

TNRCC PST PROGRAM CORRECTIVE ACTION DEADLINES EFFECTIVE SEPTEMBER 1, 2001

The 77th Texas Regular Legislative Session of 2001 passed legislation which amends Chapter 26 of the Texas Water Code (TWC) and has major implications for the Leaking Petroleum Storage Tank (LPST) program. HB 2912 (the TNRCC “Sunset” bill) and HB 2687 impose new corrective action, annual reporting, and reimbursement deadlines on certain LPST sites and also extends the life of the Petroleum Storage Tank Remediation (PSTR) fund through August 31, 2006. The new legislation applies to all LPST sites where the release was reported to the agency on or before December 22, 1998, whether corrective action costs are eligible for reimbursement or not.

A missed deadline that is the fault of the responsible party (RP), their agent, or contractor will eliminate reimbursement eligibility (if the site is otherwise eligible for reimbursement) and may result in an enforcement action under Chapter 7 of the TWC. The Texas Natural Resource Conservation Commission (TNRCC) does not have discretion to make any exceptions to this statutory mandate. Please note that failure by the RP to obtain off-site access in a timely manner will not constitute a valid reason for missing a deadline. Also be aware that elimination of reimbursement eligibility does not excuse the responsible party from completing all necessary corrective actions.

Deadlines were previously established in the TNRCC LPST program for completion of adequate site assessments (December 23, 1996), submission of corrective action plans (June 23, 1998) and accomplishment of corrective action plan goals (December 23, 1999). **Satisfactory completion of the requirements for those deadlines does not necessarily mean the requirements for the new statutory deadlines will have been met.**

All necessary reports and documentation for the various deadlines must be received by the agency no later than the stated dates. Upon receipt, agency staff will review all documents within the standard report review times. Because the staff may identify deficiencies in the course of their review, responsible parties, their agents and contractors are encouraged to **submit all reports as far in advance of the applicable deadlines as possible.**

Please note that any reports or documentation submitted to meet a given deadline must follow all applicable TNRCC Petroleum Storage Tank program rules (30 TAC 334), regulatory guidance and reporting formats. A list of relevant guidance documents and forms grouped by general deadline topic is included as Attachment 1.

DEADLINES

1. September 1, 2002: Site Assessment and Risk Assessment

A complete site assessment and risk assessment must be received by the agency no later than September 1, 2002. The field work and data evaluation necessary to complete these activities will include, but not necessarily be limited to:

- a) Completion of a Plan A risk-based assessment;
- b) Completion of Exit Criteria Evaluation;
- c) Full delineation of the groundwater plume (if present) according to applicable requirements;
- d) Completion of a Plan B risk-based assessment (if necessary).

2. September 1, 2003: Corrective Action Plan

A complete Corrective Action Plan (CAP), or an appropriate demonstration under TNRCC rules that no CAP is necessary, must be received by the agency no later than September 1, 2003.

A CAP is required when:

- a) Site-specific target levels (SSTLs) are exceeded and a complete exposure pathway exists; or
- b) A non-aqueous phase liquid (NAPL) plume exists and the most cost-effective recovery method is the installation of an engineered remediation system.

Completion of a CAP requires that sufficient assessment activities, pilot studies, and design efforts are completed to identify a cost-effective and technically appropriate methodology for reduction of contaminant concentrations, elimination of complete exposure pathways, and/or recovery of NAPL. Please note that an appropriate CAP may include an engineered remediation system, institutional controls, engineering controls, and/or monitored natural attenuation (MNA).

3. March 1, 2004: Corrective Action Plan Initiated and Proceeding

Documentation of successful implementation of the approved CAP must be received by the agency no later than March 1, 2004.

Sites with CAPs involving institutional and/or engineering controls must submit all relevant copies of public records (such as deed restrictions) or reports with photos (emplacement of impervious cover) to demonstrate the CAP was formally recorded or emplaced.

Sites with CAPs involving MNA must submit reports to demonstrate that all necessary monitor wells were properly installed and sampled for all appropriate constituents at least once.

Sites with CAPs involving engineered remediation systems must submit reports to demonstrate that the system was properly installed and successfully started up and operated (minimum of 7 days of operation data) in accordance with the approved design.

4. Site-specific and Annual Reporting Deadlines Applicable to LPST Sites Requiring Corrective Action Plans and/or Groundwater Monitoring

In addition to the deadlines attached by statute to fixed calendar dates discussed in this guidance, there are two other types of mandatory statutory deadlines that must be met by sites where the release was reported to the agency by December 22, 1998 and which require either a CAP (involving engineered remediation system operation or MNA) or annual groundwater monitoring. These two types of deadlines are (a) site-specific and (b) annual reporting. As is true with the other deadlines discussed in this guidance, these deadlines must also be met in order to maintain reimbursement eligibility.

Site-specific deadlines are established by the TNRCC PST case coordinators pertaining to the implementation of CAPs or groundwater monitoring plans. Case coordinators have always set such deadlines; however, effective by statutory language on September 1, 2001, failure to meet such a deadline results in the loss of reimbursement eligibility. Site-specific deadlines will continue to be communicated to the RP in the course of normal day-to-day issuance of directives/preapprovals (e.g. in corrective action response forms or CARFs).

Annual reporting deadlines will be established for each applicable site by the TNRCC PST case coordinator. By that deadline, the RP must submit a comprehensive and accurate annual status report. The annual reporting deadlines will be communicated to the RP in the course of the normal day-to-day issuance of directives/preapprovals (e.g. in corrective action response forms or CARFs).

For CAP sites, the annual status report requirement will be met with a completed Operation, Monitoring, and Performance Report (OMPR) form. The OMPR must include all text, data, diagrams, maps, graphs, etc. sufficient to document in detail the previous year's operation, maintenance, and effectiveness of the remediation methods being employed.

For groundwater monitoring sites, the annual status report requirement will be met with a groundwater monitoring report providing full and accurate documentation of the completion of the previous year's groundwater monitoring events. The reports must include all text, data, diagrams, maps, etc. sufficient to document that all required samples were properly collected, handled, and analyzed.

The annual reporting deadline requirement went into effect on September 1, 2001, therefore the deadlines that will be set will be no earlier than September 1, 2002.

5. September 1, 2005: Receipt of Site Closure Requests for Sites Not Requiring a CAP

Site closure requests for all sites where the executive director agreed in writing that no CAP was required must be received by the agency no later than September 1, 2005. The request must be complete, as judged by the executive director.

6. September 1, 2005: Last Day to Perform Reimbursement-Eligible Corrective Actions

Costs for any corrective actions performed after September 1, 2005 will not be eligible for reimbursement consideration.

7. March 1, 2006: Last Day to File a Reimbursement Claim

No claims for corrective action costs filed with the agency after March 1, 2006 will be considered for reimbursement.

8. September 1, 2006: No Reimbursements from the PSTR Fund

As of September 1, 2006, money from the Petroleum Storage Tank Remediation fund will no longer be available for reimbursement use.

ATTACHMENT I

Texas LPST Program Guidance Documents and Forms

The following table is a summary of the available Texas PST Program guidance documents and forms. The documents and forms are grouped according to the regulatory deadlines discussed in this guidance document. Some documents/forms apply to more than one deadline topic and therefore are listed more than once. However, each listed document/form may not necessarily apply to every LPST site.

Guidance documents (Regulatory Guidance ["RG-"] and Interoffice Memorandums ["IOM-"]) and forms ["TNRCC-"] are available on the TNRCC PST Responsible Party Remediation web site at <http://www.tnrcc.state.tx.us/permitting/remed/rpr/download.htm>. Single copies of RG guidance documents can also be obtained free of charge from the TNRCC Publications Office at MC 195, P.O. Box 13087, Austin, TX 78711-3087 or phone (512) 239-0028. All guidance documents and forms can also be obtained by calling (512) 239-2200.

| Number | Title |
|--|--|
| September 1, 2002 Deadline: Site Assessment and Risk Assessment | |
| RG-14 | Soil and Groundwater Sampling and Analysis (4/95) |
| RG-19 | Soil Boring and Monitoring Well Installation (10/93) |
| RG-36 | Risk-Based Corrective Action for Leaking Storage Tank Sites (1/94) |
| RG-91 | Guidance Manual for Risk Assessment Contaminant Fate and Transport Modeling (5/94) |
| RG-111 | Preapproval for Corrective Action Activities (10/97) |
| RG-175 | Guidance for Risk-Based Assessments at LPST Sites in Texas (10/95) |
| TNRCC-0017 | Field Activity Report Form (1/00) |
| TNRCC-0025 | Product Recovery Report Form (12/99) |
| TNRCC-0507 | Notice of Corrective Action (4/95) |
| TNRCC-0562 | Assessment Report Form (11/95) |
| TNRCC-10208 | Correspondence Identification Sheet (12/96) [Required w/all submittals] |
| IOM - 011001 | Standard Operating Procedures for Evaluation of Costs of Sampling & Analysis of Groundwater Samples for Monitor Wells with Water Levels Above the Top of the Wellscreen (1/01) |
| IOM - 051801 | Guidelines for Sampling Domestic Water Wells for Petroleum Storage Tank Contaminants (5/01) |
| IOM - 110199 | Guidance for Leaking Petroleum Storage Tank (LPST) Sites Located on Designated Major/Minor Aquifers or Local Water Supply. (11/99) |
| IOM - 081297 | Adjustment to March 6, 1997 Protective Concentrations in Groundwater for Construction Worker Exposure to Account for Time-Averaged Exposure (8/97) |
| IOM - 042997 | Interim Guidance: Monitoring Natural Attenuation for Verification of Groundwater Plume Stability (4/97) |
| IOM - 030697 | Clarifications and Amendments for Implementation of RG-36 (3/97) |
| IOM - 021097a; IOM - 021097b | Two separate IOMs dated 2/10/97 collectively known as the " Exit Criteria ". Titles: Guidance for Judging the Adequacy of Contaminant Delineation for Purposes of Determining if Further Corrective Action is Needed <u>and</u> Process for Closure Evaluation of Petroleum Hydrocarbon LPST Sites Exceeding Target Concentrations. |

| September 1, 2003 Deadline: Corrective Action Plan (CAP), and March 1, 2004 Deadline: CAP Initiated and Proceeding | |
|---|---|
| RG-41 | Corrective Action Plans for LPST Sites (11/96) |
| RG-111 | Preapproval for Corrective Action Activities (10/97) |
| RG-261 | Operation, Monitoring and Performance of Remedial Systems at LPST Sites (10/96) |
| TNRCC-0013 | Monitoring Event Summary and Status Report Form (4/95) |
| TNRCC-0017 | Field Activity Report Form (1/00) |
| TNRCC-0025 | Product Recovery Report Form (12/99) |
| TNRCC-0507 | Notice of Corrective Action (4/95) |
| TNRCC-0694 | Notice of Remedial System Installation (NRSI) Form (11/96) |
| TNRCC-0695 | Remedial Technology Screening (RTS) Form (11/96) |
| TNRCC-0696 | Operation, Monitoring, and Performance Report (OMPR) Form (11/96) |
| TNRCC-0707 | CAP Worksheets (11/96) |
| TNRCC-10208 | Correspondence Identification Sheet (12/96) [Required w/all submittals] |
| IOM - 022398 | Preapproval Costs for Groundwater Monitoring of Remediation by Natural Attenuation (RNA) Parameters (2/98) |
| IOM - 042997 | Interim Guidance: Monitoring Natural Attenuation for Verification of Groundwater Plume Stability (4/97) |
| IOM - 021097a; IOM - 021097b | Two separate IOMs dated 2/10/97 collectively known as the "Exit Criteria" . Titles: Guidance for Judging the Adequacy of Contaminant Delineation for Purposes of Determining if Further Corrective Action is Needed <u>and</u> Process for Closure Evaluation of Petroleum Hydrocarbon LPST Sites Exceeding Target Concentrations. |
| Floating Deadlines: Annual Groundwater Monitoring and Corrective Action Plan (CAP) Reporting | |
| RG-14 | Soil and Groundwater Sampling and Analysis (4/95) |
| RG-19 | Soil Boring and Monitoring Well Installation (10/93) |
| RG-43 | Groundwater Monitoring and Reporting (9/96) |
| RG-261 | Operation, Monitoring and Performance of Remedial Systems at LPST Sites (10/96) |
| TNRCC-0013 | Monitoring Event Summary and Status Report Form (4/95) |
| TNRCC-0696 | Operation, Monitoring, and Performance Report (OMPR) Form (11/96) |
| TNRCC-10208 | Correspondence Identification Sheet (12/96) [Required w/all submittals] |
| IOM - 051801 | Guidelines for Sampling Domestic Water Wells for Petroleum Storage Tank Contaminants (5/01) |
| IOM - 011001 | Standard Operating Procedures for Evaluation of Costs of Sampling & Analysis of Groundwater Samples for Monitor Wells with Water Levels Above the Top of the Wellscreen (1/01) |
| IOM - 022398 | Preapproval Costs for Groundwater Monitoring of Remediation by Natural Attenuation (RNA) Parameters (2/98) |
| IOM - 042997 | Interim Guidance: Monitoring Natural Attenuation for Verification of Groundwater Plume Stability (2/98) |
| IOM - 021097a; IOM - 021097b | Two separate IOMs dated 2/10/97 collectively known as the "Exit Criteria" . Titles: Guidance for Judging the Adequacy of Contaminant Delineation for Purposes of Determining if Further Corrective Action is Needed <u>and</u> Process for Closure Evaluation of Petroleum Hydrocarbon LPST Sites Exceeding Target Concentrations. |

| September 1, 2005: Receipt of Site Closure Requests for Sites Not Requiring a CAP | |
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| TNRCC-0028 | LPST Site Closure Request Form (12/99) |
| TNRCC-0030 | Final Site Closure Report Form (12/99) |
| TNRCC-10208 | Correspondence Identification Sheet (12/96) [Required w/all submittals] |
| IOM - 021097a; IOM - 021097b | Two separate IOMs dated 2/10/97 collectively known as the “ Exit Criteria ”. Titles: Guidance for Judging the Adequacy of Contaminant Delineation for Purposes of Determining if Further Corrective Action is Needed <u>and</u> Process for Closure Evaluation of Petroleum Hydrocarbon LPST Sites Exceeding Target Concentrations. |
| September 1, 2005: Last Day to Perform Reimbursement-Eligible Corrective Actions | |
| March 1, 2006: Last Day to File a Reimbursement Claim | |
| September 1, 2006: No Reimbursements from the PSTR Fund | |
| RG-144 | Reimbursement from the Petroleum Storage Tank Remediation Fund (9/95) |
| 30TAC§334.560 | Subchapter M: Reimbursable Cost Guidelines (available at http://lamb.sos.state.tx.us/tac/) |
| TNRCC-0230-EZ | TNRCC Petroleum Storage Tank Remediation Fund Application for Reimbursement E-Z Form (11/99) |
| Other | |
| RG-15 | Real Estate Considerations for LPST Cleanups (10/93) |
| RG-16 | How to Remove Your Underground Storage Tank From the Ground (11/95) |
| RG-17 | Action Levels for LPST Sites (10/96) |
| RG-44 | Selecting an Environmental Consultant/Corrective Action Specialist (11/95) |
| TNRCC-0495 | Construction Notification Form (4/95) |
| TNRCC-0659 | Aboveground Storage Tank Registration Form (8/95) |
| TNRCC-0724 | Underground Storage Tank Registration Form (6/00) |