

Part E: Requirements for Reporting, Release Investigation, Remedial Action and No Further Action Determinations for Underground Storage Tank Systems

Summary (*READ for detail*)

1.1 Reporting Requirements for Release Indicated by UNUSUAL OPERATING CONDITIONS

1.1.1 Reported to Department (302-395-2500) by Owner/Operator within 24hrs of discovery or next Day

1.1.2 Unusual operating conditions include (summary):

- Sudden loss of product from any portion of UST system
- Inventory control discrepancies
- Release Detection equipment signal or alarm indicating a release may have occurred
- Failed or inconclusive SIR results
- Irregular behavior of product dispensing equipment
- Equipment failure or malfunction
- Unexplained presence of water in UST system
- Evidence of release noted during routine inspection
- Evidence of liquid in Interstitial space of secondarily contained systems
- Failure of tank, piping or vapor recovery test

1.2 Reporting Requirements for Release Indicated by ENVIRONMENTAL CONDITIONS

1.2.1 Any indication of a Release of a Regulated Substance that is discovered by any Person, including environmental consultants, environmental contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within twenty-four (24) hours to: (see 1.2.1.1, 1.2.1.2 and 1.2.1.3). The Department may require that the UST System be taken out of service or rendered empty until the cause of the indication of the Release is determined, in accordance with 1.2.1.4.

1.2.2 Release indicated by environmental conditions include:

- 1.2.2.1 Stained soils or soils that emit characteristic odors of Regulated Substance compounds which are exposed during digging, boring or excavation activities, Repair, Retrofit or Upgrade of UST Systems, Removal of an UST System or collection of soil samples around an UST System that is Closed In Place, or results from a Phase I or Phase II environmental Site Assessment; or
- 1.2.2.2 Water from supply wells, public or private, that exhibit a decrease in water quality, which is shown by subsequent analysis to result from the presence of a Regulated Substance; or
- 1.2.2.3 The appearance of characteristic odors of a Regulated Substance in basements or other enclosed spaces; or
- 1.2.2.4 The appearance of a sheen on a surface water body; or
- 1.2.2.5 The appearance of a sheen or measurable LNAPL in a supply well, Monitoring Well, or Observation Tube; or
- 1.2.2.6 A laboratory report that indicates a sample collected from an UST excavation, soil boring, Monitor Well or Observation Tube contains a Regulated Substance; or
- 1.2.2.7 Notification from the State Emergency Prevention and Response Section or another State or Federal agency of the discovery of uncontained Regulated Substance compounds.

1.3 Reporting Requirements for Confirmed Releases EXCLUDING Spills and Overfills of a Regulated Substance

(*READ for detail*)

1.4 Reporting Requirements for Spills and Overfills of a Regulated Substance

- 1.4.1 Owners and Operators shall report any spill or overfill that results in a Release to the environment that exceeds twenty-five (25) gallons to the Department immediately by calling 800-662-8802, and shall contact the Department, 302-395-2500, for further instructions. Owners and Operators shall

immediately contain and clean up the spill or overfill and shall comply with the Release investigation, hydrogeologic investigation and Remedial Action requirements of Part E as directed by the Department.

- 1.4.2 Owners and Operators shall immediately contain and clean up any spill or overfill that results in a Release to the environment that is less than twenty-five (25) gallons. If clean up cannot be accomplished within twenty-four (24) hours, Owners and Operators shall immediately notify the Department (302-395-2500). Owners and Operators shall comply with the Release investigation, hydrogeologic investigation and Remedial Action requirements of Part E as directed by the Department.

1.5 Reporting Requirements for Spills and Overfills of a Hazardous Substance

(READ for detail)

2.0 Indicated Release Investigation Requirements

The requirements in this section have been shifted around with new numbering but remain essentially the same

2.1 General Requirements for Indicated Release Investigation

(READ for detail)

2.2 Investigation Procedures for Releases Indicated by Unusual Operating Conditions

- 2.2.1 Upon discovery of an indication of a Release, Responsible Parties shall:

2.2.1.1 Within twenty-four (24) hours initiate an investigation to determine the cause of any unusual operating condition.

2.2.1.1.1 If the unusual operating condition is the result of an equipment failure or malfunction, Owners and Operators shall Repair or replace all faulty equipment in accordance with all applicable portions of these Regulations.

2.3 Investigation Procedures for Releases Indicated by Inventory Control Discrepancies

- 2.3.1 Owners and Operators shall initiate an investigation procedure within twenty-four (24) hours of identification of an inventory discrepancy as described in Part B, Part C or Part D of these Regulations. The investigation shall proceed until the cause of the discrepancy has been found. The investigation shall include:

2.3.1.1 Inventory records shall be checked for mathematical errors; and

2.3.1.2 Inventory records shall be checked for error in measurement, substance temperature change, or other variables; and

2.3.1.3 If the significant loss or gain is not reconcilable after the steps in Part E, subsections 2.3.1.1 or 2.3.1.2 are completed, or cannot be affirmatively demonstrated to be the result of pilferage, the UST System shall be checked for damage; and

2.3.1.4 Release Detection systems shall be checked for signs of a Release; and

2.3.1.5 Correct calibration of the inventory measuring system and any Dispensers shall be verified.

- 2.3.2 If the source of the inventory discrepancy has not been determined from the above procedures, Owners and Operators shall notify the Department within twenty-four (24) hours of completion of the investigation procedures in Part E, subsections 2.3.1.1, 2.3.1.2, 2.3.1.3, 2.3.1.4, and 2.3.1.5, and Owners and Operators shall initiate the Release investigation and confirmation steps established in Part E.

2.4 Investigation Procedures for Releases Indicated by Environmental Conditions

- 2.4.1 Within twenty-four (24) hours develop a plan and initiate an investigation within seven (7) Days to determine the presence or absence of a Release by:

2.4.1.1 Conducting an UST System tightness test in accordance with Part B, subsections 1.13 and 2.13, Part C, subsections 1.13 and 2.13 or Part D, subsection 1.13 as applicable; or

2.4.1.2 Measuring for the presence of a Release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, the type of initial indication of contamination, type of backfill and soil, the depth of groundwater, and other factors appropriate for identifying the presence and source of the Release shall be considered; or

2.4.1.3 Additional UST System testing or site assessment activities as directed by the Department.

2.4.2 If the Release investigation determines that a Release has occurred, Responsible Parties shall comply with the hydrogeologic investigation and Remedial Action requirements of Part E.

5.0 Remedial Action Requirements

(new - added)

5.2.11 The RAWP may include green sustainable remediation practices, processes, and technologies in accordance with ASTM (ASTM International) *E2893-16 Standard Guide for Greener Cleanup*. ITRC (Interstate Technology & Regulatory Council). *Green and Sustainable Remediation: State of the Science and Practice*. GSR-1 and ITRC (Interstate Technology & Regulatory Council). *Green and Sustainable Remediation: A Practical Framework*. GSR-2.

5.2.12 The RAWP may include the use of Institutional Controls to reduce the potential for exposure to Hazardous Substances. Institutional Controls may include land use restrictions, activity restrictions, groundwater use restrictions, operations and Maintenance requirements, or other Institutional Controls.

7.0 No Further Action Requirements

(new - added)

6.1.1.4 Institutional Controls as required by the Department, including the replacement of an Environmental Covenant (EC) on a Facility, as provided for in 7 Del.C. §§7907-7920, the Uniform Environmental Covenants Act (UECA) have been established.

6.2.4 As per Delaware Code Title 26, Chapter 8, Subchapter 1: Underground Utility Damage Prevention and Safety, any Person disturbing any residual contamination at the site by digging, boring, excavating, dewatering, or other means, shall contact Miss Utility prior to activities to arrange for markout of all subsurface utilities, shall submit a contaminated material management plan to the Department for approval prior to work commencing, and shall be financially responsible for implementing it.

7.0 All Appropriate Inquiry

(new - added)

7.1.1 When residential property is purchased by an individual, individuals, or a nonprofit agency as defined by the Internal Revenue Service or State law, a title search, a visual inspection by the purchaser or his or her agent that is intended to locate evidence of a UST System on the property, and other supporting documentation including a real estate disclosure form, No Further Action letter or Department provided Discovery Questionnaire shall constitute all appropriate inquiry pursuant to 7 Del.C. Chapter 74, Section 7406e(2)(b).