

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Bureau of Clean Water**

**DOCUMENT NUMBER:** 383-4200-003

**TITLE:** Guidance on Notification Requirements for Spills, Discharges, and other Incidents of a Substance Causing or Threatening Pollution to Waters of the Commonwealth Under Pennsylvania’s Clean Streams Law

**EFFECTIVE DATE:** Upon publication of notice as final in the *Pennsylvania Bulletin*

**AUTHORITY:** The Clean Streams Law (35 P.S. §§ 691.1–691.1001) and 25 Pa. Code Chapter 91 and Chapter 92a.

**POLICY:** Notification of spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth must be made to DEP and to downstream users as required by Chapter 91 and Chapter 92a.

**PURPOSE:** The purpose of this document is to provide guidance on the immediate notification requirements for spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth.

**APPLICABILITY:** This policy applies to the person(s) at the time in charge of the substance or owning or in possession of the premises, facility, vehicle, or vessel from or on which the substance causing or threatening pollution is discharged or placed. This policy also applies to permittees of facilities or activities covered by an NPDES permit.

In addition to the procedures described in this technical guidance document, persons or entities responsible for spills, discharges, or other incidents must comply with all applicable laws including, but not limited to, the Solid Waste Management Act (35 P.S. §§ 6018.101–6018.1003), the 2012 Oil and Gas Act (58 Pa.C.S. §§ 3201–3274), the Pennsylvania Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101–6026.908), the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101–6021.2104), the Solid Waste Management Act (35 P.S. §§ 6018.101–6018.1003), and their implementing regulations.

**DISCLAIMER:** The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. DEP does not intend to give this guidance that weight or deference. This document establishes the framework, within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

**PAGE LENGTH:** 14 pages

## Introduction

The Clean Streams Law (35 P.S. §§ 691.1–691.1010) charges the Department of Environmental Protection (Department or DEP) with the duty to protect the waters of the Commonwealth from activities that pollute or that have a potential to pollute. The Department administers the provisions of The Clean Streams Law through several regulatory programs, including by: (1) establishing and enforcing conditions for permitted discharges to waters of the Commonwealth; and (2) formulating appropriate responses to pollution events upon notification. DEP becomes aware of pollution events, and is therefore able to appropriately respond to them, through regulatory notification requirements, specifically provisions of 25 Pa. Code Chapters 91 and 92a that require notification about unpermitted spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth. Distinctions between these two complementary approaches to implementing provisions of The Clean Streams Law are discussed in more detail below, but – by way of introduction – these two approaches can be usefully distinguished as follows.

DEP’s permitting programs protect waters of the Commonwealth from pollution by establishing and enforcing conditions for discharges at pre-planned locations where the characteristics of the discharge and the receiving water can be characterized prior to the discharge occurring. DEP’s notification requirements protect waters of the Commonwealth from pollution from spills, discharges, and other incidents, whether from permitted or unpermitted facilities or activities, including those where the characteristics and location are not known prior to occurrence of the spill, discharge, or other incident. DEP’s notification requirements allow the Department to respond to spills or other unplanned discharges in a way that protects the environment, public health, and public safety.

Pennsylvania regulations require immediate notification to DEP when a spill, discharge, or other incident results in a substance that would endanger downstream users, result in pollution, create a danger of pollution, or damage property being discharged to waters of the Commonwealth or being placed such that the substance might discharge, flow, be washed, or fall into waters of the Commonwealth. DEP acknowledges that some spills or other unauthorized discharge incidents pose negligible risk of pollution of waters of the Commonwealth, endangering downstream users, or damaging property, and DEP does not expect notification of such incidents. However, due to the many factors that affect pollution risks associated with spills and unauthorized discharges, **DEP strongly encourages notification be made to DEP for any spill or unauthorized discharge where the risks of pollution to waters of the Commonwealth, property damage, or endangering downstream users are unknown or uncertain.** It is best to err on the side of caution and notify DEP when you are unsure of the impact a spill or unauthorized discharge may have on waters of the Commonwealth.

Notification to DEP is available 24 hours a day, 7 days a week. Please see the regional contact information near the end of this document and ask to speak to the Duty Officer. When notification is made, please try your best to: specify the substance that was released; estimate the quantity that was released; locate where the release occurred; and detail what materials or resources the substance made contact with. Lastly, please provide any interim steps you have taken to contain the spill.

## Statutory Background

Section 401 of The Clean Streams Law, provides that

*It shall be unlawful for any person or municipality to put or place into any of the waters of the Commonwealth, or allow or permit to be discharged from property owned or occupied by such*

*person or municipality into any of the waters of the Commonwealth, any substance of any kind or character resulting in pollution as herein defined. Any such discharge is hereby declared to be a nuisance.*

Interpreting the prohibition against pollution in Section 401 of The Clean Streams Law relies on two definitions in Section 1 of The Clean Streams Law: “pollution” and “waters of the Commonwealth”.

*"Pollution" shall be construed to mean contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical, chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters. The department shall determine when a discharge constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such discharge does or does not constitute pollution as herein defined.*

*"Waters of the Commonwealth" shall be construed to include any and all rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.*

In delineating the powers and duties of DEP, Section 5 of The Clean Streams Law provides, in part:

*The department shall have the power and its duty shall be to... [f]formulate, adopt, promulgate and repeal such rules and regulations and issue such orders as are necessary to implement the provisions of this act.*

## **Regulatory Background**

Within DEP’s water resources regulations, Chapter 91 contains general provisions and Chapter 92a contains provisions pertaining to National Pollutant Discharge Elimination System (NPDES) permitting, monitoring, and compliance. 25 Pa. Code § 91.33 (relating to incidents causing or threatening pollution) contains immediate notification and response requirements. 25 Pa. Code § 92a.41(b) contains notification requirements for NPDES permittees.

### Regulatory Notification Requirements at Chapter 91.33

25 Pa. Code § 91.33(a) requires that DEP be notified immediately:

*If, because of an accident or other activity or incident, a toxic substance or another substance which would endanger downstream users of the waters of this Commonwealth, would otherwise result in pollution or create a danger of pollution of the waters, or would damage property, is discharged into these waters—including sewers, drains, ditches or other channels of conveyance into the waters—or is placed so that it might discharge, flow, be washed or fall into them, it is the responsibility of the person at the time in charge of the substance or owning or in possession*

*of the premises, facility, vehicle or vessel from or on which the substance is discharged or placed to immediately notify the Department by telephone of the location and nature of the danger and, if reasonably possible to do so, to notify known downstream users of the waters.*

25 Pa. Code § 91.33(b) describes additional requirements:

*In addition to the notices in subsection (a), a person shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition thereto, within 15 days from the incident, shall remove from the ground and from the affected waters of this Commonwealth to the extent required by this title the residual substances contained thereon or therein.*

The regulatory requirements in 25 Pa. Code § 91.33 apply to spills, discharges, and other incidents that would cause, or threaten to cause, pollution of waters of the Commonwealth, endanger downstream users, or threaten property whether the spill, discharge, or other incident occurs at a facility or during an activity permitted or unpermitted by DEP. Such accidents, activities, and incidents can include spills, leaks, overflows, line breaks, existing pollution that is newly discovered, and any other manner of unauthorized discharge of a substance that would cause or threaten pollution of waters of the Commonwealth, endanger downstream users, or threaten property, including transportation related incidents.

#### Regulatory Notification Requirements at Chapter 92a.41(b)

25 Pa. Code § 92a.41(b) states:

*The permittee shall comply with the immediate oral notification requirements of § 91.33 (relating to incidents causing or threatening pollution). Oral notification is required as soon as possible, but no later than 4 hours after the permittee becomes aware of the incident causing or threatening pollution. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the incident causing or threatening pollution. The written submission must conform to the requirements of 40 CFR 122.41(l)(6).*

A spill or discharge of a substance causing or threatening pollution of waters of the Commonwealth as a result of an accident or incident at a facility or during an activity authorized by an NPDES permit<sup>1</sup> requires oral notification as well as submission of a written report to DEP. DEP's [Non-Compliance Reporting Form](#) (3800-FM-BCW0440) or equivalent should be used for the written report.

#### **Who is Required to Provide Notification**

25 Pa. Code § 91.33(a) places the responsibility to notify DEP with "... the person at the time in charge of the substance or owning or in possession of the premises, facility, vehicle or vessel from or on which the substance is discharged or placed..." Other parties (e.g., third-party observers) can notify DEP about incidents that cause or threaten to cause pollution to waters of the Commonwealth, but the notification requirement in Section 91.33(a) applies to the person as described in the regulation.

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<sup>1</sup> Facilities and activities that must be authorized by an NPDES permit include: sewage and industrial waste treatment facilities; discharges from combined sewer overflows; agricultural operations including concentrated animal feeding operations (CAFOs) and aquaculture; discharges of municipal, industrial, and construction stormwater; groundwater cleanup operations; and certain pesticide applications.

The notification provisions in 25 Pa. Code § 92a.41(b) apply to the NPDES permittee.

When the responsible person (or person in charge) is unable to make the required notification, another individual should make the notification on their behalf. Other parties (e.g., third-party observers) can notify DEP about incidents that cause, or threaten to cause, pollution to waters of the Commonwealth, but are not required to do so.

### **When to Notify DEP**

25 Pa. Code § 91.33(a) requires immediate notification to DEP when a spill, discharge, or other incident results in a substance that would endanger downstream users, result in pollution, create a danger of pollution, or damage property being discharged to waters of the Commonwealth or being placed such that the substance might discharge, flow, be washed, or fall into waters of the Commonwealth.

DEP understands that in an emergency situation where a spill or unauthorized discharge occurs, public health and safety is paramount. Notification to DEP should occur as soon as possible after immediate risks to public health and safety subside. When a person becomes aware of a spill or discharge because of an accident, activity, or incident, the first actions should be to ensure the safety of self and others, to stop the discharge if possible, and to contact emergency services (911).

In accordance with 25 Pa. Code § 92a.41(b), NPDES-permitted facilities or activities must contact DEP as soon as possible, but no later than four hours after becoming aware of an incident causing or threatening pollution. As noted previously, Section 92.41(b) also requires NPDES permittees to submit a written submission to DEP within five days of the time the permittee becomes aware of an incident causing or threatening pollution, unless the report is waived by DEP.

### **When to Notify Downstream Users**

Of special concern is the possibility that public water supplies and other downstream water users could be negatively affected by a spill, discharge, or other incident that results in a substance being discharged to waters of the Commonwealth or being placed such that the substance might discharge, flow, be washed, or fall into waters of the Commonwealth. Therefore, in accordance with 25 Pa. Code § 91.33(a), downstream users must be notified if it is reasonably possible to do so. Up-to-date contact information should be maintained for downstream users in the event of an emergency. Further, because impacts to local public drinking water supplies are a major concern, downstream local drinking water suppliers should be notified as soon as possible. Facilities in Pennsylvania that are required to develop and submit an “emergency response plan” (i.e., Preparedness, Prevention and Contingency (PPC) Plan) under 25 Pa. Code § 91.34(b) should identify downstream users of water and their contact information so that in the event of an emergency, they can comply with § 91.33(a) by notifying those downstream users.

### **What Spills, Discharges, or Other Incidents to Report to DEP**

Section 91.33(a) does not provide threshold amounts of specific substances that trigger notification requirements. This is because the location and characteristics of spills, discharges, or other incidents are not known in advance and their impact cannot be predicted prior to an incident occurring. This contrasts with DEP’s permitting programs where the location and characteristics of permitted discharges or activities are known prior to the discharge or activity commencing.

## How DEP establishes permit conditions for planned discharges

Applicants for an NPDES discharge permit must provide the location of the discharge, the receiving water, and the characteristics of the discharge, such as which pollutants are expected to be in the discharge and the volume or flow rate of the discharge. Using this information, DEP permit writers establish permit conditions and requirements (e.g., effluent limits, best management practices) that ensure the discharge will not cause or contribute to violation of Pennsylvania's water quality standards, create a risk of harm, or cause pollution.

Pennsylvania's water quality standards are provided in 25 Pa. Code Chapter 93 and are made up of three distinct components: (1) protected water uses – such as potable water supply, water contact recreation, and maintenance of aquatic life – defined in Section 93.3; (2) water quality criteria, including general water quality criteria and water quality criteria for specific substances; and (3) antidegradation requirements. Pennsylvania's water quality standards set forth in Chapter 93 apply to surface waters.<sup>2</sup> These water quality standards are one way DEP implements Section 401 of The Clean Streams Law to determine when a discharge does or does not constitute pollution: if a discharge causes or contributes to violation of a water quality standard, the discharge constitutes pollution.

For a planned discharge, DEP permit writers analyze the characteristics of the planned discharge (e.g., discharge flows, what substances the discharge will contain in what concentrations), including the characteristics (e.g., flow characteristics) and protected uses of the receiving water, and use that information to establish permit conditions that – if adhered to – ensure the discharge will not cause or contribute to violation of Pennsylvania's water quality standards.

Even for permitted activities that are not “discharges” to surface waters, such as land application of biosolids, DEP permits for these activities contain terms and conditions that – if adhered to – ensure that the activities will not cause or contribute to pollution of waters of the Commonwealth. For instance, DEP permits for land application of biosolids have requirements regarding the composition and quality of the biosolids, the rate at which biosolids can be land applied, the weather conditions during which biosolids can be land applied, and storage requirements. These permit conditions take into account the nature of the substances being applied, the characteristics of the location at which the substances are applied, weather conditions, and other factors to ensure the permitted activity will not cause or contribute to pollution of waters of the Commonwealth, and these permit conditions are in place before the activity can commence.

## Why DEP cannot tenably establish pre-set quantitative criteria to determine if an unplanned discharge constitutes or threatens pollution

In contrast to permitted discharges or activities, when a spill or other unauthorized discharge occurs, the location and characteristics of the incident are not known in advance. Even in cases where a spill or unauthorized discharge occur directly to a surface water, not knowing the location or characteristics of the spill or discharge in advance precludes DEP from defining pre-established threshold quantities or concentrations for specific substances – analogous to effluent limits for permitted discharges – by which the spill or unauthorized discharge can be determined to constitute pollution or not.

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<sup>2</sup> 25 Pa. Code § 93.1 defines “surface waters” as “Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process.”

Moreover, spills and unauthorized discharges are often not direct discharges to surface waters,<sup>3</sup> so – in addition to the many factors that go into determining permit conditions (e.g., effluent limits) for permitted direct discharges to surface waters – several additional factors need to be assessed to determine if a spill or unauthorized discharge that does not directly enter a surface water will result in violation of water quality standards in nearby surface waters. These additional factors include but are not limited to how long it will take spilled substances to reach surface waters and any dilution or transformation of spilled substances that occur between the spill site and surface waters. For example, if a spill occurs in an area with karst geology where there are relatively direct surface connections to groundwater (e.g., sinkholes), the substances spilled may reach surface waters more quickly compared with a spill in an area where surface connections to groundwater are less direct.

Furthermore, the water quality standards set forth in Chapter 93 apply to surface waters, but spills or other unauthorized discharges that do not occur directly to surface waters may also constitute pollution as defined in The Clean Streams Law to the extent that such spills or unauthorized discharges render waters of the Commonwealth (which include “underground water”) “... harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life...”<sup>4</sup> For instance, if a spill or unauthorized discharge results in harmful contamination of groundwater used by a municipal drinking water treatment plant, that spill or unauthorized discharge would constitute pollution as defined by The Clean Streams Law. DEP relies on notification of spills or other unauthorized discharges to assess pollution risks to all waters of the Commonwealth, including groundwater. The lack of advance knowledge about the location and characteristics of spills or unplanned discharges to groundwater presents the same challenges as with surface waters in attempting to establish pre-set, quantitative criteria by which a spill or unplanned discharge could be determined to constitute pollution or not.

#### Does that mean every spill or unauthorized discharge constitutes or threatens pollution?

For all of the aforementioned reasons, it is not tenable for DEP to establish the equivalent of effluent limits for spills or other unauthorized discharges – even if those spills or discharges occur directly to surface waters – that would provide set, quantitative criteria by which it can be determined if a particular spill or discharge constitutes or threatens pollution and, therefore, triggers notification requirements. However, several factors can be evaluated to assess the risk that a specific spill or other unauthorized discharge constitutes or threatens pollution, including, but not limited to:

- the substances involved, including
  - known effects on protected water uses (e.g., toxicity to humans and/or aquatic life)
  - whether the substance is subject to transformation or degradation by biological, chemical, or physical processes
  - the concentration and quantity of the substances

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<sup>3</sup> By including the phrase “... or is placed so that it might discharge, flow, be washed or fall into the waters of the Commonwealth...”, 25 Pa. Code § 91.33(a) accounts for the fact that spills or other unauthorized discharges can cause or threaten pollution of waters of the Commonwealth even when such incidents do not result in direct discharges to waters of the Commonwealth.

<sup>4</sup> It is worth noting here that DEP’s water quality standards for surface water not only include numeric criteria for specific substances and properties, but also general water quality criteria such as in 25 Pa. Code § 93.6(a), which provides that “Water may not contain substances attributable to point or nonpoint source discharges in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life.”

- the location, including
  - proximity to nearby users and to surface waters
  - characteristics of the nearest waters of the Commonwealth
  - land use, soils, and geology
  - the presence and qualities of relevant infrastructure (e.g., spill containment systems)
- weather conditions before, during, and after the incident
- the presence and implementation of adequate response plans, procedures, or protocols

These and other factors can interact in complex ways to affect the risks of spills or other unauthorized discharges endangering downstream users, polluting waters of the Commonwealth, or damaging property. The numerous and complex ways these and other factors can interact to affect the relevant risks prevents DEP from tenably establishing specific parameters (e.g., spill effluent limitations for specific substances) that can be applied to every spill or unauthorized discharge incident, as previously noted. However, these factors can be conceptualized as informing a risk characterization framework for spills and other unauthorized discharges.

**Table 1.** Example conceptualization of a risk characterization framework for spills or other unauthorized discharges.

factor		characterization		
OVERALL RISK		LOWER RISK OF POLLUTION	↔	HIGHER RISK OF POLLUTION
substance	known effects	low toxicity	↔	highly toxic
	volume	small volume	↔	large volume
	concentration	low concentration	↔	high concentration
location	proximity to nearby users	distant	↔	near
	proximity to surface waters	distant	↔	direct discharge to surface water
	characteristics of nearest waters of the Commonwealth	large river with non-special protection use	↔	small, exceptional value stream
	relevant infrastructure presence and qualities	well-maintained spill containment system	↔	no spill containment system or poorly maintained spill containment system
other factors	...	...	↔	...

**DISCLAIMER:** The framework presented in this table is intended simply as an example of how some factors can contribute to the risks of a spill or other unauthorized discharge endangering downstream users, polluting waters of the Commonwealth, or damaging property. It is important to note that all relevant risk factors should be considered together and in relation to each other. For example, a highly toxic substance may present a high risk of pollution even at a very low concentration.

With this risk characterization framework in mind, considering some example situations can help demonstrate why certain spills or unauthorized discharges require DEP notification while others do not.

- *Someone spills a drop of milk on their driveway* – The driveway is paved and not located near a waterway. Referencing the risk factors discussed previously, this spill involves a very small volume of a substance with low toxicity at very low-risk location. Given these risk characteristics, this “incident” is extremely unlikely to cause or threaten pollution of waters of the Commonwealth, to endanger downstream users, or to damage property. As such, DEP does not expect notification.
- *Someone spills a drop of milk into the Susquehanna River while kayaking near Harrisburg* – Although this spill occurred directly into a surface water of the Commonwealth, DEP does not expect notification of this incident because the quantity and known effects of the substance spilled present an extremely low risk to cause or threaten pollution of waters of the Commonwealth, to endanger downstream users, or to damage property.
- *A tanker truck accident on a bridge results in thousands of gallons of milk spilled directly into a small stream* – This spill involves the same substance as the previous two examples, but the large quantity and the location of this spill substantially increase the risk that this incident will cause or threaten pollution of waters of the Commonwealth. As such, DEP expects and requires notification.

DEP acknowledges that some spills or other unauthorized discharge incidents (e.g., someone spilling a drop of milk on their driveway) pose negligible risk of pollution of waters of the Commonwealth, endangering downstream users, or damaging property, and DEP does not expect notification of such incidents. However, due to the many factors that affect risks associated with spills and unauthorized discharges, **DEP strongly encourages notification be made to DEP for any spill or unauthorized discharge where the risks of pollution to waters of the Commonwealth, property damage, or endangering downstream users are unknown or uncertain.** It is best to err on the side of caution and notify DEP when you are unsure of the impact a spill or unauthorized discharge may have on waters of the Commonwealth.

DEP is not asserting that what constitutes pollution is subjective. Rather, DEP’s position is that – due to the many interacting factors that can affect the risk that a spill or other unauthorized discharge will result in or threaten pollution of waters of the Commonwealth – it is not tenable to define pre-established, quantitative criteria by which it can be determined if a particular spill or discharge constitutes or threatens pollution. DEP intends this technical guidance document to provide increased clarity and a basis for consistency as to which spills or other unauthorized discharge incidents require notification and which may not.

The following sections present some additional examples of incidents where immediate notification to DEP is required, where DEP does not expect notification, and where immediate notification to DEP may be required, depending on the particular circumstances of the incident.

#### Examples of Incidents That *Require* Immediate Notification to DEP

- Unanticipated bypasses of raw or inadequately treated sewage or industrial wastes to waters of the Commonwealth or conduits to waters of the Commonwealth.

- Sanitary sewer overflows.
- Vehicular or other transportation accidents in which pollutants are spilled on or into the ground, storm drains, drainage swales, or surface water.
- Historical/existing pollution that is newly discovered, including newly discovered pollution occurring at sites with prior remediation, or currently malfunctioning remediation equipment.
- After a storm knocks down a utility pole, 15 gallons of mineral oil are released onto the ground from a broken electrical transformer; the utility company responds to the scene within 30 minutes and implements a spill response protocol – Despite the fairly rapid implementation of a spill response protocol, this incident requires immediate notification to DEP due to the uncertainties about how far the substance may have migrated (which depend on local soil and hydrogeological characteristics at the site) and about the exact chemical composition of the substance in question (mineral oils can be contaminated with residual polychlorinated biphenyls, which are known to have an array of adverse health effects).

#### Examples of Incidents Where DEP Does Not Expect Notification

- Minor spills or small leaks onto the ground where the contaminated soil can be immediately removed if necessary and there is no reasonable possibility of the substance reaching groundwater or discharging to surface water directly or indirectly.
- Spills or overflows collected by appropriate secondary containment.

#### Examples of Incidents That May Require Immediate Notification to DEP

- Discharges of chlorinated water, such as from a swimming pool or spa, a water main break, or during pool or water system maintenance and other activities – These incidents may require immediate notification to DEP if the discharge is not appropriately managed as detailed in DEP’s fact sheet [\*Planned and Unplanned Discharges of Chlorinated Water to Surface Water\*](#) (3830-FS-DEP4861). Immediate notification to DEP may not be necessary where an aggressive Pollution Prevention and Contingency plan is in place and implemented, and where the discharge can be safely dechlorinated.
- Activities such as car washes in parking lots – These activities may require immediate notification to DEP if the wash water is not appropriately contained or treated as detailed in DEP’s fact sheet [\*Management of Cleaning Wastewater\*](#) (3830-FS-DEP1944) or if there is a discharge to waters of the Commonwealth.
- A trucking terminal fueling station has a faulty pump that leaks a few drops of diesel fuel every time it is used. Best management practices (BMPs) are implemented and assumed to be maintained, including an oil/water separator. A maintenance person/contractor cleans the lot monthly by pressure washing soapy water into a storm drain, which contains absorbents for collecting petroleum products. In addition to the uncertainty of the maintenance of the oil/water separator, along with regular use of the leaking pump which could result in accumulation of diesel fuel, and since diesel fuel is known to have adverse impacts on waters of the Commonwealth, DEP advises notification about this situation.

- Spills of non-liquid materials into waters of the Commonwealth. Examples of such incidents can include spills of sand, gravel, or plastic pellets into a stream. Depending on the characteristics and quantity of the material, the location of the spill, and other factors like those noted in the risk framework outlined above, such spills may require immediate notification to DEP.

As mentioned above, it is always best to err on the side of caution and notify DEP if there is a reasonable possibility that pollution occurred or will occur.

### **Additional Considerations**

Some parties have suggested that DEP use the “reportable quantities” concept as a basis for determining when spills or unauthorized discharges constitute pollution or not. DEP is aware that the reportable quantity concept is utilized by the United States Environmental Protection Agency (USEPA) to implement reporting requirements under several federal statutes (see, for example, USEPA’s [Consolidated List of Lists](#)), including the federal Clean Water Act. However, the reporting requirements in these federal statutes were not established for purposes of determining whether a pollution event has occurred, and DEP has a statutory obligation under The Clean Streams Law to protect waters of the Commonwealth from pollution. As discussed previously, the notification requirements in DEP’s regulations are designed to implement DEP’s statutory obligations under The Clean Streams Law. Moreover, reportable quantities only take into account a couple of the key risk factors associated with spills and other unauthorized discharges discussed above, namely the nature and quantity of the substance involved. Basing notification requirements only on substance-specific quantities does not take into account the other factors which can affect the level of risk associated with spills or unauthorized discharges (e.g., site-specific factors such as proximity to surface waters and the size of surface waters).

When a sewage or industrial waste facility is authorized to discharge under an NPDES permit issued by DEP, exceedances of effluent limitations in the permit generally do not constitute incidents subject to the immediate notification requirement, unless an incident such as a plant upset or a spill causes the exceedance or endangers downstream users, or notification is specifically required by the permit. Sewage and industrial waste facilities should notify DEP immediately of any accidental discharge into the effluent, or of a discharge from a user connected to a sewer system that cannot be treated by the sewage treatment plant, such as a discharge of fuel oil.

For violations of NPDES-permitted limits or activities that cause or threaten pollution and that are, or could be, identified and reported through a compliance management system, persons should also consult DEP’s guidance document titled [Policy to Encourage Voluntary Compliance by Means of Environmental Compliance Audits and Implementation of Compliance Management Systems](#) (012-0840-001).

### **Incident Response**

In addition to notification requirements in 25 Pa. Code § 91.33(a), Section 91.33(b) requires that “a person shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition thereto, within 15 days from the incident, shall remove from the ground and from the affected waters of this Commonwealth to the extent required by this title the residual substances contained thereon or therein.”

DEP recognizes that cleanup after some incidents may take longer than 15 days. DEP's expectation is that remedial work following a spill or other incident commence as soon as possible after the incident. If remediation cannot be completed within 15 days following the incident, DEP expects the responsible person to request additional time in writing, including how they plan to complete the remediation and a schedule for implementation.

When a person becomes aware of a spill or discharge because of an accident, activity, or incident, the first actions should be to ensure the safety of self and others, to stop the discharge if possible, and to contact emergency services (911).

Discharges that may result in a fish kill or that could cause an impact to aquatic life should also be immediately reported to the [Pennsylvania Fish and Boat Commission hotline](#) at **855-FISH-KIL** (855-347-4545). Other response agencies should also be notified, if appropriate.

For guidance on emergency response and planning, and pollution prevention and contingency planning, persons should consult DEP's guidance document titled [Guidelines for the Development and Implementation of Environmental Emergency Response Plans](#) (400-2200-001).

### **How to Notify DEP: DEP's Emergency Contact Numbers**

DEP strives to respond quickly and professionally to any incident that adversely affects the health and safety of the public and the environment. DEP maintains phone lines in each region for dispatching response personnel to emergencies and incidents within DEP purview.

All spills, discharges, or other incidents that would cause, or threaten to cause, pollution of waters of the Commonwealth, endanger downstream users, or threaten property need to be reported by telephone to the DEP regional office using the number listed in the table below. The statewide emergency number 1-800-541-2050 should be used if the county is unknown. The Department does not consider voicemail messages, mailed letters, emails, or text messages to fulfill this notification requirement. This information is also available at DEP's [Report an Incident](#) webpage.

<b>Region</b>	<b>Phone Number</b>	<b>Counties Covered</b>
<b>Northwest Region</b> 230 Chestnut Street Meadville, PA 16335-3481	814-332-6945	Armstrong, Butler, Clarion, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Lawrence, McKean, Mercer, Venango, Warren
<b>Northcentral Region</b> 208 W. Third Street, Suite 101 Williamsport, PA 17701	570-327-3636	Bradford, Cameron, Clearfield, Centre, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, Union
<b>Northeast Region</b> 2 Public Square Wilkes-Barre, PA 18701-1915	570-826-2511	Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, Wyoming
<b>Southwest Region</b> 400 Waterfront Drive Pittsburgh, PA 15222	412-442-4000	Allegheny, Beaver, Cambria, Fayette, Greene, Somerset, Washington, Westmoreland
<b>Southcentral Region</b> 909 Elmerton Avenue Harrisburg, PA 17110	800-541-2050	Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, York
<b>Southeast Region</b> 2 East Main Street Norristown, PA 19401	484-250-5900	Bucks, Chester, Delaware, Montgomery, Philadelphia
<b>Statewide Emergency Contact</b>	800-541-2050	County Unknown

DEP recognizes that some entities are required to notify the National Response Center of some spills or releases of certain substances. However, DEP's experience is that DEP often does not get notified in a timely manner of incidents reported to the National Response Center. For this reason, notification of spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth must be made directly to DEP, as outlined in this guidance document, regardless if the incident is reported to the National Response Center.

### **For More Information**

Contact DEP, Bureau of Clean Water by phone at 717-787-5017.

Visit [www.dep.pa.gov](http://www.dep.pa.gov), click the [Report an Incident](#) icon.

Visit [www.pema.pa.gov](http://www.pema.pa.gov), click the [Spill Reporting](#) icon.