pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Reporting Requirements for Spills and Pollution Incidents Under Pennsylvania's Clean Streams Law

The Department of Environmental Protection's (DEP's) regulations at Chapter 91, Section 33 under Pennsylvania's Clean Streams Law requires that DEP be notified "immediately" when there is an accident or incident in which a toxic substance or other substance that could cause pollution is discharged into "waters of this Commonwealth." Furthermore, the person responsible for the discharge must 1) notify known downstream users of the waters if reasonably possible to do so, 2) immediately take or cause steps to be taken to prevent injury to downstream users of the waters, and 3) remove any residual substances from waters of the Commonwealth within 15 days from the incident. The purpose of this fact sheet is to explain DEP's interpretation of this regulation and practical expectations of those who may cause pollution incidents. Note that the information contained in this fact sheet is not an adjudication or a regulation and does not affect regulatory requirements. For owners and operators of oil and gas wells and regulated storage tanks, please consult DEP's Chapter 78 and Chapter 245 regulations and corresponding policies, respectively, for reporting requirements, which are specific to spill incidents related to these activities.

What Incidents are Reportable?

DEP's Chapter 91 regulations do not include a threshold on when a spill or pollution incident must be reported to DEP. *Always* exercise caution and contact DEP whenever there is a potential for a spill *containing pollutants* to enter waters of the Commonwealth. Waters of the Commonwealth include not only streams, wetlands and other surface waters, but also groundwater, storm sewers and ditches. Pennsylvania's Clean Streams Law charges DEP with determining when a discharge constitutes pollution. If DEP determines that a spill or incident has resulted in pollution and the person responsible has not notified DEP immediately, DEP may, under its legal authority, impose civil penalties up to $10,000 per day for failure to notify.

If a sewage or industrial waste facility is authorized to discharge to waters of the Commonwealth under a National Pollutant Discharge Elimination System (NPDES) or Water Quality Management (WQM) permit issued by DEP, exceedances of effluent limitations in the permit generally do not constitute incidents subject to immediate reporting unless specifically required by the permit or there is a plant upset, spill or other incident that caused the exceedance. Examples could be an accidental release of chlorine into the effluent, or a release from an indirect user connected to a sewer system that cannot be treated by the sewage treatment plant, such as a release of fuel oil, in which the permittee should notify DEP immediately.

What Does "Immediate Reporting" Mean?

When a person first becomes aware of a spill or other pollution incident, the first step is to evaluate whether it is possible to stop the continued discharge of pollutants to the environment. Regardless of whether ceasing the discharge can or cannot be accomplished, consider contacting the phone number for emergency services (911) as soon as possible, and then contact DEP at the appropriate emergency contact number, below. If the person is able to stop the release of pollutants, follow up with notification to DEP by telephone as soon as possible.

If the spill or incident occurs at a facility with an NPDES permit, DEP's regulation at Chapter 92a, Section 41(b) specifies that the permittee must provide oral notification to DEP as soon as possible, but no later than *four hours* after the permittee becomes aware of the incident causing or threatening pollution. In addition, a written report on the incident must be reported to DEP within five days of when the permittee becomes aware of the incident. DEP's Non-Compliance Reporting Form, or equivalent, should be used for this purpose.

DEP's Emergency Contact Numbers:

- **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.
- **South-central Regional Office** (Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York counties) – 866-825-0208.
- **North-central Regional Office** (Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Sullivan, Tioga and Union counties) – 570-327-3636.
- **Southwest Regional Office** (Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland counties) – 412-442-4000.
- **Northwest Regional Office** (Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren counties) – 814-332-6945 (after hours – 800-373-3398).

Notification may also be made to the Pennsylvania Emergency Management Agency at 800-424-7362.

If a Person Causing Pollution Notifies DEP "Immediately," is the Person Still Liable for the Pollution?

Yes. Sections 201, 301 and 401 of the Clean Streams Law prohibit the discharge of sewage, industrial waste and other polluting substances without a permit. DEP may pursue an enforcement action against anyone who violates these sections of the Clean Streams Law, including civil penalties up to $10,000 per day for each violation. DEP will separately consider the timeliness of notification to DEP under Chapter 91, Section 33 and Chapter 92a, Section 41(b). If notification is considered "immediate," DEP may still pursue civil penalties for the unauthorized discharge of pollutants. Accidental spills or discharges with "immediate" notification may result in lower penalties than accidents that are not reported to DEP.

Examples of Accidents or Other Incidents That *May Not Require* Immediate Notification to DEP:

The following are examples of incidents that may not require immediate notification to DEP because the threat of pollution to waters of the Commonwealth is minimal under most circumstances. Nonetheless, when in doubt it is in a person's best interests to notify DEP.

- Minor spills of herbicides, gasoline or other pollutants onto the ground by a homeowner.
- Other minor spills or small leaks onto the ground where there is no reasonable possibility of reaching groundwater or surface waters through a conveyance such as a storm drain.
- A sewage or industrial waste treatment facility that discharges naturally-occurring amounts of foam to surface waters as a result of aeration.

Examples of Accidents or Other Incidents That *Require* Immediate Notification to DEP:

- A spill of chemicals, petroleum products, manure, sewage sludge, biosolids, milk, chlorinated water or other pollutants near or into a sinkhole, storm sewer, surface waters or drainage feature leading to surface waters.
- Unanticipated bypasses of raw sewage or industrial wastes to surface waters.
- Vehicular accidents in which pollutants are released to the ground or surface waters.
- Sanitary sewer overflows.

What if a Person is Not Sure Who Downstream Users are?

The largest concern in the event of a major spill incident is that local public drinking water supplies could be affected. Such local drinking water suppliers should be notified as soon as possible. Facilities in Pennsylvania should generally have an "emergency response plan" in place that identifies downstream users of water and their contact information.

For More Information Contact:

DEP, Bureau of Point and Non-Point Source Management

Phone: 717-787-5017

Visit www.dep.state.pa.us, Select: Report an Incident.

For more information, visit www.dep.state.pa.us, keyword: Report an Incident.