

**STATUS:** Pending

**POLICY NUMBER:** Waste-0082-NPD

**SUBJECT:** Petroleum Remediation Program Guide

**AUTHORIZED:** Brian C. Rockensuess, Commissioner

**SUPERSEDES:** WASTE-0060-NPD

**ISSUING OFFICE:** Office of Land Quality, Petroleum Branch

**ORIGINALLY EFFECTIVE:** December 9, 2022

**RENEWED OR REVISED:** Date New

**Disclaimer:** This nonrule policy document is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under [IC 13-14-1-11.5](#). It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to [IC 13-14-1-11.5](#), this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate State Environmental Board and may be put into effect by IDEM 30 days afterward. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM also will submit the policy to the Indiana Register for publication.

## 1.0 PURPOSE

This nonrule policy document provides information about administrative processes involved in the release reporting, corrective action, and closure requirements for petroleum releases managed by the Petroleum Remediation Section (PRS) of the Office of Land Quality (OLQ), Petroleum Branch. It serves as a supplement to the Risk-based Closure Guide (WASTE-0046-R2).

## 2.0 SCOPE

This NPD applies to entities remediating a petroleum spill or release through the OLQ Petroleum Remediation Programs. The PRS oversees the Leaking Underground Storage Tank (LUST) and Certain Other Petroleum Releases (Petro) Programs.

## 3.0 SUMMARY

The LUST Program (<https://www.in.gov/idem/tanks/>) oversees the release reporting and corrective action requirements for owners (as defined in [IC 13-11-2-150](#)) and operators (as defined in [IC 13-11-2-148](#)) (O/Os) pertaining to releases from regulated underground storage tanks (USTs) required under state and federal laws. Corrective action includes determining the full nature and extent of contamination and cleanup, when necessary, to adequately eliminate or control unacceptable risks from the contamination.

The Certain Other Petroleum Releases Program oversees a responsible person's (RP's) release reporting and remediation requirements for releases from unregulated petroleum sources required under state and federal laws. The program includes the Independent Closure Process (Waste-0069-NPD). This NPD has the following layout:

- Part I Introduction to the Petroleum Remediation Section

- Part II LUST Program

  - Program Responsibilities

  - Rules, Laws, and Nonrule Policy Documents

  - Process Overview

- Part III Petro Program

  - Program Responsibilities

  - Rules, Laws, and Nonrule Policy Documents

  - Process Overview

## 4.0 DEFINITIONS

4.1. "Agency" – The Indiana Department of Environmental Management (IDEM).

4.2. "Agreed Order (AO)" – (1) A formal legal agreement between the agency and an owner, operator, or responsible person governing either corrective action responsibilities related to a petroleum release from an underground storage tank pursuant to [IC 13-23-13-1](#), or removal and remedial action responsibilities related to a petroleum release from a petroleum facility pursuant to [IC 13-24-1-1](#). (2) A written negotiated settlement, to which Indiana Department of Environmental Management (IDEM) is a party, which resolves an enforcement action issued by IDEM.

4.3. "Approval" – Written concurrence from the Indiana Department of Environmental Management.

4.4. "Attorney General (AG)" – The elected official representing the state in litigation. The AG or various

Deputy AGs (DAGs) litigate in state court on behalf of IDEM.

4.5. "Closure" – IDEM's written recognition a party has demonstrated attainment of remediation objectives in an area.

4.6. "Code of Federal Regulations (CFR)" – A codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

4.7. "Cost recovery" – Action taken by IDEM to collect from the RP the past and future costs incurred by IDEM in response to actions taken to mitigate and/or remediate the threat of or release of contaminants into the environment.

4.8. "Days" – Calendar days including weekends and holidays.

4.9. "Environmental restrictive covenant (ERC)" – Has the meaning set forth in [IC 13-11-2-193.5](#).

4.10. "Environmental restrictive ordinance (ERO)" – Has the meaning set forth in [IC 13-11-2-71.2](#).

4.11. Gate keeper site investigation (SI) team" – A team of SI staff evaluate the gate keeper list sites and determine if the sites will continue through the SI process.

4.12. "Groundwater" – Has the meaning set forth in [IC 25-39-2-10](#).

4.13. "Hazardous substance" – Any substance referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601(14)), including, but not limited to, any substance designated at 40 CFR Part 302.4. See also [IC 13-11-2-98](#).

4.14. "Indiana Code (IC)" – The codification of laws enacted by the Indiana General Assembly that is maintained by the Indiana Legislative Council.

4.15. "Institutional control" – Administratively or legally enforceable measures that limit human exposure to release-related chemicals that exceed unconditional closure levels.

4.16. "Line of evidence" – A fact or set of facts relevant to a decision.

4.17. "No further action (NFA) letter" – A letter issued to O/Os and a Responsible Person (as defined in [IC 13-11-2](#)) for the remediation of hazardous substances or petroleum products on a site stating the remediation was conducted to R2 criteria for closure.

4.18. "Notice" - Announcements to the public about pending and completed actions and/or decisions of the agency.

4.19. "Project manager" – Agency staff designated as responsible to coordinate/implement activities associated with a site or project specific Quality Assurance Project Plan, especially with respect to collecting, using, and reporting environmental data.

4.20. "Published Level" – A concentration published by IDEM for a chemical in a particular medium which is acceptable for a specific exposure scenario.

4.21. "Release" – Has the meaning set forth in [IC 13-11-2-184\(a\)](#) and [IC 13-11-2-184\(b\)](#).

4.22. "Release-related chemical" – "a substance placed on the land or in the subsurface which is, by virtue of its nature or quantity, subject to regulation by IDEM's Office of Land Quality. The term also includes regulated breakdown products.

4.23. "Remediation objective" – Per [IC 13-25-5-8.5\(c\)](#), either (1) a concentration of a substance equal to the naturally occurring concentration of that substance on the site, or (2) an environmental concentration of substance which; given the conditions, uses, and restrictions prevailing on the site; is protective of human health and the environment. For purposes of this document, a remediation objective may be a conditional remediation objective or an unconditional remediation objective.

4.24. "Remedy" – A means of reducing risk arising from a release-related chemical. Remedies either reduce the concentration of a release-related chemical, reduce exposure to that chemical, or both. An adequate remedy will, either by itself or in concert with one or more other remedies, reduce risk from release-related chemicals to an acceptable level.

4.25. "Unconditional remediation objective" – A remediation objective which permits unrestricted use of a property. Examples include IDEM's published levels for residential exposure scenarios, naturally occurring backgroundf levels, or project-specific residential levels.

4.26. Virtual File Cabinet" – The agency's electronic document management repository. This repository has all the functionality necessary to capture, store, file, index, redact, reassemble, and securely access electronic documents of all types both received by and created by the various programs within the agency and allows the public viewing, searching, and printing capabilities.

## 5.0 ROLES

5.1. The consultant shall (when engaged by the O/O or RP):

- A. Represent the O/O or RP.
- B. Prepare work plans or other documents for a site on behalf of an O/O or RP.
- C. Coordinate activities with the IDEM project manager to achieve closure of a site.
- D. Submit plans, data, and documents as requested by the project manager.
- E. Perform investigatory and/or remediation work as described in work plans or other documents.

5.2. The IDEM attorney shall:

- A. Draft or review legal documents, other project related documents, and correspondence, as needed.
- B. Advise IDEM OLQ project managers and IDEM management.
- C. Refer cases to the Indiana AG, when necessary.
- 5.3. The IDEM Petroleum Branch Chief shall:
  - A. Approve many documents, such as letters to and agreements with O/Os and RPs.
  - B. Assist project managers in the resolution of issues which arise relative to a site, as needed.
- 5.4. The IDEM Science Services Branch staff shall:
  - A. Provide expertise and services in fields including, but not limited to, chemistry, geology, geological information systems, engineering, and risk assessment.
  - B. Review work plans and reports.
  - C. Perform field oversight of investigation or remediation activities, as needed.
  - D. Provide sampling expertise.
  - E. Evaluate the quality of the environmental data.
  - F. Develop and maintain electronic databases.
  - G. Participate in meetings and discussions with O/Os, RPs, consultants, or the public, as needed.
- 5.5. The IDEM Petroleum Remediation Section chief shall:
  - A. Supervise program staff.
  - B. Report directly to a branch chief.
  - C. Approve many documents, such as letters to and agreements with O/Os and RPs.
  - D. Assist in the resolution of issues which arise relative to a site, as needed.
- 5.6. The IDEM Petroleum Remediation Section project manager shall:
  - A. Coordinate and implement remediation activities with the O/O, property owner, or RP and the consultant.
  - B. Receive, evaluate, and provide comments on documents associated with the investigation, remediation, and closure of a site.
  - C. Prepare and send correspondence to the O/O, property owner, and/or RP and their consultant which communicates the status of the remediation project.
  - D. Request technical staff review of remediation documents and incorporate the technical staff suggestions and comments into the correspondence to the O/O, RP, and the consultant.
  - E. Conduct internal team meetings with technical staff to discuss the site.
  - F. Conduct meetings with the O/O, RP, or the consultant to discuss approaches to the remediation or closure of a site.
  - G. Make decisions on the appropriate use of technology or remediation techniques at the site.
  - H. Conduct site visits as requested or necessary to view the nuances of the site.
  - I. Evaluate different proposals on their merit.
- 5.7. The owner or operator, property owner, or RP shall:
  - A. Prepare or hire a consultant on their behalf to prepare investigation reports, remediation work plans, and progress reports to present to the PRS project manager regarding the characterization and remediation of a site.
  - B. Respond to PRS project manager in a timely manner to all requests for information.
  - C. Provide data, maps, or records to the PRS project manager reflecting site conditions.

## 6.0 POLICY

- 6.1. OLQ's PRS will provide oversight of the investigation and remediation of releases of petroleum.
- 6.2. The PRS will issue Initial Site Characterization Request letters to UST O/Os for regulated UST releases.
- 6.3. The O/O, RP, or consultant working on its behalf will prepare and submit work plans, conduct investigations, perform interim measures and remediation (if unacceptable risk exists), and submit documentation of investigatory or remediation activities to the PRS.
- 6.4. The PRS may issue a Notice and Order of the Commissioner, pursuant to [IC 13-23-13-1](#) or [IC 13-24-1-1](#), to an O/O or RP who has failed to reply adequately to IDEM's Initial Site Characterization Request or Initial Site Investigation Request letters. The PRS may also seek a court order to compel an O/O or RP to undertake investigation or remediation; to enter upon private or public property to carry out an appropriate response; or to recover costs and damages from an O/O or RP.
- 6.5. PRS staff will review environmental investigation, remediation, and closure documentation; conduct site visits; attend meetings; coordinate technical reviews by OLQ Science Service Branch staff; and coordinate legal review and support by IDEM Office of Legal Counsel.
- 6.6. The owner, operator, and/or RP will reimburse IDEM as appropriate for the costs IDEM incurs in overseeing response actions taken at petroleum release sites.
- 6.7. The PRS will issue a No Further Action letter to approve closure upon successful completion of site investigation and implementation of the site corrective action or remediation work plan, when needed, including post-remedial monitoring and confirmation sampling, and implementation of any necessary

institutional controls.

Download the Petroleum Remediation Services Program Guide attachment from <http://www.in.gov/idem/>.

## 7.0 REFERENCES

### 7.1. Federal Laws or Rules

- A. 40 CFR Part 280 Technical Standards and Corrective Action Requirements for Owners and Operators of USTs
- B. 40 CFR Parts 300-399 National Contingency Plan

### 7.2. Indiana Statutes

- A. [IC 4-21.5](#) State Offices and Administration, Administrative Orders and Procedures
- B. [IC 13-12-3-2](#) Environment, General Provisions, Environmental Policy, Remediation and closure goals, objectives, and standards for certain remediation projects
- C. [IC 13-14-2-9](#) Outlines modifications of restrictive covenants procedures
- D. [IC 13-14-10](#) Environment, Powers and Duties of Department of Environmental Management and Boards, General Emergency Procedures
- E. [IC 13-23](#) Environment, Underground Storage Tanks
- F. [IC 13-24-1](#) Environment, Petroleum, Petroleum Releases
- G. [IC 13-25-5-8.5\(c\)](#) Environment, Hazardous Substances, Voluntary Remediation of Hazardous Substances and Petroleum, Voluntary remediation work plan objectives; additional action to protect human health and the environment not necessary under certain circumstances; risk-based remediation objectives and proposals

### 7.3. Indiana Administrative Codes

- A. [329 IAC 7.1](#) Priority Ranking System for Hazardous Substances Response Sites
- B. [329 IAC 9](#) UST Rule. [http://iac.iga.in.gov/iac/iac\\_title](http://iac.iga.in.gov/iac/iac_title).

### 7.4. Agency Policies

- A. Risk-based Closure Guide NPD Waste-0046-R2; Risk-based Closure Guide
- B. Procedures for Gaining Access to Third Party Properties by Responsible Parties Performing Remediation Waste-0065
- C. Community Involvement Plan NPD Waste-0070; Community Involvement Plan

## 8.0 SIGNATURES

\_\_\_\_\_  
Brian C. Rockensuess, Commissioner  
Indiana Department of Environmental Management

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peggy Dorsey, Assistant Commissioner  
Office of Land Quality

\_\_\_\_\_  
Date

\_\_\_\_\_  
Nancy King, Assistant Commissioner  
Office of Legal Counsel and Criminal Investigations

\_\_\_\_\_  
Date

This policy is consistent with Agency requirements.

\_\_\_\_\_  
Quality Assurance Program, Office of Program Support  
Indiana Department of Environmental Management

\_\_\_\_\_  
Date

*Posted: 12/21/2022 by Legislative Services Agency*  
An [html](#) version of this document.