

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Clean Water

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TITLE: Guidance on Notification Requirements for Spills, Discharges, and other Incidents of a Substance Causing or Threatening Pollution to Waters of the Commonwealth Under Pennsylvania's Clean Streams Law

EFFECTIVE DATE: Upon publication of notice as final in the *Pennsylvania Bulletin*

AUTHORITY: The Clean Streams Law (35 P.S. §§ 691.1-691.1001 *et seq.*) and 25 Pa. Code Chapter 91 and Chapter 92a.

POLICY: Notification of spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth must be provided as required by Chapter 91 and Chapter 92a.

PURPOSE: The purpose of this document is to provide guidance on the immediate notification requirements for spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth.

APPLICABILITY: This policy applies to any person(s) responsible for spills, discharges, or other incidents that causes or threatens pollution to waters of the Commonwealth. Person(s) responsible for such spills, discharges, or other incidents must comply with all applicable laws and regulations.

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory or permit requirements.

The policies and procedures herein are not an adjudication or a regulation. The Department does not intend to give this guidance that weight or deference. This document establishes the framework, within which the Department will exercise its administrative discretion in the future. The Department reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH: 4 pages

Introduction

The Department of Environmental Protection (Department or DEP) is tasked with administering the Clean Streams Law (35 P.S. §§ 691.1–691.1010 et seq.) to protect the waters of the Commonwealth¹ from activities that pollute or that have a potential to pollute. Under section 401 of the Clean Streams Law, it is unlawful for any person or municipality to put or place any substance of any kind or character resulting in pollution into any of the waters of the Commonwealth.

25 Pa. Code Chapter 91 contains notification and response requirements for any person responsible for a spill, release, discharge, or other incident causing pollution or threatening pollution to waters of the Commonwealth (see “Responsible Party” definition below). 25 Pa. Code Chapter 92a contains specific notification requirements for spills, discharges, or other incidents for National Pollutant Discharge Elimination System (NPDES) permittees.

For related guidance on emergency response and planning, and on pollution prevention and contingency planning, consult DEP’s guidance document, [Guidelines for the Development and Implementation of Environmental Emergency Response Plans](#) (400-2200-001).

Notification of a Spill, Release, Discharge, or Other Incident

Who is Required to Provide Notification

A Responsible Party is “the person at the time in charge of the substance or owning or in possession of the premises, facility, vehicle or vessel from or which the substance is discharged or placed” that causes or threatens to cause pollution to waters of the Commonwealth. 25 Pa. Code § 91.33(a). Other parties (e.g., third-party observers) can notify the Department about incidents that cause or threaten to cause pollution to waters of the Commonwealth, but the notification requirement in 25 Pa. Code § 91.33(a) applies to the Responsible Party.

When to Notify the Department

A Responsible Party for a spill, release, discharge, or other incident of any substance causing or threatening pollution to waters of the Commonwealth must “immediately notify the Department by telephone of the location and nature of the danger...” 25 Pa. Code § 91.33(a).

Under 25 Pa. Code § 92a.41(b), an NPDES permittee must comply with the immediate oral notification requirements of 25 Pa. Code § 91.33. Section 92a.41(b) further provides that “[o]ral notification is required as soon as possible, but no later than 4 hours after the permittee becomes aware of the incident causing or threatening pollution.” Additionally, Section 92a.41(b) requires, “[a] written submission shall also be provided within 5 days of the time the permittee becomes aware of the incident causing or threatening pollution.” DEP’s [Non-Compliance Reporting Form](#) (3800-FM-BCW0440) or equivalent should be used for the permittee’s written report.

¹ The Clean Streams Law defines waters of the Commonwealth to include “any and all rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.” The notification requirements in 25 Pa. Code § 91.33(a) also apply to “sewers, drains, ditches or other channels of conveyance into” waters of the Commonwealth.

When to Notify Downstream Users

Of special concern in the event of a spill, release, discharge, or other incident of a polluting substance to waters of the Commonwealth, is the possibility that downstream public water supplies and other water users could be affected. In addition to the requirement to notify the Department, the Responsible Party must also notify known downstream users of the waters if reasonably possible to do so. 25 Pa. Code § 91.33(a). DEP can assist with identification of downstream water users and contacts.

Responding to Spills, Releases, Discharges, and Other Incidents

In addition to notification requirements, DEP's regulations require a Responsible Party to take action to minimize impacts of the spill, release, discharge, or other incident causing of threatening pollution to the waters of the Commonwealth. Such action may include, but is not limited to, stopping a release at the source and/or containing a release to prevent further horizontal or vertical movement. 25 Pa. Code § 91.33(b) provides: "In addition to the notices in subsection (a), a person shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition thereto, within 15 days from the incident, shall remove from the ground and from the affected waters of this Commonwealth to the extent required by this title the residual substances contained thereon or therein." 25 Pa. Code § 91.33(b). Where a Responsible Party is able to take immediate action to minimize or control a release, all available measures should be utilized to protect the environment and human health.

What Spills, Releases, Discharges, and Other Incidents Require DEP Notification

A Responsible Party is required to notify DEP of spills, releases, discharges, or other incidents that (1) endanger downstream users, (2) result in pollution, (3) create a danger of pollution, (4) would damage property, or (5) are placed so that they might discharge, flow, or be washed or fall into waters of the Commonwealth (i.e., create a danger of pollution). 25 Pa. Code § 91.33(a).

25 Pa. Code § 91.33(a) does not provide a threshold amount of a substance that triggers mandatory notification requirements under this section. However, notification should be provided to DEP about any quantity of a substance that spills, discharges, or otherwise enters waters of the Commonwealth if the release may endanger downstream users, may result in pollution, may create a danger of pollution, or may damage property. When there is some question regarding whether a spill or release requires notification of DEP or not, DEP recommends that a Responsible Party err on the side of notification. Notifying DEP of these incidents requires minimal effort (i.e., a phone call) and can help prevent or minimize hazards to the environment, public health, and public safety. The decision to notify DEP may also affect liability because failure to notify DEP can result in a civil penalty, pursuant to the Department's exercise of its enforcement discretion.

How to Notify DEP

DEP must be notified by telephone using the numbers listed below.

Spills, discharges, or other incidents should be reported to the DEP regional office covering the county where the incident is occurring between 8 a.m. and 4 p.m., or to the statewide emergency contact at 800-541-2050 between 4 p.m. and 8 a.m.

Responsible Parties should be advised that the notification requirements and procedures outlined above are in addition to those required in other applicable laws.

Southeast Regional Office Bucks, Chester, Delaware, Montgomery and Philadelphia counties	484-250-5900
Northeast Regional Office Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Pike, Northampton, Schuylkill, Susquehanna, Wayne and Wyoming counties	570-826-2511
Southcentral Regional Office Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York counties	800-541-2050
Northcentral Regional Office Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Sullivan, Tioga and Union counties	570-327-3636 24 hours
Southwest Regional Office Allegheny, Beaver, Cambria, Fayette, Greene, Somerset, Washington and Westmoreland counties	412-442-4000 24 hours
Northwest Regional Office Armstrong, Butler, Clarion, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Lawrence, McKean, Mercer, Venango and Warren counties	814-332-6945 After Hours: 800-373-3398

Emergency response contact numbers are also available at DEP’s [Report an Incident](#) webpage. The Department does not consider voicemail messages, emails, or text messages to fulfill the notification requirements detailed in this guidance. Mailed letters are not acceptable forms of immediate notification.

For More Information

Contact DEP, Bureau of Clean Water by phone at 717-787-5017
 Visit www.dep.pa.gov, click the [Report an Incident](#) icon
 Visit www.pema.pa.gov, click the [Spill Reporting](#) icon