

BUSTR Class C Information and FAQs

Properties with petroleum underground storage tank (UST) systems regulated by the Bureau of Underground Storage Tank Regulations (BUSTR) are subject to BUSTR requirements for tank closure, sampling and cleanup of environmental media (for example, soil and groundwater).

With the signing of House Bill 153 on June 30, 2011, if BUSTR has determined that the petroleum release from the site is a Class C release, the sites may now follow Ohio EPA's voluntary action program (VAP) cleanup requirements.

A Class C release is defined as a release of petroleum subject to BUSTR laws, where the responsible person (RP) for the release is specifically determined by BUSTR to not be a viable person capable of undertaking or completing the required assessment and cleanup.

BUSTR laws for UST system closure, assessment and cleanup are contained in Ohio Revised Code sections 3737.87 to 3737.89.

Determining if a Release is Class C

BUSTR determines the release of petroleum from a UST system as a Class C release when the responsible party (RP) is not accessible (for example, an individual is deceased or a corporation is bankrupt) or the RP is specifically determined to be financially unable to assess and cleanup the release.

If seeking a Class C designation, the RP must complete BUSTR's financial inability to pay (FITP) form. BUSTR conducts a review of the information to make the Class C determination. If the person seeking the Class C designation is not the RP, that person may fill out a BUSTR Class C determination form (available at <http://www.epa.ohio.gov/portals/30/SABR/docs/BUSTR%20Class%20C%20Determination%20Form.pdf>). BUSTR will then determine if an RP exists and needs to complete an FITP form.

On a case-by-case basis, BUSTR may evaluate the financial ability to pay based on publicly available information. As long as there is sufficient evidence to make such a determination, BUSTR will declare the RP financially non-viable.

As of July 12, 2011, BUSTR has determined that 121 sites have Class C releases. A list of those sites and any additional sites BUSTR has subsequently determined to have Class C releases is available at <http://www.epa.ohio.gov/portals/30/SABR/docs/Class%20C%20Release%20list.pdf>.

Cleanup vs. Closure

Provided the person conducting the voluntary action is not responsible for the release, sites with Class C releases can be assessed and cleaned up following the VAP rules.

It is important to note that BUSTR rules for UST closure (for example removal of the UST system) are still applicable and must be followed for closure of all UST systems that have not been previously closed.

Once closure is complete, the volunteer can then choose whether to proceed with assessment and cleanup under BUSTR or VAP rules. Direct specific questions about UST closure requirements to BUSTR.

Frequently Asked Questions

How many Class C sites are in Ohio?

As of July 12, 2011, 121 sites had a Class C release status. The list of sites with Class C release status is available at

<http://www.epa.ohio.gov/portals/30/SABR/docs/Class%20C%20Release%20list.pdf>.

Pending further review and information, an unknown number of sites in BUSTR's database could potentially be designated as having Class C releases.

To determine if the site has a Class C release, BUSTR would evaluate the financial viability of any RPs and environmental data to document a petroleum release.

If a site is not in BUSTR's database, as can be the case for older abandoned properties, BUSTR would conduct a search to determine the RPs and whether any are financially viable. If a release can be documented, but no viable RPs can be found, BUSTR could designate the site as having a Class C release.

Who is eligible to conduct a voluntary action on a property with a Class C release?

Anyone except the RP can conduct a voluntary action. By law, the RP is not eligible to conduct a voluntary action and receive a CNS for a property with a Class C release. The RP is required to comply with BUSTR cleanup requirements.

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I have a UST system on a property that I want to clean up under the VAP. The previous owners went bankrupt. What do I need to do to get this UST area designated Class C?

BUSTR reviews requests for designating a UST area as a Class C release. Only BUSTR can make the determination.

There is an old gas station in our neighborhood we'd like to see cleaned up. We don't know who the former owners are. What steps do we need to take to determine if this is a Class C site?

The address for the property should be compared to the Class C release site list available on Ohio EPA's website (see first question).

If the site is not listed, contact BUSTR to determine the status of the UST site. If the site is new to BUSTR (not in the database), BUSTR would need to conduct a search to determine who the RPs are, and whether any are financially viable.

If BUSTR documents a release from regulated USTs, but can find no viable RP, then the site would likely be designated as a Class C release.

How will a Class C designation affect eligibility for U.S. EPA's BCRLF funding?

Having a Class C release status at a site should simplify the application process for Brownfield Cleanup Revolving Loan Fund (BCRLF) money.

Any site with Class C releases should be eligible to receive this funding as long as all other funding requirements (including other eligibility requirements) are met.

Having the Class C release designation should speed up the approval process. The Ohio Department of Development, (614) 728-1258, can answer questions about the BCRLF.

A property in our community is not on your website's Class C release list. The city is considering acquiring the property and will work with BUSTR to get the Class C designation. Should the city have any concerns about acquiring property?

Municipalities or other forms of local government often acquire property as a first step to address abandoned or blighted property. Acquisition of property with USTs can have consequences related to continuing obligations and legal liability for closure, assessment and cleanup.

Prior to acquisition, the municipality should fully understand these obligations and liabilities. Depending on the method of acquisition, a municipality could become the RP. A determination that the municipality is the RP would likely prevent the site from obtaining the Class C release designation. It may also make the local government ineligible to receive grant funding for the site.

Foreclosing on a property can provide protection from some, but not all, liability requirements. Ohio EPA and BUSTR are available to discuss concerns related to property acquisition.

Prior to acquisition, the local government should develop a property acquisition plan to ensure limited liability and grant assistance eligibility.

If you plan to purchase a property with USTs, refer to *So You Want to Buy an Old Gas Station* fact sheet at http://www.com.ohio.gov/fire/docs/fire_buyGasStation.pdf.

Visit Ohio EPA's website for additional information and resources about Class C release sites at http://www.epa.ohio.gov/derr/SABR/class_c.aspx.