§ 11.24 Preassessment screen—information on the site.

(a) Information on the site and on the discharge or release. The authorized official shall obtain and review readily available information concerning:

(1) The time, quantity, duration, and frequency of the discharge or release;

(2) The name of the hazardous substance, as provided for in Table 302.4—List of Hazardous Substances and Reportable Quantities, 40 CFR 302.4;

(3) The history of the current and past use of the site identified as the source of the discharge of oil or release of a hazardous substance;

(4) Relevant operations occurring at or near the site;

(5) Additional oil or hazardous substances potentially discharged or released from the site; and

(b) Potentially responsible parties.

(c) Damages excluded from liability under CERCLA. (1) The authorized official shall determine whether the damages:

(i) Resulting from the discharge or release were specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement or other comparable environmental analysis, that the decision to grant the permit or license authorizes such commitment of natural resources, and that the facility or project was otherwise operating within the terms of its permit or license, so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe; or

(ii) And the release of a hazardous substance from which such damages resulted have occurred wholly before enactment of CERCLA; or

(iii) Resulted from the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135–135k; or

(iv) Resulted from any other federally permitted release, as defined in section 101(10) of CERCLA; or

(v) Resulting from the release or threatened release of recycled oil from a service station dealer described in section 107(a)(3) or (4) of CERCLA if such recycled oil is not mixed with any other hazardous substance and is stored, treated, transported or otherwise managed in compliance with regulations or standards promulgated pursuant to section 3014 of the Solid Waste Disposal Act and other applicable authorities.

234