

## Oil spills at homes and businesses

A homeowner or resident who becomes aware of an oil spill on the property should report the spill or leak to the DEC Oil Spill Hotline within two hours (800-457-7362). If the discharge enters or threatens to enter the environment (such as soil or water), regardless of the size of the tank or the leak, the leak or spill is subject to state or federal oil spill laws. Thus, for example, even a spill of a gallon of oil into a ditch is covered. A spill can threaten the environment even if it occurs in a basement, for example through a floor drain or crack. Generally, the leak or spill has to be stopped, the spill area has to be evaluated, and a cleanup has to be undertaken. Cleanup costs increase the longer the spill goes unreported.

Although the owner of the tank is responsible for cleanup costs, other responsible parties may be compelled to pay some or all of any costs. Homeowners may want to contact their insurance company to determine whether costs and damages from oil spills and leaks are covered by their homeowner insurance policy. In addition, homeowners can check to make sure their fuel company has insurance that would pay for a petroleum spill that the company causes. Article 12's damage-claim provisions have helped spill victims while keeping the Fund's financial exposure small. Many claims are from victims who suffer damages of \$15,000 to \$20,000. Often, claims are from small business owners, homeowners, or elderly or disabled individuals. For these spill victims, hiring lawyers to sue companies with large resources may not be feasible.<sup>14</sup>

Homeowner insurance policies likely will not cover damages from an oil spill. Many homeowner policies contain an "absolute pollution exclusion" clause, which means there is no insurance coverage in the event of an oil spill. Many people assume that their homeowner insurance would cover the cost of an oil spill cleanup; they may suffer financial hardship when insurance companies do not reimburse cleanup costs. To address this issue, the Attorney General has submitted a bill to the legislature to require that homeowner's insurance cover the costs of oil spill cleanups. The bill would help prevent oil spills by making insurance reimbursement of cleanups costs dependent on the homeowner's taking reasonable steps to avoid discharges, and would require disclosures about the presence of an underground oil storage tank.

Homeowners are responsible for the maintenance of their oil tanks and related equipment (fill port and piping) so they do not leak. Because water can corrode the tank and cause leaks, the common life expectancy of an unprotected steel buried oil tank is 12 to 15 years, although site conditions and care in tank placement can result in shorter or longer tank life. <sup>15</sup> Damage to tanks, lack of maintenance of tank/piping/fill port, and poorly fitted piping connections may also cause leaks. Some oil companies and environmental companies have equipment to test buried tanks for leaks. While homeowners are not required to register their residential oil tank unless more than 1,100 gallons are stored at a single site, the homeowner is still responsible for oil releases from tanks and related equipment. It would be prudent for property owners to regularly consult with their fuel oil delivery company about the condition and maintenance of their tank and equipment.

To facilitate replacement of aging or leaking home heating oil tanks, beginning in tax year 2001, New York State provides personal income tax credits of up to \$250 for the cost of removing or permanently closing a residential fuel oil storage tank, and up to \$250 for the cost of a replacement tank.<sup>16</sup>

If a homeowner wants to permanently cease using an oil tank, proper abandonment procedure involves pumping out remaining fuel, confirming that there has been no leakage, cleaning the tank, and filling the tank with an approved filler, or removing the tank entirely. Homeowners and businesses should contact the DEC for information about proper tank abandonment and removal procedures.

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