) to the RP when the land-spreading Permit is issued. The EES should complete the box in the upper right corner of the form and inform the RP that the post-application report must be submitted to the DATCP office within 10 days of land-spreading.

Landfilling

There may be situations when landfilling the excavated soil is the desired disposal option. As with landspreading, this disposal option should be discussed with the Spill Coordinator.

Situations where this might be suitable include:

- When the recovered soil is highly concentrated with the spilled agrichemical making it difficult to landspread the soil at the approved rate.
- When there is a limited amount of recovered soil.
- When the soil contains rocks or other debris that makes it difficult to landspread without screening.

Debris disposal

The items listed below can be disposed of without having to follow WDNR's solid hazardous waste regulations, provided their disposal is not within a floodplain and will not cause: a significant impact on wetlands, a significant adverse impact on critical habitat areas, a detrimental effect on any surface water, a detrimental effect on groundwater quality, or the migration and concentration of explosive gases.

Clean soil, brick, building stone, concrete, reinforced concrete, broken pavement (concrete and asphalt), and unpainted or untreated wood, stone, gravel and similar nonmetallic earth materials.

The owner of the debris is responsible for determining if it is clean. If their determination is incorrect, they may be in violation of WDNR's solid waste regulations.

If the above criteria are met, the material may be buried, spread (such as driveway gravel), or piled (in a nuisance-free and aesthetic manner) on a site.

Report Submittal

A. Violations

We need to make sure that enforcement action is taken for some violations and that we record these violations so if they occur again we can take progressive compliance actions. In the case of inadequately secured containers that fall off vehicles or trailers, the uniform enforcement guide recommends a written warning notice be issued. Obtain a copy of the police report to help in making a determination of whether or not the container was unsecured. If the police report indicates that the container was inadequately secured, then you should issue a written warning notice and the Spills Coordinator will record this violation.

Where spills are caused by repeat violations of our rules, or if there are serious violations, court or administrative action may be initiated. If you have any questions about what enforcement action to take for an agrichemical spill, contact your supervisor.

B. Narrative Contents

The office should have a narrative report explaining the details of the spill and the remedial actions that were taken. Be sure to include:

1. Copy of any letter(s) or other correspondence sent to the RP.
2. The completed signature page from the Spiller Responsibility Sheet.
3. The Discharge Report form (ARM-ACM-214) with any modification to:
 - a. the total quantity of product spilled.
 - b. the actual mixture of product.
4. Photographs of the spill site taken from different angles and including:
 - a. an overview of the spill area.
 - b. the entire excavation area.
 - c. all sample locations and showing soil types/conditions.
5. A diagram of the spill location including pre- or post-excavation sample locations, sampling depths and dates.
6. Plat map and Global Positioning System (GPS) data locating the spill.
7. For pesticide spills the EPA registration number should also be included.
8. Any noted violations.
9. ACCP Landspreading Permit
10. ACCP Landspreading Post-Application Report
11. Pesticide Sample Collection Record – pink copy
12. Any other relevant information.