

Title 10 - DEPARTMENT OF NATURAL RESOURCES
Division 20 - Clean Water Commission
Chapter 15 - Aboveground Storage Tanks – Release Response

PROPOSED RULE

10 CSR 20-15.020 Release Reporting and Initial Release Response Measures

PURPOSE: The Missouri Clean Water Commission is responsible for adopting rules necessary to prevent, control and abate potential discharge of contaminants to the waters of the state. Releases of petroleum and other regulated substances from Aboveground Storage Tanks and associated piping, primarily from ASTs located at service stations, marinas, bulk plants, and fleet fueling facilities, have been documented throughout the state. While the applicable Department of Agriculture regulations focus on prevention of such releases, there are currently no specific requirements for release response measures that must be taken to protect the environment and the waters of the state. The commission has determined release response measures to be necessary because, once a release has occurred, the nature of the contaminants is such that, without appropriate release response measures, there is a substantial threat that the discharged contaminants will pollute the waters of the state. The intent of the release response measures required by the rules in this chapter is to prevent any discharged contaminants from polluting the waters of the state. Specifically, this rule establishes procedures for reporting suspected releases, responding to releases and the subsequent steps necessary to ensure that a release is properly investigated and cleaned up. This rule also establishes requirements for verification of a release, and for conducting off-site investigations following reported or suspected releases if off-site migration is suspected.

(1) Reporting Releases and Suspected Releases. Unless otherwise provided in this rule, owners and operators of aboveground storage tanks (ASTs) shall report any suspected or confirmed release of a regulated substance to the Department of Natural Resources' Emergency Spill Line at (573) 634-2436 at the earliest practical moment within twenty-four (24) hours of discovery of the suspected or confirmed release. Immediately upon the discovery or observation of regulated substances on the ground surface or in groundwater, surface water, or subsurface soils, the owner or operator shall complete the following:

(A) The initial release response measures described in section (7) of this rule;

(B) If necessary, the free product recovery measures described in section (8) of this rule;

(2) System Test. For any suspected release that has not been confirmed by discovery or observation of regulated substances on the ground surface or in groundwater, surface water, or subsurface soils, the owner or operator of the AST shall take measures as necessary to determine whether a leak exists in either any portion of the tank or piping that routinely contains product or in the attached delivery piping, or in both. Measures that satisfy this requirement include, but are not limited to, hydrostatic testing of the AST system in accordance with API Standard 650, F-4 to F-7.6, air testing of the AST system, or a visual

inspection of the tank bottom.

(A) Upon confirmation of a release, , the owner or operator of the AST shall initiate the initial release response actions described in section (7) of this rule(B) If it is determined that no release has occurred, and there is no other indication of regulated substances on the ground surface or in groundwater, surface water, or subsurface soil, further investigation is not required.

(3) Exceptions. Following are exceptions to the requirement to report any suspected or confirmed release of a regulated substance to the environment.

(A) No further action is necessary for any release or spill of twenty-five (25) gallons or less, provided the release or spill is immediately contained and cleaned up.

(B) No further action is necessary for any release or spill that is completely contained within secondary containment structures, provided the secondary containment structure is functionally liquid-tight, and has the ability to contain any released product until the release or spill is cleaned up.

(4) Presumption of release. A release is presumed upon discovery or observation by any person of the presence of regulated substances on the ground surface or in groundwater, surface water, or subsurface soil, or any indication that a release to the environment has occurred at the AST site or in the surrounding area. Examples include the presence of free product or vapors in soils, basements, sewer lines, utility lines and nearby surface or drinking water.

(5) Investigation Due To Off-Site Impacts. The department may require an owner or operator of an AST to measure for the presence of contamination as described in section (7)(E) of this rule when, in the judgment of the department, it is necessary to establish whether an AST is the source of off-site contamination. The department's judgment shall be based upon documented physical evidence of a release at the AST site, including, but not limited to, the discovery of free product or vapors in soils, basements, sewer lines, utility lines or nearby surface waters or drinking water supplies

(6) Investigation Due to Closure.

(A) Upon closure of an AST in accordance with applicable rules of the Department of Agriculture, the department may require an owner or operator of an AST to measure for the presence of contamination as described in section (7)(E) of this rule when, in the judgment of the department, it is necessary to establish whether there has previously been a release at the former AST site or to establish whether potential contamination from any buried piping left in place poses a current or potential threat to cause pollution to waters of the state. The department's judgment shall be based upon documented physical evidence of a release at the AST site, including, but not limited to, the discovery of free product or vapors in soils, basements, sewer lines, utility lines or nearby surface waters or drinking water supplies

(B) The department may require the owner or operator of an AST permanently closed prior to the effective date of this rule to measure for the presence of contamination at the former tank site if, in the judgment of the department, releases from the AST and/or its buried piping

pose a current or potential threat to cause pollution to the waters of the state. The department's judgment shall be based upon documented physical evidence of a release at the former AST site, including, but not limited to, the discovery of free product or vapors in soils, basements, sewer lines, utility lines or nearby surface waters or drinking water supplies.

(7) Initial Release Response Measures. Owners or operators of ASTs shall:

(A) Remove as much of the regulated substances from the aboveground storage tank (AST) as is necessary to prevent further release to the environment;

(B) Visually inspect any released substances and prevent further migration of the release into surrounding soils and groundwater;

(C) Monitor and mitigate any environmental hazards posed by vapors or free product that have migrated from the AST site and entered subsurface structures such as sewers, basements or subsurface utility conduits or trenches;

(D) Remedy hazards posed by excavated or exposed contaminated soils that result from initial release response activities. Any treatment or disposal of contaminated soils shall be in compliance with applicable state and local requirements;

(E) Collect and analyze at least one soil or groundwater sample as necessary to establish the presence of contamination. The sample(s) must be collected in a location where contamination is most likely to be present at the AST site. In selecting the location of the sample(s), the owner or operator shall consider the nature of the stored substance, the type of backfill around the release if outside the secondary containment, or the secondary containment if the secondary containment is not constructed of impermeable material, depth to groundwater, and all other factors appropriate for identifying the presence and source of the release; and

(F) Investigate the site to determine whether free product is present. If free product is present, then free product removal activities shall begin immediately.

(8) Free Product Removal. The owner or operator of the AST shall immediately remove as much free product as practicable. Any actions initiated or required under this section shall be continued until the department determines otherwise. Upon discovery of free product, the owner or operator shall, at a minimum:

(A) Remove free product to minimize the spread of contamination into previously uncontaminated zones. The recovery and disposal techniques shall be appropriate to the hydrogeologic conditions at the site. Recovered by-products shall be treated, discharged or disposed of in compliance with applicable local, state and federal regulations;

(B) Use abatement of free product migration as a minimum objective for free product removal;

(C) Handle all flammable products and/or wastes in a safe manner to prevent fires or explosions; and

(D) Include information about free product recovery in the report submitted to the department, as required by section (9) of this rule. The report shall provide at least the following information:

1. The name of the person(s) responsible for implementing the free product removal measures;
2. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;
3. The type of free product recovery system used;
4. Whether any discharge will take place on-site or off-site during the recovery operation and the location of this discharge;
5. The type of treatment applied to, and the effluent quality expected from, any discharge;
6. The steps that have been or are being taken to obtain necessary permits for any discharge;
7. The quantity and disposition of the recovered free product; and
8. The location and the appearance of the free product.

(E) Upon completion of the activities required by this section, the owner or operator of the AST shall continue with the initial release response measures described in section (7) of this rule.

(9) **Written Report.** The owner or operator of the AST shall submit a written report on all activities required by this rule to the department within thirty (30) days of the date of discovery of the release. The report shall demonstrate compliance with all applicable requirements of this rule. Upon request, the department may allow another reasonable period of time for submission of the report. Upon review of this report, the department will determine whether the owner or operator must conduct a site characterization, as described in 10 CSR 20-15.050. If, in the judgment of the department, the information in the report is insufficient to adequately make this determination, the department may request additional information.

AUTHORITY: Sections 319.137 and 644.026 RSMo Supp. 1999. Original rule filed

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PUBLIC ENTITY COST: This rule is estimated to cost affected state agencies and political subdivisions _____ in fiscal year 2002 and every year thereafter for administration of and compliance with the new rule. A detailed fiscal note has been filed with the Secretary of State.

PRIVATE ENTITY COST: This rule is expected to cost private entities _____ in fiscal year 2002 and every year thereafter for compliance with the requirements of the new rule. A detailed fiscal note has been filed with the Secretary of State.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will hold a public hearing on this rule action and others beginning at 9 a.m. on November 28, 2001 in Room 450 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65101. Any person wishing to speak at the hearing shall send a written request to the Secretary of the Clean Water Commission at P.O. Box 176, Jefferson City,

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Missouri 65102-0176. To be accepted, written requests to speak shall be postmarked by midnight on November 14, 2001. Faxed or e-mailed correspondence will not be accepted.

Any person may submit written comments on this rule action. Written comments shall be sent to the Director of the Hazardous Waste Program at P.O. Box 176, Jefferson City, Missouri 65102-0176. To be accepted, written comments shall be postmarked by midnight on Wednesday, December 5, 2001. Faxed or e-mailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at (573) 751-3176.