
Transitioning to the 2012 Corrective Action Rules

**Ohio Department of Commerce
Division of State Fire Marshal
Bureau of Underground Storage Tank Regulations**



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Transitioning to the 2012 CA Rule Handout

The Bureau of Underground Storage Tank Regulations (BUSTR) has created this handout in an attempt to help the regulated community understand what actions are required when an existing release transitions into the new 2012 corrective actions rule. Specifically, this handout will attempt to clarify which reports are required to be submitted and by when. This handout will address those sites that elect to move into the new rule as well as those sites that are automatically transferred to the new rule.

The new corrective action rule (Ohio Administrative Code (OAC) 1301:7-9-13, effective 7-1-2012) has fixed requirements as to the deadlines and type of reports required to be submitted when a site moves into the new 2012 rule. The rule requires all sites that move into the new rule (voluntarily or automatically) to submit both a Tier 1 Notification or Tier 1 Evaluation Report and a Tier 1 Investigation Report on fixed deadlines regardless of how far the site has progressed within the 1992, 1999 or 2005 rule process.

2012 TIER 1 NOTIFICATION OR TIER 1 EVALUATION REPORT

OAC 1301:7-9-13(H)(3)(a)(ii) (eff. 7-1-2012) requires either a Tier 1 Notification or Tier 1 Evaluation be received by BUSTR within ninety (90) days from the day an owner or operator elects to pursue corrective actions under the new rule. BUSTR considers the date the submitted letter is received by BUSTR (see OAC 1301:7-9-13(B)(2)) as the date of election. If an owner or operator fails to elect to move into the new rules or fails to request an extension to remain under a previous rule, they are automatically moved into the 2012 rules per OAC 1301:7-9-13(B)(3) on October 2, 2012. OAC 1301:7-9-13(H)(3)(a)(v)(eff. 7-1-2012) would require either a Tier 1 Notification or Tier 1 Evaluation Report to be received by BUSTR within ninety (90) days from October 2, 2012 or by December 30, 2012.

2012 TIER 1 INVESTIGATION REPORT

OAC 1301:7-9-13(H)(3)(a)(ii) (eff. 7-1-2012) requires a Tier 1 Investigation Report to be received by BUSTR within one year from the day an owner or operator elects to pursue corrective actions under the new rule. The one year is NOT from the date the Tier 1 Notification/Evaluation is due or is submitted. The Tier 1 Investigation Report is due one year from the date of the election (date letter is received by BUSTR). If an owner or operator is automatically moved into the 2012 rules, pursuant to OAC 1301:7-9-13(H)(3)(a)(v)(eff. 7-1-2012), the Tier 1 Investigation is due one year from October 2, 2012 or by October 2, 2013.

ONE NOTED EXCEPTION

At this time, BUSTR has identified one scenario where it will allow the owner/operator to forego the submission of the 2012 Tier 1 Notification Report for a site that elects to proceed under the new rule. However, for all instances, a 2012 Tier 1 Investigation Report will be required.

The exception to forego the submittal of a 2012 Tier 1 Notification may be allowed provided the following conditions exist: 1) site is currently in the 2005 rules 2) the site is in compliance 3) a complete 2005 Tier 1 Source Investigation has already been performed (e.g. 2005 Tier 1 Investigation has been approved by BUSTR) 4) the owner/operator elects to move into the new rule timely, and 5) the owner/operator submits a request pursuant to OAC 1301:7-9-13(R) (alternate provision) seeking approval from the state fire marshal to forego submittal of a 2012 Tier 1 Notification Report and proceed directly to submitting the 2012 Tier 1 Investigation Report.

If a complete 2005 Tier 1 Source Investigation has already been performed and the additional conditions have been met, BUSTR considers a 2012 Tier 1 Notification Report submission unnecessary. However, a 2012 Tier 1 Investigation Report is still required because of the changes in the DWSPA definition and drinking water determination that affects points of exposure and exposure pathway evaluations.

EXAMPLES

Example 1	Next Report(s) Required	Due By
<p>A release is identified (above AL analytical results from a closure are received) on June 1, 2012. A 2005 Tier 1 Delineation Notification Report is now due by August 30, 2012. Owner/operator elects to move into the 2012 rule on August 1, 2012 (date letter is received by BUSTR).</p>	2012 Tier 1 Notification or Evaluation Report	90 days from August 1, 2012
	2012 Tier 1 Investigation Report	365 days from August 1, 2012 (August 1, 2013)
Example 2	Next Report(s) Required	Due By
<p>A 1999 Tier 2 Report is received by BUSTR on February 1, 2011. The owner/operator elects to move from the 1999 CA rule into the 2012 CA rule on September 1, 2012 (date letter is received by BUSTR).</p>	2012 Tier 1 Notification or Evaluation Report	90 days from September 1, 2012
	2012 Tier 1 Investigation Report	365 days from September 1, 2012 (September 1, 2013)
Example 3	Next Report(s) Required	Due By
<p>A 2005 Tier 1 Investigation Report was approved by BUSTR on February 1, 2012 and the Tier 2 Report is now due by August 1, 2013. The owner/operator <u>does not</u> elect to move into the new rule and <u>does not</u> ask for an extension. As of October 2, 2012, they are automatically under the new rule.</p>	2012 Tier 1 Notification or Evaluation Report	90 days from October 2, 2012
	2012 Tier 1 Investigation Report	365 days from October 2, 2012 (October 2, 2013)
Example 4	Next Report(s) Required	Due By
<p>A 2005 Tier 1 Investigation Report was approved by BUSTR on March 1, 2012. A 2005 Tier 2 is due September 1, 2013. The site is in compliance. The owner/operator elects to move into the 2012 rule on August 1, 2012 (date letter is received). In the election letter, the owner/operator requests, pursuant to 1301:7-9-13(R), to forego submitting a 2012 Tier 1 Notification since the information/evaluation will not change. BUSTR approves the request.</p>	2012 Tier 1 Notification or Evaluation Report	<u>Not Required</u>
	2012 Tier 1 Investigation Report	365 days from August 1, 2012 (August 1, 2013)

REMINDERS

- Requests to remain under a previous version of the corrective action rule should be made in accordance with OAC 1301:7-9-13(Q) (eff. 7-1-2012) (i.e. made in writing, received by BUSTR on or before October 1, 2012, etc.)
- After July 1, 2012, if a report that may result in a No Further Action (NFA) is still pending review by BUSTR, you should still submit a request to remain under the old rule in case the NFA is not granted and additional work is needed.