

**CHAPTER 62 REPORTING OF RELEASES, INVESTIGATION,
CONFIRMATION, ASSESSMENT AND CORRECTIVE ACTION**

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6200 OBLIGATIONS OF RESPONSIBLE PARTIES

- 6200.1 Any responsible party, as defined in the District of Columbia Underground Storage Tank Management Act of 1990, as amended, D.C. Law 8-242; D.C. Code §6-995 *et seq.* (1995 Repl.) (“the Act”) and Chapter 70 of this Subtitle, shall be subject to the requirements of this chapter.
- 6200.2 If the actions required pursuant to this chapter are not taken, the Director may undertake the corrective action, and the responsible party or parties shall be jointly and severally liable to the District government for costs as set forth in §6406.
- 6200.3 The provisions of this chapter shall not be construed to alter the private rights at law or equity and liabilities between the neighboring property owner and the UST system owner or operator, or to relieve an UST system owner or operator of any liability he or she may have under statutory or common law for causing the release of the regulated substance which migrated onto a neighboring property.
- 6200.4 The provisions of 40 CFR Sections 280.200 through 280.230 (Subpart I Lender Liability) are incorporated by reference herein and shall apply to all existing and future security interests, including holders of security interests as defined in 40 CFR §280.200(d).

6201 REPORTING AND CLEAN-UP OF SPILLS AND OVERFILLS

- 6201.1 A responsible party shall take immediate action to contain and clean up any spill or overflow of a regulated substance from an UST system.
- 6201.2 A responsible party shall immediately report any spill or overflow to the Director and to the Fire Chief where there is any danger of fire or explosion.
- 6201.3.1 A responsible party shall immediately contain and clean up a spill or overflow of petroleum that is less than twenty-five (25) gallons. If the clean up cannot be completed

within twenty-four (24) hours, the responsible party shall immediately notify the Director.

- 6201.4 If a spill or overflow of petroleum results in a release to the environment of more than twenty five (25) gallons or causes a sheen on nearby surface water (lakes, ponds, streams, rivers or creeks), a responsible party shall report the release to the Director within twenty-four (24) hours of the occurrence. The responsible party shall begin corrective action in accordance with the applicable provisions of §§6203.9 through 6212 of this chapter.
- 6201.5 A responsible party for a hazardous substance UST system shall immediately report to the Director, the Fire Chief and the D.C. Office of Emergency Management any spill or overflow of a hazardous substance, and the owner or operator shall immediately contain and clean up any such spill or overflow. If the clean up cannot be completed within twenty-four (24) hours, the responsible party shall begin corrective action in accordance with the applicable provisions of §§6203.9 through 6212 of this chapter.
- 6201.6 If a spill or overflow of a hazardous substance results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302), in addition to the requirements of §6201.5, a responsible party shall also report the release to the federal government's National Response Center and begin corrective action in accordance with the applicable provisions of §§6202 through 6212 of this chapter.

6202 REPORTING OF RELEASES OF REGULATED SUBSTANCES

- 6202.1 Any owner, operator or responsible party who has reason to suspect a release from an underground storage tank, as defined in chapter 55, shall notify the Director within twenty-four (24) hours.
- 6202.2 Any authorized agent of a responsible party who knows of a release or has reason to suspect a release from an UST shall notify the owner or operator of the UST system immediately and the Director within 24 hours.
- 6202.3 Any authorized agent of a responsible party; any person who tests, installs, or removes tanks; any person who engages in site investigation, assessment, remediation, or geotechnical exploration; or any public utility company or authorized agent of a public utility company who knows of, or has reason to know of a release, or has reason to suspect a release from an underground storage tank shall inform the owner or operator immediately and shall notify the Director within twenty-four (24) hours of first having knowledge of the suspected release or release.
- 6202.4 The notification of a release or suspected release may be provided orally or in writing, and shall consist of, if known, the name of the owner, operator and any other responsible party, as well as the location, date, time, volume, and substance of the release or suspected release. The notification shall include, if known, any immediate and ongoing action taken to mitigate the release, any subsequent hazardous conditions caused by the release, and an evaluation of any

potential environmental hazard evident by the condition or disposition of the tank.

6202.5 A responsible party shall not knowingly allow any release from an UST system to continue.

6202.6 Owners and operators of UST systems must report to the Director within 24 hours, or another reasonable time period specified by the Director, and follow the procedures in §6203 for any of the following conditions:

- (a) The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water);
- (b) Unusual operating conditions observed by owners and operators (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), unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced; and;
- (c) Monitoring results from a release detection method required under §§ 6002 through 6012 that indicate a release may have occurred unless:
 - (1) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or
 - (2) In the case of inventory control, a tank tightness test conducted within seven (7) days does not confirm the initial result.

6202.7 A responsible party shall immediately investigate, conduct initial abatement if necessary, and within seven (7) days of the suspected release confirm to the Director that a release has occurred using the procedures set forth in this chapter.

6202.8 If the Director has reason to believe a release or off-site contamination due to a release has occurred, the Director may require the owner or operator of the UST system to follow the procedures set forth in section §§6202.7 and 6203.

6203 SITE INVESTIGATION, CONFIRMATION OF RELEASES, INITIAL ABATEMENT AND INITIAL SITE ASSESSMENT

6203.1 When a release is suspected, a responsible party shall conduct systems tests, in accordance with the requirements for tightness testing set forth in §§6007 and 6013.3 of this Subtitle, to determine whether a release exists in the portion of the tank that routinely contains a regulated substance, or the attached delivery piping, or both.

6203.2 A responsible party shall repair, replace, or upgrade the UST system, and begin corrective action in accordance with the applicable provisions of §§6203.9 through 6212 of this chapter if the test results indicate that a release has occurred. Prior to completion of the necessary corrective actions, the UST system may be placed in service once the source of the release has been identified and corrected.

- 6203.3 A responsible party shall also conduct a site investigation, as set forth in §§6203.4 through 6203.6, if:
- (a) The test results for the system, tank, or delivery piping indicate that a release exists; or
 - (b) The test results for the system, tank, and delivery piping do not indicate that a release exists, but environmental contamination detected by visual or analytical data is the basis for suspecting a release.
- 6203.4 The responsible party shall test for the presence of a release where contamination is most likely to be present at the UST site.
- 6203.5 In selecting sample types, sample locations, and measurement methods, the responsible party shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, presence of a basement sump pump and other factors appropriate for identifying the presence of released substance and source of the release. Sample types, sample locations and measurement methods shall also comply with Departmental directives and protocols made available by the UST Division.
- 6203.6 If the sample results do not confirm that a release has occurred, no further investigation shall be required.
- 6203.7 Upon confirmation of a release, a responsible party shall perform the following initial response actions:
- (a) Immediately identify and mitigate any fire, explosion, and vapor hazards;
 - (b) Take immediate action to prevent any further release of the regulated substance into the environment; and
 - (c) When confirmation occurs during the seven (7) day investigation period, the responsible party shall notify the Director and the Fire Chief no later than twenty-four (24) hours after confirmation of the release. The report may be made by telephone, electronic mail, facsimile, or hand delivery. A voice mail message shall not be considered telephone notification. An original letter or memorandum signed by the responsible party, or an authorized representative, shall be submitted to the Director within seven (7) days of confirmation of the release.
- 6203.8 Section 6203.7 shall not apply to any UST system excluded under §§5501.3(a) through (f), or any UST system subject to the Subtitle C corrective action requirements under §3004(u) of the Resource Conservation and Recovery Act (RCRA), as amended.
- 6203.9 A responsible party shall take the following initial abatement actions:
- (a) Remove all regulated substance from the UST system, unless the Director approves removal of a lesser amount that is sufficient to prevent further release to the environment. Fulfillment of the requirements of this section is a pre-requisite

to the use of risk-based decision making to develop a risk-based corrective action (RBCA) plan pursuant to §6206.

- (b) Visually inspect any aboveground releases or exposed belowground releases and prevent further migration of the released substance into surrounding soils and ground water.
- (c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST site and entered into subsurface structures (such as sewers or basements).

6203.10 A responsible party shall remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the responsible party shall comply with all applicable provisions of District of Columbia laws and regulations, including regulations pertaining to the management of solid waste (21 DCMR Chapters 7, 8 and 20).

6203.11 A responsible party shall conduct an Initial Site Assessment that will evaluate on-site conditions (*i.e.* limited to the area within the property boundaries). In preparing the Initial Site Assessment, a responsible party shall comply with any applicable protocols made available by the UST Division and/or take the following actions:

- (a) Unless the presence and source of the release have been confirmed previously in accordance with the site investigation required by §6203.3 or the closure site assessment of §6101.9, test for the presence of a regulated substance by taking soil borings and by installing monitoring wells where contamination is most likely to be present at the UST site. Analyze the levels of contaminants in the soil borings and groundwater samples. In selecting sample types, sample locations, and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill, depth to ground water and other factors as appropriate for identifying the presence and source of the release.
- (b) Summarize the initial response actions taken pursuant to § 6204.
- (c) Summarize the initial abatement actions taken pursuant to this chapter.

6203.12 A responsible party shall determine whether free product is present. If any phase of the site investigation determines that free product is present, the responsible party shall begin free product removal as soon as practicable in accordance with §6204 of this chapter.

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6203.13 A responsible party shall achieve the upper concentration limits (UCL) for benzene in groundwater, as set by the Director in §6210. Fulfillment of the requirements of this section is a pre-requisite to the use of risk-based decision making to develop a risk-based corrective action (RBCA) plan pursuant to §6206.

6203.14 Within sixty (60) days after release confirmation, a responsible party shall submit to the Director an Initial Site Assessment report for review, and if applicable, include the first monthly status report on the removal of free product. A responsible party shall submit a work plan for future site activities for the Director's information. A responsible party may request a meeting with the Director to discuss the work plan.

6204 REMOVAL OF FREE PRODUCT

6204.1 At sites where investigations under §6203.12 indicate the presence of any free product, the responsible party shall remove measurable free product to the maximum extent practicable as determined by the Director, in accordance with a schedule determined or approved by the Director on a case-by-case basis, while continuing, as necessary, any actions initiated under §§6203 through 6205, or preparing for actions required under § 6206. Fulfillment of the requirements of this section is a pre-requisite to the use of risk-based decision making to develop a risk-based corrective action (RBCA) plan pursuant to §6206.

6204.2 The responsible party shall conduct the removal of free product in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery techniques appropriate to the hydrogeologic conditions at the site.

6204.3 The responsible party shall conduct the recovery and disposal of free product in a manner that properly treats, discharges, recycles or disposes of recovery byproducts in compliance with all applicable laws and regulations.

6204.4 The minimum objective for the design of the free product removal system shall be the abatement of free product migration.

6204.5 The responsible party shall ensure that any flammable substances are handled in a manner that will prevent fire and explosion.

6204.6 Unless directed to do otherwise by the Director, the responsible party shall prepare and submit to the Director, commencing forty-five (45) days after release confirmation and quarterly thereafter, a status report on the removal of any free product, in the format prescribed by the Director, that provides at least the following information:

- (a) The name of the person(s) responsible for implementing the free product removal measures;
- (b) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;
- (c) The type of free product recovery system used;
- (d) Whether any groundwater discharge will take place on-site or off-site during therecovery operation and where this discharge point will be located;
- (e) The type of treatment applied to, and the effluent quality expected from, any such discharge;

- (f) The steps that have been or are being taken to obtain necessary permits for any discharge; and
- (g) The disposition of the recovered free product.

6205 COMPREHENSIVE SITE ASSESSMENT

6205.1 Within sixty (60) days after submission of a work plan pursuant to §6203.14, the responsible party shall submit a Comprehensive Site Assessment to the Director in a form satisfactory to the Director. A Comprehensive Site Assessment shall not be required if the Initial Site Assessment demonstrates that further assessment is not needed.

6205.2 Unless otherwise directed by the Director, the responsible party shall perform a Comprehensive Site Assessment in the time and manner set forth in this section. A Comprehensive Site Assessment shall include, at the minimum, a background search; a complete on-site investigation that fully defines the extent of the release; potential exposure as a result of the release; the levels of Chemicals of Concern and a proposal for the corrective action plan. If an off-site impact occurs or is indicated, the responsible party shall include an off-site investigation as necessary on a case-by-case basis. The following elements shall be included when preparing a Comprehensive Site Assessment, as appropriate to the conditions of the site:

- (a) The nature of the release, including the chemical compounds present, their concentrations, quantity released if known, and their physical and chemical characteristics related to potential human health and environmental impacts and cleanup procedures;
- (b) Data from available sources or site investigations concerning the following factors: surrounding land use; water quality; use and approximate location of wells potentially affected by the release; subsurface soil conditions; climatological conditions; locations of all subsurface utilities that are potential pathways, including sewers, water and gas pipelines, other conduits; and land use;
- (c) The results of the site investigation and any information gained while performing initial abatement measures pursuant to §6203;
- (d) The results of the free product investigations required under §6203.12;
- (e) The aerial extent of the release to the degree sufficient to define or determine the physical characteristics and behavior of the impacted soil or ground water including the following: future migration potential; horizontal extent of the release if a characteristic of the chemicals of concern; whether the chemicals of concern are distributed homogeneously or heterogeneously; and vertical delineation on a case-by-case basis when indicated by the presence of wells, aquifers or other water sources in addition to ground water.
- (f) The physical characteristics of the site, including characteristics affecting the occurrence, distribution, and movement of the released contaminant and

characteristics affecting access to the site which may influence the feasibility of investigation and remediation procedures;

- (g) A qualitative evaluation of the potential risks posed by the release including identification of environmentally sensitive receptors, and estimate of the impacts to human health and the environment that may occur as a result of the release;
- (h) Comparison of contaminant levels to District soil and groundwater quality risk based screening levels contained in §6209; and
- (i) Any other information requested by the Director or deemed useful or necessary by the responsible party.

6205.3 Activities shall be conducted in accordance with an appropriate Health and Safety Plan. The Health and Safety Plan shall be available for inspection by the Director.

6205.4 Upon receipt of the Comprehensive Site Assessment, the Director:

- (a) Shall review and approve the Comprehensive Site Assessment; and
- (b) May require the responsible party to conduct additional field studies and collect data.

6205.5 The responsible party may request an extension of the sixty (60) day deadline set forth in §6205.1 by submitting a written request for an extension to the Director no later than forty five (45) days after submission of the work plan. The request shall include the following:

- (a) A summary of all work performed and all information gathered to date pursuant to §6205.2;
- (b) A summary work plan for the additional assessment activities required; and
- (c) A proposed schedule for completion of the remaining assessment activities and submission of the completed site assessment report.

6205.6 The Director may grant or deny the request for extension, or grant the extension with modifications to the work plan or schedule.

6206 RISK-BASED CORRECTIVE ACTION (RBCA) PROGRAM

6206.1 Risk-based decision-making (RBDM) and development of a risk-based corrective action (RBCA) plan shall be conducted subject to the terms and conditions set forth in this section and/or as further explained in applicable UST Division protocols and the Risk-Based Decision-making Technical Guidance Document.

6206.2 Before initiating a risk-based decision-making process to develop a risk-based corrective action plan for petroleum releases, a responsible party shall comply with §§6203 and 6204 as follows:

- (a) Prevent further release from the UST system by removal of all or a lesser amount of the petroleum products from the UST system and/or perform repairs to the UST system;
- (b) Remove measurable free product to the maximum extent practicable;
- (c) Achieve the upper concentration limit (UCL) for benzene in groundwater as specified in §6210.

6206.3 The following sequence of actions comprises the District's RBCA process:

- (a) Perform an Initial Site Assessment, including identification of potential exposure pathways, take response action(s) as set forth in §6203 and submit a work plan;
- (b) Complete site classification as defined in Chapter 70;
- (c) Complete Tier 1 site assessment pursuant to the comprehensive site assessment provisions set forth in § 6205 and as further described in the Risk-Based Decision-making Technical Guidance Document;
- (d) Compare the concentrations of Chemicals of Concern with Tier 1 risk-based screening levels provided in § 6209;
- (e) If the concentrations exceed Tier 1 screening levels, develop and implement corrective action plan (CAP) to achieve Tier 1 levels or proceed to perform Tier 2 site-specific evaluation as described in the Risk-Based Decision-making Technical Guidance Document;
- (f) Collect additional site-specific information, as necessary for development of Tier 2 site-specific target levels, perform fate and transport analysis, including modeling, to determine points of compliance; apply for and obtain variances for soil or water quality standards if necessary; and
- (g) Develop and implement a corrective action plan (CAP) to achieve the site specific target levels or monitor for compliance.

6206.4 For purposes of risk-based corrective action (RBCA) in the District of Columbia:

- (a) The Chemicals of Concern (COC) shall include the following petroleum products or by-products:
 - (1) For gasoline: benzene, toluene, ethylbenzene and xylenes (BTEX); Methyl tertiary-Butyl-Ether (MtBE); and gasoline range organics (GRO).
 - (2) For light distillate oils including kerosene, Jet A and JP #s 4, 7 and 8, Naphthalene and diesel range organics (DRO).
 - (3) For diesel, heating fuels and used oils: DRO and Naphthalene;
- (b) The Point of Compliance (POC) shall be:

- (1) For Tier 1 assessment:
 - (a) At the point of release or in the source area:
 - (b) Groundwater, affected by the contaminant plume including any areas of the plume that are outside of the property boundary in accordance with UST Division protocols and the Risk-Based Decision-making Technical Guidance Document; and
 - (c) Soil, throughout the area of the soil contaminated by the release and within the property boundary.
 - (2) For Tier 2 assessment, the point between the source and the potential point of exposure as approved by the Director.
 - (c) For residential development of property, the maximum tolerable human health risk for carcinogens shall be one-in-a-million cancer risk level (that is, the criteria represent a one-in-a-million estimated incremental increase in cancer risk over a lifetime). For non-carcinogenic health affects, the hazard quotient and hazard index shall be no greater than “1”.
 - (d) The Tier 0 standards and the Tier 1 standards shall be as set forth in §§ 6208 and 6209, respectively.
 - (e) The exposure routes shall include ingestion of groundwater or soil; dermal contact with surface water or soil; and inhalation of volatiles.
 - (f) For exposure pathways, points of exposure shall include groundwater, surface water, and soil; and transport media shall include leaching to groundwater and soil gas migration into buildings.
- 6206.5 The Risk-Based Decision-making Technical Guidance Document shall include or address existing and new UST Division protocols, specific procedures including Tier 0, Tier 1 and Tier 2 RBCA assessment and evaluation procedures, Chemicals of Concern, upper concentration limit criteria, analysis procedures including use of modeling, equations, sampling, corrective action procedures and monitoring requirements for implementation of risk-based corrective action and other explanatory information in accordance with the minimum requirements of this section no later than one (1) year after the effective date of these regulations. UST Division protocols shall continue to provide guidance until the issue of the Risk-Based Decision-making Technical Guidance Document.
- 6206.6 If levels of chemicals of concern exceed the Tier 1 standards set forth in §6209, the responsible party may:
- (a) Submit a CAP pursuant to § 6207 to achieve the Tier 1 levels; or
 - (b) Conduct a Tier 2 site specific evaluation following the procedures and protocols for Tier 2 evaluations contained in the Risk-Based Decision-making Technical Guidance Document; or

(c) Comply with the provisions of §6206.2.

6206.7 After completion of the RBCA process, the responsible party may apply for a no-further action or case closure, as appropriate, pursuant to the requirements of §6211.

6207 CORRECTIVE ACTION PLAN AND ITS IMPLEMENTATION

6207.1 At any point after a release is confirmed, the Director may require the responsible party to develop and submit a corrective action plan (CAP) for remediating chemicals of concern in soil and ground water. The CAP shall be submitted according to a schedule and format established by the Director. A responsible party may, after fulfilling the requirements of §§ 6203.9 through 6206 of this chapter, voluntarily submit a CAP for responding to contaminated soil and ground water.

6207.2 The responsible party shall submit a plan that provides for adequate protection of human health in accordance with section 6206.4(c) (maximum tolerable human health risks) and the environment, as determined by the Director, and shall modify the corrective action plan as necessary to meet this standard.

6207.3 A CAP shall propose a corrective action option for the site that will:

- (a) Perform active or passive remediation at the site within a reasonable period of time to achieve the criteria stated in §§6203.9(a), 6203.13 and 6204.1;
- (b) Ensure that measurable non-aqueous phase liquids will not exist or are no longer recoverable at the site; and
- (c) Provide appropriate measures to protect those environmentally sensitive receptors that were identified in the comprehensive site assessment;
- (d) Remediate the site to one (1) of the following standards:
 - (1) Achieve the Tier 1 risk-based screening levels set forth in §§ 6209;
 - (2) Achieve Tier 2 site-specific target levels (SSTLs) approved by the Director; or
 - (3) Where the Responsible Party has elected to perform a Tier 2 evaluation the CAP shall:
 - i. Reduce levels of chemicals of concern to achieve the Tier 2 SSTLs approved by the Director;
 - ii. If applicable, provide for engineering and/or institutional controls acceptable to the Director; and/or
 - iii. Provide for monitoring of the site over a specified period of time to provide technically based assurances that the chemicals of concern on the site will not adversely impact human health, safety or the environment under present, or reasonably foreseeable future uses of the site.

- 6207.4 A CAP shall provide for proper disposal of the contaminated soils removed from the ground, and shall not permit the placement of contaminated soils that exceed Tier 0 standards back into the ground for the purposes of *in situ* remediation or storage, unless specifically agreed to by the Director.
- 6207.5 A site-specific Quality Assurance/Quality Control (QA/QC) Plan for the activities to be carried out during implementation of the CAP must be prepared prior to the implementation of any site activities. The QA/QC Plan shall cover all actions proposed in the CAP, and shall comply with any Departmental guidelines.
- 6207.6 A site-specific Health and Safety Plan, that addresses all applicable federal Occupational Safety and Health Administration (OSHA) regulations shall be prepared in conjunction with the corrective action plan.
- 6207.7 Within sixty (60) days after receipt of a CAP, the Director shall approve or disapprove each CAP. Approval shall be given to a plan only after the Director determines, to his or her satisfaction, that implementation of the CAP will adequately protect human health, safety, and the environment. In making this determination, the Director may consider the following factors, as appropriate:
- (a) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
 - (b) The hydrogeologic characteristics of the facility and the surrounding area;
 - (c) The proximity, quality, and current and reasonably foreseeable future uses of nearby surface water and ground-water;
 - (d) The potential effects of residual chemicals of concern on nearby surface water (creeks, ponds, lakes and rivers) and ground water;
 - (e) Potential risk to human health or the environment based upon current and reasonably foreseeable future uses of the site;
 - (f) The estimated timetable for completion of the remediation; and
 - (g) Any information assembled in compliance with this chapter.
- 6207.8 The Director's approval may contain a determination whether the proposed corrective action is an active or passive corrective action. Passive corrective action may include the following technologies:
- (a) Monitoring of natural attenuation;
 - (b) Non-pressurized positive or negative subsurface venting;
 - (c) Injection of biological or chemical agents designed to enhance attenuation of subsurface contamination; and

- (d) Any other alternative procedure on a case-by-case basis, as determined by the Director.
- 6207.9 If such action will minimize environmental contamination and promote more effective corrective action, the responsible party may begin remediation of soil and ground-water before the formal corrective action plan is approved; provided, that the responsible party:
- (a) Notifies the Director and the impacted party(ies) of his or her intention to begin remediation, obtains a provisional acceptance letter from the Director and provides the Director with an opportunity to inspect the site during the corrective action.
 - (b) Complies with any conditions imposed by the Director, including halting remediation or mitigating adverse consequences from clean-up activities; and
 - (c) Incorporates these self-initiated remediation measures in the corrective action plan (CAP) that is submitted to the Director for approval.
- 6207.10 A responsible party may submit a written request for waiver of the Director's approval of the CAP and begin implementation of the CAP, provided, that the responsible party:
- (a) Has satisfactorily performed another corrective action under the District's Underground Storage Tank Division oversight, within the three (3) years immediately preceding the current request for a waiver of CAP approval;
 - (b) Notifies the Director of his or her intention to begin remediation and provides the Director with an opportunity to inspect the site during the corrective action; and
 - (c) Complies with any conditions imposed by the Director, including halting remediation or mitigating adverse consequences from clean-up activities.
- 6207.11 Except as provided in §§6207.9 and 6207.10, after approval of the corrective action plan, the responsible party shall begin implementation of the plan as approved, including modifications to the plan made by the Director, within thirty (30) days, or in accordance with a schedule agreed to by the Director.
- 6207.12 Except as provided in §§6207.9 and 6207.10, the responsible party shall provide the Director with an opportunity to inspect the site prior to implementation of the plan.
- 6207.13 The responsible party shall monitor, evaluate, and report the results of implementing the plan in a format established by the Director, at least quarterly, or in accordance with a time schedule approved by the Director.
- 6207.14 The responsible party may apply to the Director for modifications of the CAP. The responsible party shall not implement any modifications until approved by the Director.
- 6207.15 If the Director determines that the implemented corrective actions are not achieving adequate protection of human health and the environment, the Director may require additional responses to be taken.

6207.16 The responsible party and the Director shall evaluate the effectiveness of each corrective action plan or amendment to the plan at the end of one (1) year of implementation of the plan or amendment to determine whether additional measures must be implemented to protect human health and the environment.

6207.17 The Director may, on a case-by-case basis, approve an alternative procedure for remediation of petroleum contaminants from the past releases provided that the responsible party submits a written description of the alternative procedure to the Director and demonstrates to the satisfaction of the Director that compliance with the prescribed procedures is not practical or not feasible, or that the proposed alternative provides equivalent control of petroleum cleanups.

6208 TIER 0 STANDARDS

6208.1 The Tier 0 standards for soil shall be the following:

- (a) Total petroleum hydrocarbons (TPH) gasoline range organics (GRO) or diesel range organics (DRO) shall be no greater than one hundred parts per million (100 ppm);
- (b) Total benzene, toluene, ethylbenzene, and total xylenes (BTEX) shall be no more than ten parts per million (10 ppm); and
- (c) Benzene concentration shall be no more than one part per million (1 ppm).

6209 TIER 1 STANDARDS

6209.1 The Tier 1 standards for water shall be as follows:

- (a) The Tier 1 levels for ground water quality shall be the District of Columbia Water Quality Standards for Ground Water (21 DCMR Chapter 11) as outlined by the Director in the Risk-Based Decision-making Technical Guidance Document.
- (b) The standard for total petroleum hydrocarbons (TPH) in ground water contaminated by non-gasoline petroleum contamination shall be one part per million (1 ppm).
- (c) The Tier 1 levels for surface water quality are the District of Columbia Water Quality Standards (21 DCMR Chapter 11).
- (d) Methyl tertiary-Butyl-Ether (MtBE) as adopted by the Director in the Risk-Based Decision-making Technical Guidance Document.
- (e) Naphthalene as adopted by the Director in the Risk-Based Decision-making Technical Guidance Document.

6209.2 Until the Director adopts the Tier 1 quality standards for soil or outlined in the Risk-Based Decision-making Technical Guidance Document, the Tier 0 standards for soil shall serve as the interim Tier 1 soil standards.

6210 UPPER CONCENTRATION LIMITS FOR GROUNDWATER

- 6210.1 The Upper Concentration Limits (UCL) for benzene in ground water at a site contaminated by an underground storage tank shall be fifteen parts per million (15 ppm) or 15,000 parts per billion (15,000 ppb).
- 6210.2 The Director shall establish UCLs for other chemicals of concern in ground water.

6211 NO FURTHER ACTION AND CASE CLOSURE REQUIREMENTS

- 6211.1 A responsible party who wishes to secure a No-Further-Action (NFA) letter or a case closure determination, shall submit a written request for a No-Further-Action letter or case closure determination to the Director. The responsible party or an authorized representative shall sign the request. The request shall include a summary of major events and accomplishments during the site investigation and/or remediation process, including to the extent possible, but not limited to, the following:
- (a) The cause of the release if known;
 - (b) The estimated amount and type of product released;
 - (c) The estimated amount of product recovered;
 - (d) An analysis that demonstrates that the site has met the objectives for clean-up or the objectives agreed upon by the Director; and
 - (e) All documents (permits, certificates, approvals, etc.) relating to the transportation and disposal of wastes from the site (i.e. tanks, soils, product, water), unless previously submitted to the Director, the UST Division or another division of the Department of Health; and if previously submitted, a list containing the names of the documents, dates of submission and name of the division.
- 6211.2 All records or reports documenting the transport and disposal of any free product, contaminated water and soil, or other waste that is generated at the site while the corrective action plan is being performed, shall be maintained by the owner, operator or a responsible party for a period of at least three (3) years from the date of issuance of no further action or case closure letter.
- 6211.3 Prior to approving a request for no further action or case closure, the Director shall be satisfied of the following:
- (a) If applicable, that all CAP objectives have been met;
 - (b) That all free product has been removed to the maximum extent practicable;
 - (c) That the site does not pose a threat to human health or the environment; and
 - (d) If applicable, that Tier 1 or Tier 2 levels have been met.

- 6211.4 The Director shall review each request for case closure completed in accordance with this section. If the Director is satisfied that the requirements for case closure set forth in §§6211.1 through 6211.3 have been met, the Director shall issue case closure letter. The closure approval shall not absolve the owner, operator or a responsible party from previously incurred or potential future liability.
- 6211.5 The Director shall review each request for no further action in accordance with this section. If the Director is satisfied that all of the corrective actions required by the Director in accordance with the applicable provisions of this Subtitle have been met, the Director shall issue a No-Further-Action letter. A no-further-action letter shall not absolve the owner, operator or a responsible party from previously incurred or potential future liability.
- 6211.6 In the event the Director denies the request for no further action or case closure, the Director shall provide the responsible party a written notice of denial which states the basis for the denial and informs the responsible party of the procedures to appeal the denial.
- 6211.7 Upon receiving notice from the Director that the no further action or the case closure requirements have been met, the owner, operator or a responsible party shall, as applicable, remove all equipment, and ensure that all wells are properly abandoned, unless otherwise authorized by the Director.

6212 PUBLIC PARTICIPATION IN CORRECTIVE ACTION

- 6212.1 For each release that requires a corrective action plan, the Director shall provide a public notice designed to reach those members of the public directly affected by the release and the planned corrective action.
- 6212.2 Notice may be provided by any of the following methods: publication of notices in local newspapers or the D.C. Register, block advertisements, public service announcements, letters to individual households, personal contacts by field staff, notification to the affected Advisory Neighborhood Commissioners (ANCs) and civic associations.
- 6212.3 Any person directly impacted by a release that has migrated onto their property shall have a right to request a copy of the comprehensive site assessment, any Tier 2 site evaluation and any corrective action plan, and if requested, shall be given an opportunity to comment on the CAP.
- 6212.4 The Director shall give public notice that complies with §§6212.1 and 6212.2 of this section if implementation of an approved corrective action plan does not achieve the established clean-up levels in the plan and termination of that plan is under consideration by the Director.
- 6212.5 The Director shall receive citizens' written complaints that allege violations of the provisions of this Subtitle.
- 6212.6 The Director shall investigate each *bona fide* complaint filed under §6212.5, and shall notify the complainant and the owner or operator of the UST or UST system of the results of that investigation.

6212.7 The Director shall not request Corporation Counsel to oppose any application by a private citizen for permissive intervention under Rule 24(b) of the Rules of the Superior Court of the District of Columbia in any civil action to enforce the provisions of the Act or the applicable provisions of this chapter on the ground that the applicant's interest is adequately represented by the District of Columbia.

6213 VOLUNTARY REMEDIATION ACTION PROGRAM (VRAP)

6213.1 The Director may permit a person, other than an owner, operator or responsible party to remediate leaking underground storage tanks (LUST) facilities or sites in accordance with the provisions of this Subtitle provided that the person:

- (a) Intends to develop a LUST facility or site for personal or business reasons;
- (b) Intends to conduct a phased investigation of a LUST facility or site conditions prior to acquisition or development of a LUST facility or site; or
- (c) Is a neighboring property owner who is unable to obtain relief from the responsible party.

6213.2 Persons who wish to voluntarily remediate LUST facilities or sites shall submit an application to the Director that contains the following information:

- (a) Proof that the applicant satisfies §6213.1(a), (b) or (c);
- (b) A statement of interest in undertaking corrective action at a facility or site;
- (c) Agreement to follow any directives issued by, or agreements reached with, the Director pertaining to preliminary investigation prior to remediation; remediation of the facility or site; and to be liable for satisfactorily completing all corrective actions pursuant to the applicable provisions of Chapters 61 and 62;
- (d) Financial responsibility to satisfactorily complete the remediation; and
- (e) A copy of a written access agreement or any other agreement, which permits access to the facility, site or the property.

6213.3 Upon receiving a Voluntary Remediation Action Request, the Director shall evaluate the request and may, in his or her discretion, approve or deny the request. If approved, the Director shall issue a "Voluntary Remediation Action Program Letter" which shall authorize the Voluntary Remediating Party (VRP) to begin the remediation process.

6213.4 The Voluntary Remediating Party may, at his or her discretion, enter into an agreement to release the responsible party(ies) from liability. A Voluntary Remediating Party who wishes to assume responsible party status shall submit a Responsible Party Transfer Request to the Director. A release granted to a responsible party shall provide that the release may be voided by the Director under the following circumstances:

- (a) The responsible party or the Voluntary Remediating Party submitted false or misleading information to the Director in the Responsible Party Transfer Request;
 - (b) The Voluntary Remediating Party fails to complete the agreed upon corrective action and the Department or the United States Environmental Protection Agency expends funds to remediate the facility or site.
- 6213.5 A Voluntary Remediating Party shall be liable for all work performed at the facility or site and shall only be required to perform the work agreed upon with the Director.
- 6213.6 A Voluntary Remediating Party (VRP), as described in §§ 6213.2(b) or (c), other than a VRP who has released the original responsible party and assumed Responsible Party status in accordance with §6213.4, may cease corrective action activities at the facility or site prior to complete remediation of the facility or site and incur no liability, other than liability pursuant to § 6213.5 provided the Voluntary Remediating Party:
- (a) Has not aggravated the site conditions or increased the costs of subsequent corrective action;
 - (b) Gives written notice to the Director of the Voluntary Remediating Party's intention to cease activities at the facility or site; and
 - (c) Stabilizes the facility or site by properly backfilling any excavations, properly securing or abandoning any monitoring wells; and takes any other actions required to secure the facility or site as determined by the Director.
- 6213.7 After completing remediation in accordance with the requirements of Chapter 62 a Voluntary Remediating Party may submit a written request for a no-further-action or a case closure letter as set forth in §6211. Upon the Director's approval, a Case Closure or a No-Further-Action letter, as appropriate, shall be issued to the responsible party with a copy to the Voluntary Remediating Party or to a Voluntary Remediating Party who has assumed responsible party status.
- 6213.8 The Director may issue the following types of letters under the circumstances described in this section:
- (a) A "Responsible Party Transfer Letter" which shall authorize a Voluntary Remediating Party to take corrective action in place of the responsible party and, at the request of the Voluntary Remediating Party, may release the responsible party from liability subject to the conditions in subsection 6213.5.
 - (b) An "Innocent Neighboring Property Owner Letter" informing an innocent neighboring property owner that he or she may proceed to take corrective action under the direction of the Department without incurring responsible party liability.
 - (c) A "Site Condition Letter" that informs an interested party of the present regulatory status of a particular LUST site or a neighboring property.
 - (d) A "No Further Action" or a "Case Closure Letter" upon compliance with the requirements of § 6211.

6213.9 The Director may rescind any letter that is obtained through fraud or misrepresentation