

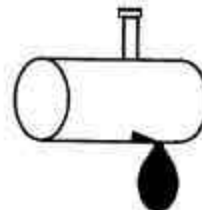


CORRECTIVE ACTION PROCESS REGULATIONS

AN OVERVIEW

The Storage Tank and Spill Prevention Act (Act 32 of 1989, as amended) requires the Department of Environmental Protection (DEP) to adopt regulations establishing release confirmation, release reporting and corrective action requirements for owners and operators of regulated aboveground and underground storage tanks and other responsible parties.

On Dec. 1, 2001, revisions to the Corrective Action Process (CAP) regulations, (25 Pa Code Chapter 245.301-245.314) first promulgated in 1993, went into effect. The CAP regulations include requirements for confirming or disproving suspected releases; reporting releases; determining the extent of soil, sediment, surface water and groundwater contamination; taking necessary actions to abate risks to human health and the environment; taking steps to prevent further migration of the released substance into the environment; restoring or replacing affected or diminished water supplies; and storing contaminated soil at the site of the release.



This fact sheet presents an overview of the CAP regulations.

DEP's storage tank cleanup program is administered by the Bureau of Land Recycling and Waste Management, Land Recycling and Cleanup Program, Storage Tanks and Hazardous Sites Corrective Action Section, P.O. Box 8471, Harrisburg, PA 17105-8471, 717-783-7509 or through the PA AT&T Relay Service at 800-654-5984 (Telecommunications Devices for the Deaf); and by the Environmental Cleanup Program, Storage Tank Section, in each of DEP's six regional offices. (See regional office addresses and phone numbers at the end of the fact sheet.)

Who must comply with the regulations?

All owners and operators of aboveground and underground storage tanks regulated under Act 32 and other responsible parties must comply with the CAP regulations. Other responsible parties include landowners, land occupiers and distributors who, on or after Aug. 5, 1990, filled an 1) underground storage tank which never held a valid registration, or 2) unregistered aboveground storage tank, with a regulated substance, prior to the discovery of a release.

What are some of the major provisions of the regulations?

The flow chart at the end of this fact sheet shows the major steps and the decision-making process that owners, operators or responsible parties must follow if a release from a regulated storage tank is confirmed or suspected to have occurred.

The regulations were designed to be as flexible as possible to accommodate the wide range of specific circumstances that characterize releases. DEP may extend the timeframes specified in the regulations where such extensions are determined to be necessary. DEP also may waive or combine certain requirements

depending on the nature, extent, type, volume or complexity of the release.

The following are the major provisions of the regulations:

- Owners or operators who suspect for any reason that a release may have occurred must initiate and complete an investigation within seven days to confirm whether a release has occurred.
- If a reportable release is confirmed, owners or operators must notify the appropriate DEP regional office by telephone within 24 hours. Within 15 days of the verbal report, owners or operators must follow up with an initial written notification to DEP, the municipality in which the release occurred and any other municipality impacted by the release. This notice must include, to the extent information is available, the regulated substance involved; where the release occurred; the environmental media affected; any impacts to water supplies, buildings, sewer or other utility lines; and interim remedial actions planned, initiated or completed.
- After the initial written notice, any new impacts to environmental media, water supplies, buildings or

sewer or other utility lines discovered during interim remedial actions or site characterization must also be reported in writing to DEP and each impacted municipality within 15 days of their discovery.

- Upon confirmation of a release, responsible parties must immediately initiate interim remedial actions to prevent or address the immediate threat to human health and the environment. Interim remedial actions include removing the product from the tank, mitigating fire and explosion hazards, recovering any free product, and identifying and sampling any affected water supplies and water supplies with the potential to be affected.
- Responsible parties must replace or restore any affected or diminished water supply, at no cost to the affected residents or businesses. A temporary water supply must be provided within 48 hours, and a permanent water supply must be provided within 90 days after the responsible party receives information or is notified by DEP that a water supply has been affected or diminished.
- Responsible parties must properly handle, store and manage excavated contaminated soil which commonly results from tank closures and interim remedial actions. Contaminated soil can remain on-site only for 90 days, unless it is undergoing active treatment. While the contaminated soil is in storage on-site, it must be completely and securely covered.
- At the same time as the interim remedial actions are taking place, responsible parties must conduct a site characterization to determine the extent and magnitude of contamination that has resulted from the release. A site characterization report must be submitted to the appropriate DEP regional office within 180 days of confirming the reportable release. The report should include a discussion of the interim remedial actions taken.
- If the site characterization report indicates that the interim remedial actions did not adequately address the release, responsible parties must develop and submit a remedial action plan to the appropriate DEP regional office. Where the background or statewide health standard has been selected, the plan is due within 45 days of submission of the site characterization report. For site-specific standard remediations, the plan is not due until 45 days after approval of the site characterization report. Once the remedial action plan is implemented, remedial action progress reports must be submitted quarterly to the appropriate DEP regional office.

What is a "Reportable Release?"

The CAP regulations define a "reportable release" as:

Any quantity or an unknown quantity of regulated substance released to or posing an immediate threat to surface water, groundwater, bedrock, soil or sediment.

The term does not include the following, provided the owner or operator has control over the release, the release is completely contained and, within 24 hours of the release, the total volume of the release is recovered or removed in the corrective action:

- A release to the interstitial space of a double-walled aboveground or underground storage tank;
- A release of petroleum to an aboveground surface that is less than 25 gallons;
- A release of a hazardous substance to an aboveground surface that is less than its reportable quantity under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and 40 CFR Part 302.

Do the regulations apply to releases that are not reportable?

Yes. In the event of a confirmed, non-reportable release, owners or operators still must take all necessary corrective actions to completely recover or remove the regulated substance that was released. The difference is that the owner or operator does not have to report the release to DEP because the release was properly taken care of within 24 hours.

When does the corrective action process start for owners or operators?

Owners or operators are subject to the CAP regulations when a release is directly observed, a release is suspected or when a release is discovered in some other manner, such as through the results of site assessment sampling and analysis during a storage tank closure.

Do the regulations address clean-up standards?

No. DEP's cleanup standards have been established by the Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995), and land recycling program regulations (25 Pa. Code Chapter 250.1-250.708, which became effective on Aug. 16, 1997 and were amended on Nov. 24, 2001.) The three types of cleanup standards available to responsible parties are Background, Statewide Health and Site Specific Standards. Each of these three standards are discussed in detail in DEP's Land Recycling Program Technical Guidance Manual. The manual provides guidance to those wishing to pursue cleanups and liability protection under Act 2. The responsible party will be relieved of liability for further cleanup of the site's contamination when the chosen remediation standard is attained.

Do the regulations require DEP to review corrective action process reports and plans within a specified period of time?

Yes. The revised CAP regulation includes mandatory review timeframes and deemed approved provisions for all of the CAP reports and plans. The timeframe and deemed approved provisions apply only to new reports

and plans submitted after Dec. 1, 2001. Deemed approved provisions may be superceded if DEP and the responsible party agree, in writing, to an alternative timeframe. In general, final CAP reports for the background and statewide health standard will be reviewed within 60 days of receipt. Site characterization reports and remedial action plans for the background and statewide health standard will be reviewed within 60 days of receipt of the remedial action plan. A site characterization report (including risk assessment) selecting the site-specific standard will be reviewed within 90 days of receipt. The remedial action plan designed to attain the site-specific standard and the remedial action completion report demonstrating attainment of the site-specific standard will each be reviewed within 90 days of receipt.

In order to facilitate review of report and plans by DEP, responsible parties are strongly encouraged to properly identify the report or plan which is being submitted. A suggested CAP report/plan cover sheet can be found through DEP's website at <http://www.dep.state.pa.us> (directLINK "Tank Cleanup").

Are owners of gasoline stations presumed liable for petroleum contamination of wells within 2,500 feet of their stations?

Yes. Act 32 and the CAP regulations establish a rebuttable presumption that an owner or operator of regulated storage tanks is liable for all damages, contamination or pollution within 2,500 feet of his facility containing or which contained a regulated substance of the type which caused the damage, contamination or pollution.

In order to overcome the presumption of liability, owners or operators may demonstrate, by clear and convincing evidence, that they did not contribute to the damage, contamination or pollution. As a starting point, they may examine the results of any release detection sampling, testing or monitoring conducted at the site. If these results indicate that no release has occurred from their tanks, this may be enough evidence to overcome the presumption. In other instances, an environmental site assessment or survey may be necessary to determine if a release did or did not occur from their tanks. If a release did occur, the site assessment or survey will help to determine if the release is a source of or contributed to the damage, contamination or pollution.

For additional information, contact the Land Recycling and Cleanup Program or your regional DEP office:

Southeast Region

Lee Park, Suite 6010
555 North Lane
Conshohocken, PA 19428
610-832-5950

Counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia

Southwest Region

400 Waterfront Drive
Pittsburgh, PA 15222
412-442-4091

Counties: Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland

Southcentral Region

909 Elmerton Avenue
Harrisburg, PA 17110
717-705-4705

Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York

Northcentral Region

208 W. Third Street, Suite 101
Williamsport, PA 17701
570-321-6525

Counties: Bradford, Cameron, Clearfield, Centre, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union

Northeast Region

2 Public Square
Wilkes-Barre, PA 18711-0790
570-826-5475

Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne & Wyoming

Northwest Region

230 Chestnut Street
Meadville, PA 16335-3481
814-332-6648

Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren

This fact sheet and related environmental information are available electronically via Internet. For more information, visit us through the PA PowerPort at <http://www.state.pa.us> or visit DEP directly at <http://www.dep.state.pa.us> (directLINK "Tank Cleanup").



www.GreenWorks.tv - A web space dedicated to helping you learn how to protect and improve the environment. The site features the largest collection of environmental videos available on the Internet and is produced by the nonprofit Environmental Fund for Pennsylvania, with financial support from the Pennsylvania Department of Environmental Protection, 877-PA-GREEN.

CORRECTIVE ACTION PROCESS

