**Section 721.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems**

A tank system or secondary containment system from which there has been a leak or spill, or that is unfit for use, must be removed from service immediately, and the remanufacturer or other person that stores or treats the hazardous secondary material must satisfy the following requirements:

a) Cessation of use; prevent flow or addition of materials. The remanufacturer or other person that stores or treats the hazardous secondary material must immediately stop the flow of hazardous secondary material into the tank system or secondary containment system and inspect the system to determine the cause of the release.

b) Removal of material from tank system or secondary containment system.

1) If the release was from the tank system, the remanufacturer or other person that stores or treats the hazardous secondary material must, within 24 hours after detection of the leak or, if the remanufacturer or other person that stores or treats the hazardous secondary material demonstrates that it is not possible, at the earliest practicable time, remove as much of the material as is necessary to prevent further release of hazardous secondary material to the environment and to allow inspection and repair of the tank system to be performed.

2) If the material released was to a secondary containment system, all released materials must be removed within 24 hours or in as timely a manner as is possible to prevent harm to human health and the environment.

c) Containment of visible releases to the environment. The remanufacturer or other person that stores or treats the hazardous secondary material must immediately conduct a visual inspection of the release and, based upon that inspection:

1) The remanufacturer must prevent further migration of the leak or spill to soils or surface water; and

2) The remanufacturer must remove, and properly dispose of, any visible contamination of the soil or surface water.

d) Notifications, reports.

1) Any release to the environment, except as provided in subsection (d)(2), must be reported to the Agency and the Administrator of USEPA Region 5 within 24 hours of its detection. If the release has been reported pursuant to 40 CFR 302, that report will satisfy the requirement to notify USEPA, but the release must still be reported to the Agency.

2) A leak or spill of hazardous secondary material is exempted from the requirements of this subsection (d) if the following is true of the leak or spill:

A) The leak or spill is less than or equal to a quantity of one pound; and

B) The leak or spill is immediately contained and cleaned up.

3) Within 30 days after detection of a release to the environment, a report containing the following information must be submitted to the Agency and the Administrator of USEPA Region 5:

A) The likely route of migration of the release;

B) The characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

C) The results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency and the Administrator of USEPA Region 5 as soon as the results become available;

D) The proximity to downgradient drinking water, surface water, and populated areas; and

E) A description of response actions taken or planned.

e) Provision of secondary containment, repair, or closure.

1) Unless the remanufacturer or other person that stores or treats the hazardous secondary material satisfies the requirements of subsections (e)(2) through (e)(4), the tank system must cease to operate under the remanufacturing exclusion at Section 721.104(a)(27).

2) If the cause of the release was a spill that has not damaged the integrity of the tank system, the remanufacturer or other person that stores or treats the hazardous secondary material may return the tank system to service as soon as the released material is removed and repairs, if necessary, are made.

3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the primary tank system must be repaired prior to returning the tank system to service.

4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the remanufacturer or other person that stores or treats the hazardous secondary material must provide the component of the tank system from which the leak occurred with secondary containment that satisfies the requirements of Section 721.293 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (f) are satisfied. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or on-ground tank), the entire component must be provided with secondary containment in accordance with Section 721.193 prior to being returned to use.

f) Certification of major repairs. If the remanufacturer or other person that stores or treats the hazardous secondary material has repaired a tank system in accordance with subsection (e), and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel, etc.), the tank system must not be returned to service, unless the remanufacturer or other person that stores or treats the hazardous secondary material has obtained a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous secondary materials without release for the intended life of the system. This certification must be kept on file at the facility and maintained until closure of the facility.

BOARD NOTE: USEPA stated in note 1 appended to corresponding 40 CFR 261.196 that the Regional Administrator may, on the basis of any information received that there is or has been a release of hazardous secondary material or hazardous constituents into the environment, issue an order under RCRA section 7003(a) (42 USC 6973(a)) requiring corrective action or such other response as deemed necessary to protect human health or the environment. USEPA stated in note 2 appended to corresponding 40 CFR 261.196 that 40 CFR 302 may require the owner or operator to notify the National Response Center of certain releases.

(Source: Amended at 43 Ill. Reg. 5884, effective May 2, 2019)