

REGULATED STORAGE TANKS CORRECTIVE ACTION PROCESS REGULATIONS - AN OVERVIEW

The Storage Tank and Spill Prevention Act (Act 32 of 1989) 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. The Corrective Action Process (CAP) regulations are established in 25 Pa. Code, §§ 245.301-245.314 and include suspected release investigation, release reporting, and corrective action requirements for owners and operators of regulated aboveground and underground storage tank systems and storage tank facilities and other responsible parties. This fact sheet presents an overview of the CAP regulations.

Who must comply with the CAP regulations?

All owners and operators of aboveground and underground storage tank systems regulated under Act 32 of 1989 and other responsible parties must comply with the CAP regulations. Other responsible parties include landowners and land occupiers, as well as distributors who, on or after August 5, 1990, filled 1) an underground storage tank which never held a valid registration, or 2) an unregistered aboveground storage tank with a regulated substance, prior to the discovery of a release.

When does the corrective action process begin?

It begins when a release is directly observed, when 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.

What is a release?

For storage tank systems containing regulated substances that are defined as a hazardous substance in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), a release includes the spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a storage tank into surface waters or groundwaters, into soils or subsurface soils, or into a containment structure or facility, in an amount equal to or greater than the reportable released quantity for the substance as determined under Section 102 of CERCLA.

For storage tank systems containing petroleum and other regulated substances, a release includes the spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a storage tank into surface waters or groundwaters, into soils or subsurface soils, or into a containment structure or facility, in an amount equal to or greater than a discharge as defined in Section 311 of the Federal Water Pollution Control Act. This includes the spilling, leaking, emitting, discharging, escaping, leaching, or disposing of less than 25 gallons of petroleum into a liquid-tight containment sump or emergency containment structure as a result of a tank handling activity unless the following three conditions are satisfied:

- 1) The certified installer providing direct onsite supervision has control over the regulated substance;
- 2) The regulated substance is completely contained; and
- 3) Prior to the certified installer leaving the storage tank facility, the total volume of the regulated substance is recovered and removed.

What are some of the major provisions of the CAP regulations?

The CAP 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 and may also 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 CAP 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 the investigation cannot determine whether a release has occurred, the owner or operator must provide written notification to the appropriate DEP regional office within 15 days of the indication of the suspected release.
- If a release is confirmed, owners or operators must notify the appropriate DEP regional office by telephone within 24 hours. This verbal notice must include, to the extent information is available, the regulated substance involved; when and where the release occurred; the cause of the release; the environmental media affected; any impacts to water supplies, buildings, sewer, or other utility lines; and the interim remedial actions planned, initiated, or completed.
- Within 15 days of the verbal notification, 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. 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. Once a responsible party receives information or is notified by DEP that a water supply has been affected or diminished, a temporary water supply must be provided within 48 hours and a permanent water supply must be provided within 90 days.
- 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 release. The report must 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. When the remedial action plan is implemented, remedial action progress reports must be submitted quarterly to the appropriate DEP regional office.

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.

Do the regulations address cleanup 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 §§ 250.1-250.708). The three types of cleanup standards available to responsible parties are background, statewide health, and site-specific standards. Cleanup 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 cleanup standard is attained.

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

Yes. The CAP regulations include mandatory review timeframes and deemed approved provisions for all CAP reports and plans. 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.

A CAP report/plan cover sheet should accompany the report or plan submission. This cover sheet is available at www.dep.pa.gov, search term: Storage Tank Cleanup.

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

Yes. Act 32 of 1989 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 their facility containing or which contained a regulated substance of the type which caused the damage, contamination, or pollution. 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 occurred from their tanks and, if a release did occur, whether the release is a source of or contributed to the damage, contamination, or pollution.

Where is there more information?

For additional information regarding the storage tank corrective action process requirements, including a flow chart of the corrective action process, visit www.dep.pa.gov, search term: Storage Tank Cleanup.

DEP Regional Offices

Northwest Region

230 Chestnut St.
Meadville, PA 16335-3481
Phone: 814-332-6945
(8:00 a.m. to 4:00 p.m. M-F)
800-373-3398
(after hours, weekends, and holidays)

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

Southwest Region

400 Waterfront Drive
Pittsburgh, PA 15222-4745
Phone: 412-442-4000
(24-hour number including weekends and holidays)

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

North-central Region

208 W. Third St., Suite 101
Williamsport, PA 17701-6448
Phone: 570-327-3636
(24-hour number including weekends and holidays)

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

South-central Region

909 Elmerton Ave.
Harrisburg, PA 17110-8200
Phone: 717-705-4705
(8:00 a.m. to 4:00 p.m., M-F)
800-541-2050 (24-hour number including weekends and holidays)

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

Northeast Region

2 Public Square
Wilkes-Barre, PA 18701-1915
Phone: 570-826-2511
(24-hour number including weekends and holidays)

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

Southeast Region

2 East Main St.
Norristown, PA 19401-4915
Phone: 484-250-5900
(24-hour number including weekends and holidays)

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