Subchapter D. CORRECTIVE ACTION PROCESS FOR OWNERS AND OPERATORS OF STORAGE TANKS AND STORAGE TANK FACILITIES AND OTHER RESPONSIBLE PARTIES

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The provisions of this Subchapter D adopted August 20, 1993, effective August 21, 1993, 23 Pa.B. 4033, unless otherwise noted.

Cross References

This subchapter cited in 25 Pa. Code § 245.212 (relating to minimum requirements for obtaining a permit-by-rule); 25 Pa. Code § 245.431 (relating to spill and overfill control); 25 Pa. Code § 245.441 (relating to general requirements for underground storage tank systems); 25 Pa. Code § 245.422 (relating to upgrading of existing underground storage tank systems); 25 Pa. Code § 245.451 (relating to temporary closure (out-of-service)); 25 Pa. Code § 245.453 (relating to assessing the site at closure or change-in-service); 25 Pa. Code § 245.561 (relating to permanent closure or change-in-service); 25 Pa. Code § 245.613 (relating to monitoring standards); 25 Pa. Code § 298.22 (relating to waste oil storage); 25 Pa. Code § 298.45 (relating to waste oil storage at transfer facility); and 25 Pa. Code § 298.64 (relating to waste oil storage).

§ 245.301. Purpose.

This subchapter establishes release reporting, release confirmation and corrective action requirements for owners and operators of storage tanks and storage tank facilities and other responsible parties.

§ 245.302. Scope.

This subchapter applies to releases of regulated substances from storage tanks regulated under the act.

§ 245.303. General requirements.

(a) For a corrective action required by this subchapter, the Department may do one or more of the following:

(1) Direct or order the responsible party to perform the corrective action.

(2) Perform the corrective action.

(3) Direct that the corrective action be performed by a third party.

(4) Seek other appropriate administrative or court ordered relief.

(b) For a corrective action required by this subchapter, the Department may collect or recover, from the responsible party, the Department's costs and expenses involved in taking corrective action in accordance with this subchapter, authorizing a third party to take corrective action under this subchapter and initiating cost recovery actions under this subchapter. The Department may collect the amount in the same manner as civil penalties are collected under section 1307(b) of the act (35 P. S. § 6021.1307(b)).

(c) For corrective actions required by this subchapter, it will be presumed as a rebuttable presumption of law in civil and administrative proceedings that a person who owns or operates an aboveground or underground storage tank is liable, without proof of fault, negligence or causation, for damage, contamination or pollution within 2,500 feet of the perimeter of the site of a storage tank containing or which contained a regulated substance of the type which caused the damage, contamination or pollution. The presumption may be overcome by clear and convincing evidence that the person so charged did not contribute to the damage, contamination or pollution.

(d) To overcome the presumption of liability established in subsection (c), the owner or operator shall affirmatively prove, by clear and convincing evidence, one of the following:

(1) The damage, contamination or pollution existed prior to the use of a storage tank at the facility to contain an accumulation of regulated substances, as determined by surveys of the site and within 2,500 feet of the perimeter of the storage tank or facility.

(2) An adjacent landowner refused to allow the owner or operator of a storage tank at a new facility access to property within 2,500 feet of the perimeter of a storage tank facility to conduct a survey.

(3) The damage, contamination or pollution was not within 2,500 feet of the perimeter of a storage tank.

(4) The owner or operator did not contribute to the damage, contamination or pollution.

(e) The Department may waive or combine one or more of the requirements of this subchapter based on:

(1) The nature, extent, type, volume or complexity of the release.

(2) The general characteristics of the site and the regulated substances which were released.

(3) The corrective action which occurred subsequent to the release.

(f) The Department's acceptance or approval of an interim remedial action, site characterization, site characterization report, remedial action plan, remedial action or remedial action completion report, does not constitute and may not be construed as a release from civil or criminal liability in an administrative, civil or criminal proceeding.

Cross References

This section cited in 25 Pa. Code § 245.1 (relating to definitions); 25 Pa. Code § 245.310 (relating to site characterization report); 25 Pa. Code § 245.311 (relating to remedial action plan); and 25 Pa. Code § 245.313 (relating to remedial action completion report).

§ 245.304. Investigation of suspected releases.

(a) The owner or operator of storage tanks and storage tank facilities shall initiate and complete an investigation of an indication of a release of a regulated substance as soon as practicable, but no later than 7 days after the indication of a release. An indication of a release includes one or more of the following conditions:

(1) The presence of a regulated substance or an unusual level of vapors from a regulated substance of unknown origin, at a storage tank facility.

(2) Evidence of a regulated substance or vapors in soils, basements, sewer lines, utility lines, surface water or groundwater in the surrounding area.

(3) Unusual operating conditions, indicative of a release, such as the erratic behavior of product dispensing equipment.

(4) The sudden or unexpected loss of a regulated substance from a storage tank, or the unexplained presence of water in a storage tank.

(5) Test, sampling or monitoring results from a release detection method which indicate a release.

(6) The discovery of holes in a storage tank during activities such as inspection, repair or removal from service.

(7) Other events, conditions or results which may indicate a release.

(b) The investigation required by subsection (a) shall include a sufficient number of the procedures outlined in this subsection and be sufficiently detailed to confirm whether a release of a regulated substance has occurred. The owner or operator shall investigate the indication of a release by one or more of the following procedures:

(1) A check of product dispensing or other similar equipment.

(2) A check of release detection monitoring devices.

(3) A check of inventory records to detect discrepancies.

(4) A visual inspection of the storage tank or the area immediately surrounding the storage tank.

(5) Testing of the storage tank for tightness or structural soundness.

(6) Sampling and analysis of soil or groundwater.

(7) Other investigation procedures which may be necessary to determine whether a release of a regulated substance has occurred.

(c) If the investigation confirms that a reportable release has occurred, the owner or operator shall report the release in accordance with § 245.305 (relating to reporting releases) and initiate corrective action.

(d) If the investigation confirms that a no reportable release has occurred, the owner or operator shall take necessary corrective actions to completely recover or remove the regulated substance which was released.

(e) If the investigation confirms that a release has not occurred, further investigation by the owner or operator is not required.

Source

The provisions of this § 245.304 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (280168) and (234707).

Cross References

This section cited in 25 Pa. Code § 245.31 (relating to underground storage tank tightness testing requirements); 25 Pa. Code § 245.306 (relating to interim remedial actions); 25 Pa. Code § 245.309 (relating to site characterization); 25 Pa. Code § 245.444 (relating to methods of release detection for tanks); 25 Pa. Code § 245.614 (relating to requirements for closure); and 25 Pa. Code § 977.34 (relating to claims reporting).

§ 245.305. Reporting releases.

(a) The owner or operator of storage tanks and storage tank facilities shall notify the appropriate regional office of the Department as soon as practicable, but no later than 24 hours, after the confirmation of a reportable release.

(b) Upon the occurrence of a confirmed, nonreportable release, the owner or operator shall take necessary corrective actions to completely recover or remove the regulated substance which was released.

(c) The notice required by subsection (a) shall be by telephone and describe, to the extent of information available, the regulated substance involved, the quantity of the regulated substance involved, when the release occurred, where the release occurred, the affected environmental media, relevant, available information concerning impacts to water supplies, buildings or to sewer or other utility lines and interim remedial actions planned, initiated or completed.

(d) Within 15 days of the notice required by subsection (a), the owner or operator shall provide written notification to the Department and to each municipality in which the reportable release occurred, and each municipality where that release has impacted environmental media or water supplies, buildings or sewer or other utility lines.

(e) The owner or operator shall provide written notification to the Department and each impacted municipality of new impacts to environmental media or water supplies,

buildings, or sewer or other utility lines discovered after the initial written notification required by subsection (d). Written notification under this subsection shall be made within 15 days of the discovery of the new impact.

(f) Written notification required by this section shall contain the same information as required by subsection (c).

(g) If the Department determines that a release poses an immediate threat to public health and safety, the Department may evaluate and implement reasonable procedures to provide the public with appropriate information about the situation which may, at a minimum, include a summary of the details surrounding the release and its impacts in a newspaper of general circulation serving the area in which the impacts are occurring.

(h) Upon the occurrence of a reportable release at the aboveground storage tank, the owner or operator of aboveground storage tank facilities with a capacity greater than 21,000 gallons shall immediately notify the county emergency management agency, the Pennsylvania Emergency Management Agency and the Department. Downstream water companies, downstream municipalities and downstream industrial users within 20 miles of an aboveground storage tank facility located adjacent to surface waters shall be notified on a priority basis based on the proximity of the release by the owner or operator or the agent of the owner or operator within 2 hours of a release which enters a water supply or which threatens the water supply of downstream users. If the owner or operator or an agent fails to notify or is incapable of notifying downstream water users, the county emergency management agency shall make the required notification. This notification shall be done in accordance with section 904 of the act (35 P. S. § 6021.904).

(i) The owner or operator of storage tanks and storage tank facilities shall immediately notify the local fire authority where fire, explosion or safety hazards exist at the site.

Source

The provisions of this § 245.305 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (234707) to (234708).

Cross References

This section cited in 25 Pa. Code § 245.132 (relating to standards of performance); 25 Pa. Code § 245.304 (relating to investigation of suspected releases); 25 Pa. Code § 245.310 (relating to site characterization report); 25 Pa. Code § 245.435 (relating to reporting and recordkeeping); 25 Pa. Code § 245.516 (relating to recordkeeping requirements); 25 Pa. Code § 245.614 (relating to requirements for closure); and 25 Pa. Code § 977.34 (relating to claims reporting).

§ 245.306. Interim remedial actions.

(a) Upon confirming that a release has occurred in accordance with § 245.304 (relating to investigation of suspected releases) or after a release from a storage tank is identified in another manner, the responsible party shall immediately initiate the following interim remedial actions necessary to prevent or address an immediate threat to human health or the environment while initiating, as necessary, one or more of the tasks identified in § 245.309(c) (relating to site characterization):

(1) Remove the regulated substance from the storage tank to prevent further release to the environment.

(2) Identify, mitigate and continue to monitor and mitigate, fire, explosion and safety hazards posed by vapors and free product.

(3) Prevent further migration of the regulated substance released from the storage tank into the environment as follows:

(i) If contaminated soil exists at the site, the interim remedial action may include excavation of the soils for treatment or disposal.

(ii) If free product is present, free product recovery shall be initiated immediately.

(4) Identify and sample affected water supplies and water supplies with the potential to be affected in a reasonable and systematic manner consistent with § 245.309(b)(1) and (4) and (c)(4), (6) and (13). The responsible party shall restore or replace an affected or diminished water supply in accordance with § 245.307 (relating to affected or diminished water supplies). The responsible party shall provide a copy of the sample results to the water supply owner and the Department within 5 days of receipt of the sample results from the laboratory.

(b) At sites where free product recovery, regulated substance removal or contaminated soil excavation is performed, the responsible party shall:

(1) Conduct recovery, removal, storage, treatment and disposal activities in a manner that prevents the spread of contamination into previously uncontaminated areas.

(2) Handle flammable products in a safe and competent manner to prevent fires or explosions.

(3) Obtain required State and local permits or approvals for treatment and disposal activities.

(4) Minimize the amount of soil and subsurface material affected by a release of a regulated substance by segregating the unaffected soil and subsurface material from the material affected by a release of a regulated substance.

(c) If free product recovery affects or diminishes the quality or quantity of a water supply, the responsible party shall restore or replace the water supply in accordance with § 245.307.

(d) Where soil and subsurface material affected by a release is removed from the site, the person removing the material shall provide to the owner, operator, landowner or other responsible party a receipt documenting acceptance of the material at a permitted treatment or disposal facility.

Source

The provisions of this § 245.306 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (234708) to (234709).

Cross References

This section cited in 25 Pa. Code § 245.309 (relating to site characterization); and 25 Pa. Code § 245.310 (relating to site characterization report).

§ 245.307. Affected or diminished water supplies.

(a) A responsible party who affects or diminishes a water supply as a result of a release shall restore or replace the affected or diminished supply with an alternate source of water adequate in quantity and quality for the purposes served by the supply, at no cost to the owner of the affected or diminished water supply.

(b) Where a responsible party restores or replaces an affected or diminished water supply by providing access to a public water system regulated under the Pennsylvania Safe Drinking Water Act (35 P. S. § § 721.1—721.17), the responsible party will not be required to pay for the quantity of water supplied to the water supply user by the public water system.

(c) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) The responsible party receives information which establishes that the responsible party has affected or diminished the water supply.

(2) The responsible party is notified by the Department that the responsible party has affected or diminished the water supply.

(d) A permanent water supply shall be provided within 90 days, or within an alternative time frame as determined by the Department, after one of the following:

(1) The responsible party receives information which establishes that the responsible party has affected or diminished the water supply.

(2) The responsible party is notified by the Department that the responsible party has affected or diminished the water supply.

Cross References

This section cited in 25 Pa. Code § 245.306 (relating to interim remedial actions); and 25 Pa. Code § 245.309 (relating to site characterization).

§ 245.308. Onsite storage of contaminated soil.

(a) Onsite storage of contaminated soil is prohibited unless performed as part of remedial action implemented in accordance with § 245.312 (relating to remedial action) or as provided for in subsection (b).

(b) Onsite storage of contaminated soil may be performed if the soil does not present a threat to human health, safety or the environment and one of the following applies:

(1) Soil excavation is necessary to perform a removal from service.

(2) Soil excavation is performed as part of an interim remedial action.

(c) Where excavated contaminated soil is stored onsite in accordance with subsection (b), the excavated soil shall be disposed of or active treatment of the excavated soil shall be initiated, within 90 days from the first day of storage or within an alternative time frame authorized by the Department in writing.

(d) If contaminated soil is stored onsite, the responsible party shall manage the soil in accordance with applicable sections of Chapter 299, Subchapter A (relating to standards for storage of residual waste) and other applicable Department regulations. In addition to the requirements in § 299.131(a) (relating to general requirements), contaminated soil piles shall be completely and securely covered, for the duration of the storage period, with an impermeable material of sufficient strength, thickness, anchoring or weighting to prevent tearing or lifting of the cover, infiltration of precipitation or surface water runon, and exposure of the soil to the atmosphere. In addition to the requirements in § 299.115(b) (relating to nuisance control), appropriate steps shall be taken to deter public access to the storage area. This may include fencing, similar barriers, security patrols or warning signs.

(e) The Department may require immediate removal of contaminated soil if the soil is not being properly stored or managed in accordance with subsection (c) or (d), or if the Department determines that storage poses a threat to human health, safety or the environment.

§ 245.309. Site characterization.

(a) Upon confirming that a reportable release has occurred in accordance with § 245.304 (relating to investigation of suspected releases) or after a reportable release from a storage tank is identified in another manner, the responsible party shall perform a site characterization.

(b) The objectives of a site characterization are to accomplish the following:

(1) Determine whether additional interim remedial actions are necessary to abate an imminent hazard to human health or the environment.

(2) Determine whether additional site characterization work is required upon completion of an interim remedial action.

(3) Determine or confirm the sources of contamination.

(4) Provide sufficient physical data, through field investigations, to determine the regulated substances involved, and the extent of migration of those regulated substances in surface water, groundwater, soil or sediment.

(5) Determine, from measurements at the site, values for input parameters including hydraulic conductivity, source dimensions, hydraulic gradient, water table fluctuation and fraction organic carbon necessary for fate and transport analysis.

(6) Provide sufficient information to select a remediation standard.

(7) Provide sufficient information to allow for completion of a remedial action plan or a design for remedial action.

(c) The responsible party shall conduct the site characterization activities necessary to satisfy the objectives established in subsection (b). The site characterization shall include the following tasks, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) Identifying the need for and initiating additional interim remedial actions.

(2) Opening and sampling storage tanks to determine the regulated substances stored in the tanks.

(3) Tightness testing or other release detection testing and monitoring to determine the structural integrity of the storage tank.

(4) Identify and sample affected water supplies and water supplies with the potential to be affected not previously identified or sampled under § 245.306(a)(4) (relating to interim remedial actions). The responsible party shall restore or replace an affected or

diminished water supply in accordance with § 245.307 (relating to affected or diminished water supplies). The responsible party shall provide a copy of the sample results to the water supply owner and the Department within 5 days of receipt of the sample results from the laboratory.

(5) Determining the location of the ecological receptors identified in § 250.311(a) (relating to evaluation of ecological receptors).

(6) A review of the site history.

(7) A review and analysis of data from removal from service and interim remedial action activities.

(8) Using geophysical survey techniques to locate storage tanks and to determine geologic and hydrogeologic characteristics of affected hydrogeologic zones and hydrogeologic zones with the potential to be affected.

(9) Drilling soil borings, conducting soil gas surveys and collecting soil samples to determine soil characteristics and the horizontal and vertical extent of soil contamination.

(10) Using piezometers, well points, monitoring wells and public and private wells to:

(i) Determine the direction of groundwater flow.

(ii) Determine soil, geologic, hydrogeologic and aquifer characteristics.

(iii) Measure the horizontal extent and thickness of free product.

(iv) Sample groundwater to determine the horizontal and vertical extent of groundwater contamination.

(11) A demonstration that groundwater is not used or currently planned to be used.

(12) Sampling surface water and sediments to determine the extent of surface water and sediment contamination.

(13) Assessing potential migration pathways, including sewer lines, utility lines, wells, geologic structures and hydrogeologic conditions.

(14) Performing site surveying and topographic mapping.

(15) Developing a conceptual site model that describes the sources of contamination, fate and transport of contaminants and potential receptors.

(16) Handling and disposing of site characterization wastes.

(17) Preparing and implementing a site-specific plan for the provision of the following:

(i) Worker health and safety in accordance with OSHA requirements established at 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

(iii) A quality assurance/quality control program for the performance of site characterization field activities and for the accurate collection, storage, retrieval, reduction, analysis and interpretation of site characterization data.

(18) An analysis of the data collected as a result of the site characterization.

(19) Selection of a remediation standard.

(20) If the site-specific standard is selected, performance of a risk assessment in accordance with Chapter 250, Subchapter F (relating to exposure and risk determinations).

(21) Recommendation of preferred remedial action options.

(22) Recommendation for further site characterization work.

(23) Developing a conceptual design of the selected remedial action options and identifying additional investigations or pilot studies needed to design and implement a detailed remedial action plan.

(24) Additional tasks necessary to characterize the site.

Source

The provisions of this § 245.309 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (234711) to (234713).

Cross References

This section cited in 25 Pa. Code § 245.306 (relating to interim remedial actions); and 25 Pa. Code § 245.310 (relating to site characterization report).

§ 245.310. Site characterization report.

(a) The responsible party shall prepare and submit to the Department within 180 days of reporting a reportable release under § 245.305(a) (relating to reporting releases), or within an alternative time frame as determined by the Department, two copies of a site characterization report which describes the activities undertaken in accordance with § 245.309 (relating to site characterization). The site characterization report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A narrative description of the site and the historical and current operations conducted at the site.

(2) A site map showing location of buildings, roads, storage tanks, including those removed from service or closed in place, utilities, property boundaries, topographic contours, potential receptors and other information pertinent to the site characterization.

(3) A description of natural and manmade features pertinent to the site characterization.

(4) Details of interim remedial actions conducted at the site in accordance with § 245.306 (relating to interim remedial actions). These details shall include the following, as necessary:

(i) A description of the type and volume of the regulated substance removed from the storage tank.

(ii) A discussion of fire, explosion and safety hazards which have been identified, mitigated and monitored.

(iii) A discussion of necessary relocation of affected residents.

(iv) Where free product recovery is performed:

(A) The regulated substance released and the thickness of free product in wells, boreholes or excavations.

(B) The type of free product recovery system used.

(C) Whether a discharge has or will take place during the recovery operation and where this discharge is or will be located.

(D) The type of treatment applied to, and the effluent quality expected from, a discharge.

(E) The steps that have been or are being taken to obtain necessary permits or approvals for a discharge.

(F) The volume and disposition of the recovered free product.

(G) The date free product recovery was initiated.

(H) The date free product recovery was completed.

(v) Where excavation of contaminated soil is performed:

(A) The regulated substance released and actual volume of soil excavated.

(B) The method used to determine the existence and extent of contaminated soil.

(C) The treatment method or disposition of the excavated soil, including receipts documenting acceptance of the material at a permitted treatment or disposal facility.

(D) The date excavation was initiated.

(E) The date excavation was completed.

(F) The rationale for terminating soil excavation where the contaminated soil has not been excavated, including the volume of contaminated soil remaining in place, and a description of what steps will be taken to address the soils that remain unexcavated.

(5) The steps that have been or are being taken to restore or replace affected or diminished water supplies.

(6) A description of the type and characteristics of regulated substances involved, including quantities, physical state, concentrations, toxicity, propensity to bioaccumulate, persistence and mobility.

(7) The results of tightness testing or other release detection method used or conducted to determine the structural integrity of the storage tanks.

(8) The details of removal from service activities conducted at the site.

(9) The identification of the sources of contamination, including the actual or estimated date and quantity of release from each source.

(10) The location and description of affected water supplies and water supplies with the potential to be affected.

(11) A description of further site characterization work needed.

(12) A discussion and conclusions that demonstrate the site characterization objectives outlined in § 245.309(b) have been satisfied.

(13) The rationale, equipment, methodology and results of geophysical surveys.

(14) The location, rationale and logs of soil borings.

(15) The location, rationale, construction details, including methods and materials, and depth to groundwater of piezometers, well points and monitoring wells.

(16) Groundwater contour maps depicting groundwater flow direction at the site.

(17) A description of methods and equipment used to determine site-specific soil, geologic, hydrogeologic and aquifer properties.

(18) Sampling locations and rationale for selection of these locations.

(19) The results of a survey used to identify and sample public and private wells.

(20) Parameters analyzed for, analytical methods used and detection limits of these methods.

(21) Field and laboratory analytical results and interpretations.

(22) Contaminant distribution maps in the media and contaminant phases.

(23) A conceptual site model describing the sources of contamination, fate and transport of contaminants and potential receptors.

(24) The disposition of site characterization wastes.

(25) A copy of site-specific plans prepared and implemented for the provision of the following:

(i) Worker health and safety in accordance with OSHA requirements established at 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

(iii) A quality assurance/quality control program for the performance of site characterization field activities and for the accurate collection, storage, retrieval, reduction, analysis and interpretation of site characterization data.

(26) The identification of the remediation standard which has or will be attained at the site.

(27) The Department's written determination that groundwater is not used or currently planned to be used.

(28) The impacts to ecological receptors as a result of the evaluation conducted in accordance with § 250.311 or § 250.402(d) (relating to evaluation of ecological receptors; and human health and environmental protection goals).

(29) The impacts to surface water as a result of the evaluation conducted in accordance with § 250.309 or § 250.406 (relating to MSCs for surface water; and relationship to surface water quality requirements).

(30) A discussion of the remedial action options selected to remediate the site.

(31) A risk assessment report in accordance with § 250.409 (relating to risk assessment report).

(32) A demonstration that no current or future exposure pathways exist following the procedures described in § 250.404 (relating to pathway identification and elimination).

(33) A conceptual design of the remedial action options selected.

(34) A report of additional tasks performed to characterize the site.

(b) If the responsible party determines, after completion of interim remedial actions, that further site characterization is not required, that soil is the only media of concern, and that interim remedial actions have remediated the site, the responsible party may submit a site characterization report to the Department, in lieu of the report required in subsection (a), which contains the following:

(1) A concise statement that describes the release, including information such as the amount of regulated substance that was released, the extent of contamination and interim remedial actions taken under § 245.306.

(2) Data demonstrating that the interim remedial actions have attained the Statewide health standard for the site in accordance with Chapter 250, Subchapter G (relating to demonstration of attainment).

(3) The basis for selection of the residential or nonresidential Statewide health standard.

(4) The results of the evaluation of ecological receptors conducted in accordance with § 250.311.

(5) Additional information as identified in subsection (a) necessary to fully describe the release, the extent of contamination and the interim remedial actions taken to address the release.

(c) Following submission of a complete site characterization report prepared under subsection (a), selecting the site-specific standard, or subsection (b), the Department will do one or more of the following:

(1) Review and approve the site characterization report as submitted.

(2) Review and approve the site characterization report with modifications made by the Department.

(3) Review and disapprove the site characterization report, citing deficiencies.

(4) Review and disapprove the site characterization report and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the site characterization report, perform the site characterization in whole or in part and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in performing the site characterization.

(6) Review the site characterization report without further action.

(d) The Department will take one or more of the actions listed in subsection (c) within 60 days of receipt of a site characterization report meeting the requirements of subsection (b) or within 90 days of receipt of a site characterization report selecting the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

Source

The provisions of this § 245.310 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (234713) to (234717).

Cross References

This section cited in 25 Pa. Code § 245.311 (relating to remedial action plans); and 25 Pa. Code § 245.435 (relating to reporting and recordkeeping).

§ 245.311. Remedial action plan.

(a) Unless a site characterization report is submitted in accordance with § 245.310(b) (relating to site characterization report), the responsible party shall prepare and submit to the Department within 45 days of submission of a site characterization report required by § 245.310(a) selecting the background or Statewide health standard, within 45 days of

deemed approval or receipt of a written approval of a site characterization report selecting the site-specific standard or within an alternative time frame as determined by the Department, two copies of a remedial action plan prior to implementation of the remedial action plan. The remedial action plan must be complete and concisely organized and contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A brief summary of the site characterization report conclusions.

(2) A copy of the plans relating to worker health and safety, management of wastes generated and quality assurance/quality control procedures, as they relate to the remedial action, if different from the plans submitted in accordance with § 245.310(a)(25).

(3) A list of required Federal, State and local permits or approvals to conduct the remedial action.

(4) A discussion of how the remedial action will attain the selected remediation standard for the site.

(5) The results of treatability, bench scale or pilot scale studies or other data collected to support the remedial action.

(6) Design and construction details for the remedial action, including expected effectiveness.

(7) Operation and maintenance details for the remedial action, including:

(i) A schedule including initiation and completion dates for all elements of the remedial action plan.

(ii) The expected concentrations and quantities of regulated substances in any discharge.

(iii) The disposition of the discharge.

(iv) A schedule for monitoring, sampling and site inspections.

(8) A site map showing the location of buildings, roads, property boundaries, remedial equipment locations and other information pertinent to the remedial action.

(9) A description of the media and parameters to be monitored or sampled during the remedial action.

(10) A description of the analytical methods to be utilized and an appropriate reference for each.

(11) A description of the methodology that will be utilized to demonstrate attainment of the selected remediation standard.

(12) A description of proposed postremediation care requirements.

(13) A description of additional items necessary to develop the remedial action plan.

(b) Following submission of a complete remedial action plan selecting the background or Statewide health standard, the Department will do one or more of the following:

(1) Review and approve the site characterization report and remedial action plan as submitted.

(2) Review and approve the site characterization report and remedial action plan with modifications made by the Department.

(3) Review and disapprove the site characterization report and remedial action plan, citing deficiencies.

(4) Review and disapprove the site characterization report and remedial action plan and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the site characterization report and remedial action plan, prepare a remedial action plan or perform the remedial action in whole or in part, and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in preparing the remedial action plan or performing the remedial action.

(6) Review the site characterization report and remedial action plan without further action.

(c) Following submission of a complete remedial action plan selecting the site-specific standard, the Department will do one or more of the following:

(1) Review and approve the remedial action plan as submitted.

(2) Review and approve the remedial action plan with modifications made by the Department.

(3) Review and disapprove the remedial action plan, citing deficiencies.

(4) Review and disapprove the remedial action plan and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the remedial action plan, prepare a remedial action plan or perform the remedial action in whole or in part, and recover, in accordance with § 245.303(b), the Department's costs and expenses involved in preparing or performing the remedial action plan.

(6) Review the remedial action plan without further action.

(d) A remedial action plan is not required and no remedy is required if the site-specific standard is chosen and no current or future exposure pathways exist.

(e) The Department will take one or more of the actions listed in subsection (b) within 60 days of receipt of a remedial action plan to attain the background or Statewide health standard, or the Department will take one or more of the actions listed in subsection (c) within 90 days of receipt of a remedial action plan to attain the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report and plan or plan shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

(f) If the site characterization report and remedial action plan are submitted to the Department at the same time, the Department will take one or more of the actions listed in subsection (b) within 60 days of receipt of a report and plan to attain the background or Statewide health standard, or the Department will take one or more of the actions listed in subsection (c) within 90 days of receipt of a report and plan to attain the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report and plan shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

Source

The provisions of this § 245.311 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615; November 9, 2007, effective November 10, 2007, 37 Pa.B. 5979. Immediately preceding text appears at serial pages (285742) to (285744).

Cross References

This section cited in 25 Pa. Code § 245.312 (relating to remedial action); and 25 Pa. Code § 245.435 (relating to reporting and recordkeeping).

§ 245.312. Remedial action.

(a) Upon reasonable notice by the Department to the responsible party, or upon approval of the remedial action plan by the Department, the responsible party shall implement the remedial action plan, or a portion of the remedial action plan, according to the schedule contained therein.

(b) During implementation of the remedial action plan, remedial action progress reports shall be submitted to the Department quarterly or at an alternative interval as determined by the Department.

(c) Each remedial action progress report shall provide the data generated during the reporting period and shall show the progress to date toward attainment of the selected remediation standard. Each report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A summary of site operations and remedial progress made during the reporting period.

(2) Data collected from monitoring and recovery wells showing depth to groundwater and thickness and horizontal extent of free product.

(3) Groundwater contour maps depicting groundwater flow direction.

(4) Quantitative analytical results from groundwater, surface water, soil and sediment sampling.

(5) Maps for all media and all phases at specified times that indicate the distribution of concentrations of regulated substances.

(6) For fate and transport analyses, the following information, in addition to that required by § 250.204(f)(5) (relating to final report):

(i) An isoconcentration map showing the configuration and concentrations of contaminants within the plume being analyzed.

(ii) Sufficient information from monitoring data to establish whether the plume is stable, shrinking or expanding.

(iii) Input parameters for the analysis and the rationale for their selection.

(iv) Figures showing the orientation of the model or analysis to the field data.

(v) Comparison and analysis of the model or mathematical output to the actual field data.

(7) Reporting period and cumulative amounts of free product recovered, groundwater treated, and soil and sediment treated or disposed.

(8) Treatment and disposal documentation for waste generated during the reporting period.

(9) Demonstration that required Federal, State and local permits and approvals are being complied with.

(10) A report of additional items necessary to describe the progress of the remedial action.

(d) The first remedial action progress report shall be received by the Department 3 months following the date of remedial action plan implementation. The final remedial action progress report shall be submitted to the Department as part of the remedial action completion report.

(e) If during implementation of the remedial action plan the responsible party decides to change the remedial action plan, the responsible party shall prepare and submit, to the Department, a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, in accordance with § 245.311 (relating to remedial action plan).

(f) If during implementation of the remedial action plan the responsible party determines that continued implementation of the remedial action plan will cause additional environmental harm, the responsible party shall suspend remedial action and notify the Department, by telephone, within 24 hours of suspension. The responsible party shall prepare and submit a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, to the Department in accordance with § 245.311.

Source

The provisions of this § 245.312 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (234718) to (234720).

Cross References

This section cited in 25 Pa. Code § 245.308 (relating to onsite storage of contaminated soil); and 25 Pa. Code § 245.435 (relating to reporting and recordkeeping).

§ 245.313. Remedial action completion report.

(a) When the selected remediation standard has been attained, the responsible party shall submit a remedial action completion report to the Department.

(b) The remedial action completion report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the remediation standard attained:

(1) When the background standard has been attained, the remedial action completion report shall include the requirements of § 250.204(f) and (g) (relating to final report).

(2) When the Statewide health standard has been attained, the remedial action completion report shall include the requirements of § 250.312(b)—(h) (relating to final report).

(3) When the site-specific standard is attained, the remedial action completion report shall include the requirements of § 250.411(c)—(f) (relating to final report).

(4) For fate and transport analyses, the following information, in addition to that required by § 250.204(f)(5):

(i) An isoconcentration map showing the configuration and concentrations of contaminants within the plume being analyzed.

(ii) Sufficient information from monitoring data to establish whether the plume is stable, shrinking or expanding.

(iii) Input parameters for the analysis and the rationale for their selection.

(iv) Figures showing the orientation of the model or analysis to the field data.

(v) Comparison and analysis of the model or mathematical output to the actual field data.

(c) Following submission of the remedial action completion report, the Department will do one or more of the following:

(1) Review and approve the remedial action completion report as submitted.

(2) Review and approve the remedial action completion report with modifications made by the Department.

(3) Review and disapprove the remedial action completion report, citing deficiencies.

(4) Review and disapprove the remedial action completion report and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the remedial action completion report, perform the site characterization or remedial action and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in preparing the remedial action completion report.

(6) Review the remedial action completion report without further action.

(d) The Department will take one or more of the actions listed in subsection (c) within 60 days of receipt of the remedial action completion report demonstrating attainment of the background or Statewide health standard, or within 90 days of receipt of a remedial action completion report demonstrating attainment of the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

Source

The provisions of this § 245.313 amended November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615. Immediately preceding text appears at serial pages (234720) to (234721).

Cross References

This section cited in 25 Pa. Code § 245.435 (relating to reporting and recordkeeping).

§ 245.314. Professional seals.

Reports submitted to satisfy this subchapter containing information or analysis that constitutes professional geologic or engineering work as defined by the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § § 148—158.2) shall be sealed by a professional geologist or engineer who is in compliance with the requirements of that statute.

Source

The provisions of this § 245.314 adopted November 30, 2001, effective December 1, 2001, 31 Pa.B. 6615.