



**POLICY #16**  
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**Subject**            **Penalty for Failure to Submit or Implement a Corrective Action Plan**  
**Adopted**           **7/21/2006; 4/18/1997; 1/5/1996**

Fund applicants who do not comply with the requirements to submit or implement a Corrective Action Plan (CAP) are in violation of release reporting or closure requirements of the Division of Oil and Public Safety of the Colorado Department of Labor and Employment.

The following maximum percentage reductions shall apply:

**Failure to *Submit* a CAP as Required by Regulations and Statutes**

A 10% maximum reduction can apply in any of the following situations:  
CAP request from OPS or CDPHE before January 1, 1997:

1. For tank owner/operators, with regard to applications received on or after January 1, 1996, CAP not submitted by later of July 1, 1996 or 6 months of CAP request.
  2. For persons deemed to bear no responsibility for the release, with regard to applications received on or after October 1, 1996, CAP not submitted by later of April 1, 1997 or 6 months of CAP request.
- B. CAP request on/after Jan. 1, 1997 (all applicants): CAP not submitted within 90 days of CAP request date; or
- C. For releases on/after Jan. 1, 1997: CAP not submitted in accordance with 7 C.C.R. 1101-14 § 5-4(E). This section requires a CAP to be automatically submitted within 150 days of the release if:
1. There is evidence that groundwater wells or surface waters have been or may be affected by the release; or,
  2. Free product is found; or,
  3. There is evidence contaminated soils may be in contact with groundwater; or,
  4. There are any indications of a current, perceived, or potential threat to human health. If a

suspected release is later confirmed, the release date is the suspected release date.

If OPS grants an extension to any of these time frames, a 10% maximum reduction can apply if the CAP is not submitted by the OPS-granted extension date.

**Failure to *Implement* a CAP as Required**

A maximum 10% reduction can apply for failure to implement the CAP as required:

- A. For all CAPs for which implementation was required on/after Jan. 1, 1996 (tank owners/operators).
- B. For all CAPs for which implementation was required on/after Oct. 1, 1996 (persons deemed to bear no responsibility for the release).

A CAP is required to be implemented according to the implementation schedule included in the OPS- approved CAP or within the time frames of an OPS extension. If no implementation schedule was included in the CAP, the CAP should have been implemented within 90 days after OPS approval of the CAP.

**Policy 16 is incorporated into Policy 4.**

