

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Bureau of Environmental Cleanup and Brownfields**

**DOCUMENT NUMBER:** 263-0900-001

**TITLE:** Storage Tank System Variances

**EFFECTIVE DATE:** January 2, 2021

**AUTHORITY:** The Storage Tank and Spill Prevention Act, P.L. 169, No. 32 of 1989, as amended (Tank Act), and 25 Pa. Code, Chapter 245 (Storage Tank Regulations).

**POLICY:** It is the policy of the Department of Environmental Protection (Department or DEP) to carry out the provisions of the Storage Tank and Spill Prevention Act of 1989 and related regulations.

**PURPOSE:** These guidelines provide the qualifying conditions for an underground or aboveground storage tank variance; variance request criteria; application process; and the Department's review and approval process.

**APPLICABILITY:** This guidance is primarily applicable to storage tank facility owners during variance request application preparation and Department staff's variance request review and approval process.

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

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

**PAGE LENGTH:** 3 pages

## STORAGE TANK SYSTEM VARIANCES

Regulations in 25 Pa. Code Chapter 245 §§ 245.404, 245.503, and 245.606 allow the Department to grant a variance for one or more of the technical provisions of Subchapters E, Technical Standards for Underground Storage Tanks, Subchapter F, Technical Standards for Aboveground Storage Tanks and Facilities, and Subchapter G, Simplified Program for Small Aboveground Storage Tanks. The storage tank facility owner must submit a written variance request to the Department for the specific variance. An owner may request a variance if there are unique or peculiar circumstances which make compliance with the regulatory requirement(s) technically impractical, infeasible, or unsafe. The variance proposal must provide alternative technical standards that fully protect human health and the environment. The alternative design, practice, or method proposed in the variance request must be no less stringent than other applicable Federal or State regulations. For example, the proposed variance may not be in conflict with State Flammable and Combustible Liquids Requirements or Federal Oil Pollution Act. The Department will review the variance request and provide written notification of approval or disapproval. The Department may request additional information prior to acting upon the variance request, if information provided by the applicant is not adequate. The Department may not act upon an application for a variance request which is incomplete or that does not provide necessary information on which to make a determination.

The written request for a variance must be submitted to the Division of Storage Tanks, Rachel Carson State Office Building, P.O. Box 8762, Harrisburg, PA 17105-8762. The written request shall include the following information:

- Name and correspondence address of the applicant submitting the request
- Facility Name
- Facility Id. #
- Storage Tank #(s)
- Subchapter and Specific Section(s) for which the variance is sought.
- Detailed conditions which make compliance with the subchapter section(s) technically impractical, infeasible, or unsafe.
- Documented evidence, including plans, specifications, and test results, which support the alternative design, practice, schedule, or method as being no less protective of human health and the environment than the requirements of the section(s) identified above.

The Department may take the following actions upon the receipt of a written request for a variance:

1. The Division of Storage Tank staff will review the submitted variance request, and where a variance request applicant does not meet minimum criteria upon which a variance can be requested, the Department will send a letter to the applicant explaining why the request cannot be a variance. The appropriate Department regional office staff will be contacted prior to notifying the applicant whenever these cases are identified and copied on the correspondence to the applicant.

2. Variance applications that the Division of Storage Tanks staff review will be discussed with Regional Storage Tank Program staff to obtain regional input. Regional staff may visit the site and as appropriate participate in meetings and discussions that are arranged with the applicant.
3. The Division of Storage Tanks, during the review process, may obtain engineering services from an outside engineering/consulting firm as necessary to evaluate the variance request.
4. When additional information is needed from the applicant, it will be requested in writing along with a date when needed. The Department may not act on a variance request in situations where the applicant fails to respond, and the information is necessary to make a variance determination. In these cases, the Division of Storage Tanks will write to the applicant explaining why the request cannot be acted upon, and that no further action will be taken until after the needed information is received.
5. When the Department makes a final variance determination, the appropriate Department regional office staff will be informed of the decision prior to notifying the applicant. The official notification to the applicant will be sent by the Division of Storage Tanks specifying either approval, denial or approval with conditions. When conditions are specified, these conditions must be met by the storage tank facility owner to comply with technical requirements.
6. An applicant may appeal the Department's decision.
7. The Department will publish notice of approved variances in the *Pennsylvania Bulletin*.