

2.0 REPORTING REQUIREMENTS FOR PETROLEUM RELEASES

The State of South Dakota has established rules requiring responsible persons to report releases and suspected releases of regulated substances, including petroleum products. These rules also establish “reportable quantities” and time frames for reporting known and suspected releases. The rules pertaining to reporting releases and suspected releases are contained in Chapters 74:34:01, 74:56:01, and 74:56:03 of the Administrative Rules of South Dakota (ARSD); and in Chapters 34A-2 and 34A-12 of South Dakota Codified Law. See Appendices M, N, and O for links to ARSD §§ 74:34:01, 74:56:01, and 74:56:03. State law authorizes the department to fine a responsible person up to \$10,000 per day for violations of South Dakota Codified Law Chapters 34A-2 and 34A-12.

The release reporting requirements discussed in this chapter are based on South Dakota Law and Administrative Rules of South Dakota. Federal and local governments may have other rules for reporting releases of regulated substances. The responsible person must contact local authorities to determine the local reporting requirements for releases. Reporting a release to the department does not meet any obligation for reporting to other state, local, or federal agencies. For assistance in determining which agencies need to be contacted, call the Inspection, Compliance, and Remediation Program at 605-773-3296. The department recommends that consulting firms advise their clients of these reporting requirements and also advise them of the penalty for failure to do so.

For information on reporting non-petroleum releases see “Handbook for Reporting, Investigating, and Remediating Non-Petroleum Releases in South Dakota”. (**Under Construction**)

2.1 Reporting Known Releases

ARSD § 74:34:01 defines “reportable quantity” as “a discharge of a regulated substance to the environment in sufficient quantity to harm or threaten to harm the public health, safety, welfare, property, or natural resources of the state, or a regulated substance discharged in a quantity reportable according to the provisions of SARA, Title III, § 304 (1986).” These rules define any petroleum or petroleum substance as a regulated substance. A responsible person must report a known discharge of a regulated substance to the department **immediately** if any one of the following conditions exists:

- 1) The discharge threatens or is in a position to threaten the waters of the state (surface water or ground water);
- 2) The discharge causes an immediate danger to human health or safety;
- 3) The discharge exceeds 25 gallons;
- 4) The discharge causes a sheen on surface water;
- 5) The discharge exceeds any ground water quality standards of ARSD chapter 74:54:01;
- 6) The discharge exceeds any surface water quality standards of ARSD chapter 74:51:01;

- 7) The discharge harms or threatens to harm wildlife or aquatic life;
- 8) The discharge of crude oil in field activities under SDCL chapter 45-9 is greater than 1 barrel (42 gallons).

The responsible person must telephone the department's Pierre office as soon as they become aware of the release. If the release is less than 25 gallons, does not impact surface or ground water, and is cleaned up within 24 hours the responsible person is not required to report the release. See Chapter 3.0 for information on response actions to emergency situations.

To report the release of a regulated substance, call 605-773-3296 during regular office hours (8 a.m. to 5 p.m. Central time). To report the release after hours, on weekends or holidays, call State Radio Communications at 605-773-3231.

If surface water or wetlands are impacted by the release of a regulated substance, the responsible person must also immediately notify the U.S. Environmental Protection Agency (EPA). EPA can be contacted by calling the National Response Center (NRC) at 800-424-8802. Other agencies or parties that may need to be notified include: downstream water users and cities; adjacent state environmental agencies, if the surface water borders another state; local emergency managers; South Dakota Department of Game, Fish & Parks (605-773-3387), and U.S. Fish and Wildlife Service (605-224-8693).

2.2 Reporting Suspected Releases

The responsible person must report suspected releases to the department. The following chapters specify the time frames for reporting suspected releases and identify conditions that suggest a release has occurred.

2.2.1 Suspected Releases from Underground Storage Tanks

The responsible person must report a suspected release from an underground storage tank to the department within 72 hours. If the responsible person cannot determine within the 72 hours whether or not a release has occurred, the responsible person must notify the department. A release from an underground storage tank is suspected when one of the following occurs: *

- 1) Testing, sampling, or monitoring results from a release detection method, such as automatic tank gauging, inventory reconciliation records, tank tightness testing, or vapor monitoring wells, indicate a release may have occurred; and
- 2) Unusual operating conditions such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, or an unexplained presence of water in the tank.

* (**Note:** The underground storage tank rules define impacts discovered in the surrounding area, such as evidence of a release in soils, basements, sewer and utility lines, ground water, or nearby surface water as a confirmed release. Confirmed releases must be reported immediately.)

2.2.2 Suspected Releases from All Other Sources

The responsible person must report a suspected petroleum release to the department within 24 hours if the suspected release is from any source that is **not** an underground storage tank. If the responsible person cannot determine within the 24 hours whether or not a release has occurred, the responsible person must notify the department. A release is suspected when one of the following occurs:

- 1) Testing, sampling, or monitoring results from release detection devices indicate that a discharge has occurred;
- 2) Impacts are discovered in the surrounding area, such as evidence of a release in soils, basements, sewer and utility lines, ground water, or nearby surface water; or
- 3) Unusual operating conditions exist, such as the erratic behavior of dispensing equipment, the sudden loss of product from tanks; an unexplained escape of vaporized product, or the physical presence of a regulated substance of unknown origin at a facility.