ENVIRONMENTAL PROTECTION

SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM

COMPLIANCE AND ENFORCEMENT

Underground Storage Tanks

Proposed Repeals and New Rules: N.J.A.C. 7:14B-2.3 and 12.2

Proposed Amendments: N.J.A.C. 7:14-8.4A and 8.18, 7:14B-1.3, 1.4, 1.6, 1.7, 2.1, 2.2, 2.5, 2.6, 2.7, 3.1, 3.2, 3.5, 4.1, 4.2, 5.1 through 5.8, 6.1 through 6.5, 6.7, 7.1 through 7.4, 8.1, 8.3, 9.1, 9.2, 9.4, 9.5, 10.1 through 10.3, 10.5, 10.6, 10.8, 12.1, 12.4, 13.1 through 13.5, 13.7, 13.8, 13.10, 15.1, 15.2 through 15.4, 16.2 through 16.6, 16.8, 16.9, and 16.11, and 7:26C-9.5

Proposed New Rules: N.J.A.C. 7:14-8.19 and 7:14B-4.1A, 4.3, 4A, 5.10 through 5.14, 5A, 10.1A, and 12.3

Proposed Repeals: N.J.A.C. 7:14B-2.4

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-9, 58:10-23 et seq., 58:10A-1 et seq., and 58:10A-21 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 07-17-03.

Proposal Number: PRN 2017-070.

A **public hearing** concerning this notice of proposal will be held on Thursday, June 1, 2017, at 2:00 P.M. at:

New Jersey Department of Environmental Protection

4th Floor Large Conference Room

401 East State Street

Trenton, New Jersey 08625

Directions to the hearing room may be found at the Department's website address at www.nj.gov/dep/where.htm.

Submit comments by July 14, 2017, electronically at http://www.nj.gov/dep/rules/comments. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Alice A. Previte, Esq.

Attention: DEP Docket Number: 07-17-03

Office of Legal Affairs

Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

PO Box 402

Trenton, New Jersey 08625-0402

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone providing oral testimony at the public hearing provide a copy of any prepared text to the stenographer at the hearing.

The rule proposal may be viewed or downloaded from the Department's web page at http://www.nj.gov/dep/rules.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Underground Storage Tank rules, at N.J.A.C. 7:14B, implement the Underground Storage of Hazardous Substances Act (State Act), N.J.S.A. 58:10A-21 et seq., and the Federal Underground Storage Tank (UST) program, discussed below. The Department's rules establish requirements for tank owners and operators, and are intended to prevent the discharge of hazardous substances into the environment from underground storage tanks (USTs). The rules apply to USTs that store motor fuel, liquid petroleum products, waste oil, and other hazardous substances regulated pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23 et seq., and its implementing rules. Hazardous substances are listed in Appendix A to the Discharge of Petroleum and Other Hazardous Substances rules, N.J.A.C. 7:1E.

The Federal UST program was created in 1984, in response to the increasing threat to ground water posed by leaking USTs. Congress responded to the threat by adding Subtitle I to the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 through 6992k, to require the United States Environmental Protection Agency (EPA) to develop a comprehensive regulatory program for USTs storing petroleum or certain hazardous substances. The Federal Energy Policy Act of 2005, Pub.L. 109–58 (EP Act), amended Subtitle I, in part by adding UST provisions that focus on preventing releases. The amendments expand the use of the Federal Leaking Underground Storage Tank (LUST) Trust Fund to support some leak prevention activities, and include

provisions regarding inspections, operator training, delivery prohibition, secondary containment, financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

The EP Act's amendments (specifically § 1522) require states that receive funding under Subtitle I of the Solid Waste Disposal Act, such as New Jersey, to meet certain minimum standards. These standards are intended to prevent releases from USTs, and include provisions regarding inspections, operator training, delivery prohibition, secondary containment, and financial responsibility, and cleanup of releases that contain oxygenated fuel additives. The LUST Trust Fund is the primary source of funding for the Department's UST program, through grants from the EPA. The remaining funds for the UST program come from the State's Corporate Business Tax.

Subtitle I of the Solid Waste Disposal Act allows the EPA to delegate UST enforcement authority to state agencies after the EPA has approved the state's program. An approved state's rules must be at least as stringent as the EPA's rules. As of September 2015, 38 states, the District of Columbia, and the Commonwealth of Puerto Rico have approved state programs. New Jersey does not have an approved program. Accordingly, New Jersey owners and operators of Federally regulated tanks must meet the Federal requirements according to the schedule in the Federal rules, and must also follow State requirements, provided the State's requirements are at least as stringent as the Federal rules. Although New Jersey's program is not an approved program, the State has entered into an agreement with the EPA whereby the Department is the primary enforcement agency.

In November 2006, the EPA published Grant Guidelines to States for Implementing the Secondary Containment Provisions of the Energy Policy Act of 2005 (Secondary Containment Guidelines) (http://www.epa.gov/oust/fedlaws/final-sec-cont-gls-111506.pdf), and Grant

Guidelines to States for Implementing the Operator Training Provisions of the Energy Policy Act of 2005 (Operator Training Guidelines) (http://www.epa.gov/swerust1/fedlaws/otgg_final080807.pdf), to assist states in meeting the requirements of the EP Act. The EPA advised the Department that grant funding to the State would be significantly reduced unless the Department amended the UST rules to conform to the grant guidelines. The EPA had published its proposed "Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training" (76 Fed. Reg. 71708 (Nov. 18, 2011)), but had not yet issued final regulations. Because Federal law requires the State's rules to be at least as stringent as the Federal regulations and, as discussed below, the Water Pollution Control Act requires the Department to take the Federal regulations into account when promulgating State rules, the Department had hoped to wait until the EPA issued its final rules before proposing amendments to its UST rules. Nevertheless, rather than risk the loss of grant funding, in May 2015, the Department published a notice of proposal to amend N.J.A.C. 7:14B, Underground Storage Tanks, and related penalty provisions at N.J.A.C. 7:14, Water Pollution Control Act, to implement requirements of the EP Act and the guidelines (47 N.J.R. 850(a)) (May 2015 proposal, or May 2015 proposed rules). The May 2015 proposed rules were, in part, based upon the EPA's proposed "Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training." 76 Fed. Reg. 71708 (Nov. 18, 2011).

On July 15, 2015, after the close of comments on the Department's May 2015 proposal, the EPA issued its final regulations (80 Fed. Reg. 41565) (EPA's final regulations), which were notably different from the EPA's proposed regulations. The Water Pollution Control Act at N.J.S.A. 58:10A-25 directs the Department to "[e]stablish standards for the construction,

installation, and operation of new and existing underground storage tanks, including standards for secondary containment, monitoring systems, release detection systems, corrosion protection, spill prevention, and overfill prevention, and other underground storage tank equipment." Department rules that fall under these categories of standards must account for the EPA's final regulations. Specifically, the Department's standards for tanks that the EPA also regulates, with a limited exception, must be "substantially identical" to EPA's regulations. The Department's standards for underground storage tanks that the EPA does not regulate may "not be more stringent" than the EPA's regulations.

When the EPA issued its final regulations, the Department extended the public comment period on its May 2015 proposal until August 3, 2015, to provide the regulated community additional time to comment on the proposed rules as compared to the EPA's final regulations. (See 47 N.J.R. 1826(a), July 20, 2016.) As part of the process of preparing the within proposed rules, the Department considered the comments it received on the May 2015 proposal. It also met with stakeholders to discuss the EPA's final regulations and the amendments that those regulations would necessitate in the Department's rules. As a result of changes that the EPA made when it issued its final regulations, the Department's May 2015 proposed rules no longer met the restrictions of the Water Pollution Control Act. For this reason, the Department did not adopt the May 2015 proposed rules, but proposes the within amendments to N.J.A.C. 7:14B, Underground Storage Tanks, and related penalty provisions at both N.J.A.C. 7:14, Water Pollution Control Act, and N.J.A.C. 7:26C, Administrative Requirements for the Remediation of Contaminated Sites.

The Federal regulations apply to all Federally regulated UST systems in the State (which are most of the UST systems), and owners and operators of these systems must meet the Federal

requirements according to the schedule in the EPA's final regulations. They must also meet the requirements of the existing rules that are State-specific, such as the registration requirements at N.J.A.C. 7:14B-2. There are approximately 490 sites with State-regulated heating oil UST systems, which the Federal rules do not regulate. These are "regulated heating oil tank systems." These regulated heating oil tank systems remain subject to the existing rules, rather than the Federal rules, until the within proposed rules are operative. The proposed rules applicable to regulated heating oil tank systems are substantively the same as the Federal requirements. Once adopted, the rules will apply to these regulated heating oil tank systems in accordance with the timeframes set forth in the rules. If the Federal requirement is not yet applicable (such as the spill and overfill prevention equipment provisions for UST systems that do not apply until October 2018, proposed at N.J.A.C. 7:14B-5.10), then the proposed rules apply to regulated heating oil tank systems and Federally regulated UST systems on the same future date. If the Federal requirement is already in effect, the Department proposes to allow regulated heating oil tank systems a period of time to comply with the corresponding provision in the proposed rules, which period of time is the same as the Federal rules provided when they were promulgated. For example, the secondary containment requirements for new regulated heating oil tank systems will apply to such systems installed on and after 180 days after the operative date of the proposed rules.

The summary below discusses the proposed amendments by topic. The proposed rules related to secondary containment, operator training, designation, and duties, partially regulated UST systems, field constructed tanks and airport hydrant systems, and operation and maintenance walkthrough inspections are proposed in order to conform to Federal requirements. Rules related to civil administrative penalties, registration of UST systems, notice to the

Department prior to the start of work on an UST system, and certification of individuals performing UST services are not related to the Federal requirements.

The proposed rules related to general information, registration of UST systems, release detection, release reporting and investigation, adjudicatory hearings, and certification of individuals and business firms differ significantly from the May 2015 proposal, as discussed in the summary below. Further, the May 2015 proposal did not include amendments related to partially regulated underground storage tank systems, field-constructed tanks and airport hydrant systems, regulated heating oil tank systems, and financial responsibility, which this rulemaking addresses. Amendments to a section, such as definitions at N.J.A.C. 7:14B-1.6, may be discussed under more than one subject heading.

Rules Proposed to Comply with Federal Requirements

Secondary Containment

The Department, consistent with the EPA's final regulations, is proposing that all new and replaced tanks and piping have secondary containment, and that UST systems have under-dispenser containment beneath all new dispenser systems. Secondary containment provides increased ground water protection from UST systems, when compared to single walled tanks and piping, by preventing hazardous substances from reaching the environment.

As a practical matter, the proposed rules should have little impact on the installation of regulated tanks and piping. The Department's review of new installation data for regulated USTs, particularly in the nine years following the EP Act, indicates that installations of single-walled tanks or piping are not occurring anywhere in the State. Liability insurance carriers have

been requiring the secondary containment as a condition of the policy, in order that the insurance carriers may reduce the likelihood of discharges and subsequent claims.

N.J.A.C. 7:14B-1 General Information

Among the purposes of the chapter, as provided at N.J.A.C. 7:14B-1.3, is to ensure sound underground storage tank management. The proposed amended rule identifies an ancillary purpose, which is to ensure compliance with release detection monitoring. Both are necessary for preventing, controlling, remediating, and/or abating actual or potential ground water contamination.

The existing rules exempt UST systems used to store motor fuel solely for use by emergency power generators from the requirements of the release detection monitoring requirements at N.J.A.C. 7:14B-6, although the systems must comply with the remaining requirements of the chapter. (See existing N.J.A.C. 7:14B-1.4(d).) Consistent with the EPA's final regulations, which do not exempt such systems, the Department proposes to delete the exemption. Proposed new N.J.A.C. 7:14B-6.1(b) provides dates by which such systems must meet the release detection requirements, which dates are the same as in the EPA final regulations. The risk of release from these UST systems is no different from that of any other regulated system; consequently, release detection is necessary in order to prevent a potential discharge. Modern release detection methods are available to ensure that even remote and unmanned sites can be effectively monitored.

The Department proposes new definitions at N.J.A.C. 7:14B-1.6, specifically, “ancillary equipment,” “compartmented tank,” “‘containment device’ or ‘containment sump’ or ‘containment system,’” “dispenser,” “dispenser system,” “interstitial monitor,” “‘interstitial

space' or 'interstice,'" "'line leak detector' or 'LLD,'" "operational life," "release detection," "repair," "swing joint," "'under-dispenser containment' or 'UDC,'" and "upgrade." These proposed new terms are used throughout the amended chapter, the EPA's final regulations, and the Secondary Containment Guidelines. The definitions describe portions of an underground storage tank system and secondary containment or monitoring. Based on the proposed definitions of "'under-dispenser containment' or 'UDC'" and "containment sump," the Department proposes deleting the definitions of the terms "dispenser sump" and "piping sump." The proposed replaced definition of "liquid sensor" specifies that the sensor detects water, as well as the liquid phase of a hazardous substance. The existing definition specifies only that the sensor detects the liquid phase of a hazardous substance. The presence of water in a UST or related piping is an indicator of a possible leak; accordingly, a liquid sensor must detect the presence of water, as well as a liquid hazardous substance. The proposed definitions of "ancillary equipment," "dispenser," "operational life," "release detection," "repair," "'under-dispenser containment' or 'UDC,'" and "upgrade" were not included in the May 2015 proposal and are included for consistency with the EPA's final regulations, which defines these terms. Similarly, the existing definition of "secondary containment" is amended to indicate the equipment's function in monitoring for leaks in the UST system; also consistent with the definition in the EPA's final regulations. The terms are used throughout proposed amended N.J.A.C. 7:14B.

N.J.A.C. 7:14B-4 Underground Storage Tank Systems: Design, Construction, and Installation

Subchapter 4 governs design, construction, and installation of underground storage tanks. Consistent with the EPA's final regulations, the Department proposes to amend N.J.A.C. 7:14B-

4.1 to require that all new tanks and piping have secondary containment and interstitial monitoring. (See proposed N.J.A.C. 7:14B-4.1(a)1 and 2.) Federally regulated UST systems installed on or after April 11, 2016, should already be complying with the proposed provisions of N.J.A.C. 7:14B-4, since the proposed rules are the same as the EPA final regulations. Regulated heating oil tank systems, which are solely State-regulated, must comply with the proposed secondary containment requirements, but only if installation of the system begins on or after 180 days after the operative date of the proposed amendment.

There are two exceptions from the secondary containment and interstitial monitoring requirements, one is for European (safe) suction piping that meets N.J.A.C. 7:14B-6.2(a)2ii(1) through (5), which contains the requirements for UST systems containing petroleum products and waste oil, and the second is piping associated with field-constructed tanks greater than 50,000 gallons or airport hydrant systems. See proposed N.J.A.C. 7:14B-4.1(a)2iv. European suction piping uses a suction pump to deliver fuel from the UST to the dispenser. The piping operates at less than atmospheric pressure, slopes back towards the UST, so regulated substances drain to the UST if suction is lost, and has only one check valve located close to the suction pump. If a break occurs in the piping, it is unlikely that fuel will be released. Piping associated with large field-constructed tanks or airport hydrant systems typically is of a larger diameter and runs for longer distances, making it difficult to slope the piping back to an interstitial monitoring area. In addition, it is difficult to keep water out of the interstitial area of these longer piping runs. Since nearly all this piping is steel, corrosion can occur in the interstitial area when an electrolyte, such as water, is in the interstitial area. This corrosion can significantly shorten the piping's life. Corrosion protection safeguards piping in contact with the ground, but does not protect the inside part of piping from corrosion. To prevent corrosion caused by water in the

interstitial area, owners and operators would need to add corrosion protection inside the interstitial area of piping, which would be difficult, if not impossible. Given all of these issues, secondary containment for these piping runs could potentially increase, rather than decrease, the risk of releases. Proposed rules regarding field-constructed tanks and airport hydrant systems are discussed further below.

In May 2015, the Department proposed that the secondary containment and interstitial monitoring requirements apply to tanks and piping for which installation begins as of the operative date of the rules; however, the EPA's final regulations impose a compliance date of April 11, 2016 (180 days after October 13, 2015, the effective date of the Federal regulations). Federally regulated tanks are, therefore, already subject to the proposed secondary containment and interstitial monitoring requirements. The proposed rules apply to regulated heating oil tank systems or piping that is installed on or after 180 days after the operative date of the proposed amendments, the same amount of time that the EPA's final regulations provided before the Federal rules were applicable.

Secondary containment of tanks and piping must contain any release of hazardous substance until the substance is detected and removed, and must prevent releases of regulated substances to the environment at all times during the operational life of the UST system. If an UST system was installed prior to the operative date of the amendments and has secondary containment with interstitial monitoring, the proposed rule requires that the interstitial monitoring be maintained for the operational life of the system. See proposed N.J.A.C. 7:14B-4.1(a)1vi and (a)2v. Although the owner and operator of an existing tank in good working order that does not have secondary containment and interstitial monitoring does not need to install it, a tank that already has secondary containment and interstitial monitoring must maintain and

continue to use interstitial monitoring. To allow the monitoring to be discontinued, or changed to a less protective method of release protection, would be contrary to the design of the UST system and the purpose of the EP Act or the EPA's final regulations, which is to prevent releases.

The existing rules at N.J.A.C. 7:14B-4.1(a)4 require owners and operators of underground storage tank systems installed on or after September 4, 1990, to ensure that all tanks and piping are properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The Department proposes the installation requirements apply to the entire UST system. Containment systems and dispensers are components of the UST system, distinct from the tank or piping, which must be properly installed in order to prevent release of hazardous substances. Ensuring proper installation of the UST system requires the owner and operator to maintain documents of the methods of certification or inspection provided in N.J.A.C. 7:14B-4.1(a)5i through iii. To assist the owner and operator in meeting this requirement, the Department, at N.J.A.C. 7:14B-4.1(a)5iv, is proposing that owners and operators of UST systems installed after the operative date of the amendments obtain the certification to that effect from the UST system installer, to be made on the New Jersey Underground Storage Tank Facility Certification Questionnaire. This is consistent with the EPA's final regulations and was not included in the Department's May 2015 proposal. The certification requirements at N.J.A.C. 7:14B-2.2(h) is discussed further below in the summary of amendments to the registration requirements.

Proposed N.J.A.C. 7:14B-4.1(e) through (j) list the industry standards that shall be used to comply with the construction and installation requirements at N.J.A.C. 7:14B-4.1(a)1 and 2.

The Department proposes to update the list of standards to include the current name and code number of the standards, delete standards that have been withdrawn, and reference additional acceptable standards. As a compliance aid, the Department is also including the webpage hyperlinks, as available. The proposed list of industry standards is consistent with the list of standards for construction and installation in the EPA's final regulations. The list differs somewhat from the comparable list in the May 2015 proposal, which was consistent with the EPA's proposed rules. The EPA changed its list when it issued its final regulations. New codes and standards proposed to be included are Steel Tank Institute Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks," Steel Tank Institute ACT–100R Specification F894, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks," Steel Tank Institute ACT–100–UR Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks," Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®," Underwriters Laboratories of Canada Standard S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids," Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe," Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems," and National Fire Protection Association Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages."

To correct an error in the existing rule, the Department is deleting from the list of standards NACE International Standard RP-01-95 RP0169-96, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" at existing N.J.A.C. 7:14B-4.1(h)4. The standard applies to metallic piping systems. N.J.A.C. 7:14B-4.1(h) identifies standards

applicable to fiberglass-reinforced plastic piping. Therefore, the standard is incorrectly included in the subsection. The following codes and standards are no longer available or outdated and proposed for deletion: American Society of Testing and Materials Standard D4021 "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks," Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks," and Underwriters Laboratories of Canada Guide ORD-107.7 "Glass-fibre Reinforced Plastic Pipes and Fittings."

Existing N.J.A.C. 7:14B-4.1(a)3 applies to spill and overfill prevention equipment. Under the proposed amended rules, tanks shall continue to use the overfill prevention equipment allowed under the existing rules (automatic shut off, alerts, or flow restriction); however, flow restrictors in vent lines, typically "ball floats," will not be an option when overfill prevention equipment is installed or replaced after October 13, 2015. Department inspections of UST systems and responses to incidents have repeatedly revealed that vent line flow restrictors are unreliable in preventing spills and overfills during product transfer. In addition, tank installation and recommended practice manuals, such as the National Fire Protection Association's publication 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages" (2003) (www.nfpa.org), and the Fiberglass Tank & Pipe Institute's "Overfill Prevention of Petroleum Underground Storage Tanks and Adverse and Unintended Consequences" (2015) (www.fiberglasstankandpipe.com), specifically warn against the use of vent line flow restrictors.

The proposed amendments require tanks to have overfill prevention equipment that is compatible with the method of filling the tank. This is to ensure that tanks are not over-pressurized during delivery of product, resulting in a release to the environment. The proposed rule requires that spill and overfill prevention equipment is tested or inspected in accordance

with N.J.A.C. 7:14B-5.10, to ensure that the equipment functions properly. The Department's May 2015 proposal applied these requirements to all tanks beginning three years after the operative date of the amendments. The EPA's final regulations impose the requirements on spill and overfill prevention equipment installed or replaced after October 13, 2015; accordingly, the Department proposes the same implementation date as the Federal rule.

The Department is deleting existing N.J.A.C. 7:14B-4.1(a)1v, 2iv, and 3iii(1), which allow the Department to issue a permit for equipment that does not meet the specified industry standards, but is no less protective of human health and the environment than equipment that meets the specified standards. As amended, the rule requires all equipment to meet the specified standards for tanks, piping, and overfill prevention. In practice, the overwhelming majority of installed equipment is standardized and commercially manufactured, meeting the standards in the proposed rule. The Department has never received an application for a permit to use alternative equipment; therefore, removing the superfluous language streamlines the rules.

Proposed new N.J.A.C. 7:14B-4.1A, Performance standards for dispenser systems, requires new dispenser systems (fuel pumps) installed on or after April 11, 2016, to be equipped with under-dispenser containment. A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at an UST facility. The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are beneath the dispenser and connect the dispenser to the underground piping. The containment must be liquid-tight on its sides, bottom, and at any penetrations, be compatible with the substance conveyed by the piping, and allow for visual inspection and access to the components in the containment system, or be monitored for

leaks from the dispenser system. In its May 2015 proposal, the Department proposed that under-dispenser containment provisions apply to motor fuel dispenser systems installed on and after the operative date of the proposed rule and required the owner or operator to inspect under-dispenser containment every 30 days for water and/or product. The EPA, in its final regulations, applied the requirement only to "new" dispenser systems installed after April 11, 2016, regardless of the type of fuel being dispensed, and specifying when a dispenser system is considered "new." The proposed rule follows the Federal rule.

The Department's May 2015 proposal of N.J.A.C. 7:14B-4.1A included an inspection requirement for under-dispenser containment. The heading of the proposed rule is "performance standards for dispenser systems." Because under-dispenser containment inspections are not a performance standard, the proposed rules include the inspection provision at proposed new N.J.A.C. 7:14B-5.12, Periodic operation and maintenance walkthrough inspections, discussed below.

N.J.A.C. 7:14B-4.2 governs upgrading existing underground storage tank systems. The Department's UST rules first became effective in 1987, at which time, the UST rules contained only the registration requirements; in 1990, the Department promulgated the remainder of the rules, including the requirements for construction, operation, maintenance and closure, and for the remediation of leaking USTs. Accordingly, an "existing underground storage tank system" is an underground storage tank system that was installed before September 4, 1990, and any tank system installed on or after September 4, 1990, is considered a "new" tank system. When the 1990 rules became operative, there were many tank systems in operation that required upgrades to meet the then new requirements, most notably, upgrades related to cathodic protection and spill and overfill prevention. The Department is not aware of any operating tank system installed

prior to September 4, 1990, that has not been upgraded to the applicable standards in the existing rules.

Continuing to refer to a tank system installed prior to September 4, 1990, as an "existing" tank system and one installed after that date as a "new" tank system, even though it may have been installed 14 years ago, is confusing to the industry. The Department's field inspection experience bears this out as many owners, operators, and UST contractors assume the term "existing" means a tank system currently in operation, regardless of the installation date, and a "new" tank system means one that is being installed or contemplated to be installed. The Department proposes to remove "new" from the heading of N.J.A.C. 7:14B-4.1, and to remove "existing" throughout the rule, to avoid confusion. Further, in order to eliminate ongoing confusion with the compliance dates and requirements related to the "existing UST systems," "new UST systems," the Department proposes amendments throughout the chapter that eliminate the use of the terms "existing" and "new" to describe an underground storage tank system before and on or after September 4, 1990. These amendments include deleting the definitions of "existing underground storage tank system" and "new underground storage tank system" at N.J.A.C. 7:14B-1.6. Instead, the Department proposes to specify the appropriate compliance date as needed. For example, proposed amended N.J.A.C. 7:14B-6.3(a)1 no longer refers to "release detection at existing underground storage tank systems," but instead refers to "release detection at underground storage tank systems installed before September 4, 1990."

The Department reviewed the requirements for upgrading a tank at existing N.J.A.C. 7:14B-4.2, and the industry standards listed in existing N.J.A.C. 7:14B-4.2(e), and determined that, in general, those requirements are the same as the ones for substantial modification specified in N.J.A.C. 7:14B-10. Therefore, the Department proposes to expand the scope of

N.J.A.C. 7:14B-4.2 to make the requirements and standards applicable to all substantial modifications or tank system upgrades. Specifically, the Department proposes to amend the heading of N.J.A.C. 7:14B-4.2 to "Requirements for substantial modification or upgrade of an underground storage tank system." A new definition at proposed amended N.J.A.C. 7:14B-1.6 defines "upgrade" as the addition or retrofit of one or more systems, such as cathodic protection, lining, spill and overfill controls, or secondary containment, to improve the ability of an underground storage tank system to prevent the release of product.

The Department proposes to amend N.J.A.C. 7:14B-4.2(a) to make it clear that a permit application must be submitted to and approved by the Department prior to an owner and operator initiating a substantial modification or upgrade. Existing N.J.A.C. 7:14B-4.2(a)3 requires closure of an existing UST system if it does not comply with the new UST system performance standards or upgrade requirements. This provision is proposed to be deleted as it is not consistent with the proposed amendments and, as stated above, the Department is not aware of any operating UST systems installed before September 4, 1990 that would require closure for non-compliance. Proposed amended N.J.A.C. 7:14B-4.2(c) and (d) govern substantial modifications and upgrades to piping and spilling and overfill equipment. Any substantial modification or upgrade must meet the standards identified in the rule.

Proposed amended N.J.A.C. 7:14B-4.2(b) includes fiberglass tanks as eligible for substantial modification or upgrade. The existing rule refers only to steel tanks, but fiberglass tanks are in common use and can be substantially modified or upgraded. Installation of an internal lining to a tank is among the types of upgrades that the existing rule allows. The Department has determined, however, that an internal lining is not appropriate in every instance. Therefore, the proposed amended rule allows installation of an internal lining only if a tank is

structurally sound, has sufficient wall thickness (minimum 1/8 inch (0.32 centimeter) for steel tanks), and has cathodic protection. Pursuant to existing N.J.A.C. 7:14B-4.2(b)1i, one condition of an upgrade with an internal liner is periodic internal inspection to confirm that the tank is structurally sound and the lining is performing as designed. Under proposed new N.J.A.C. 7:14B-4.2(b)1ii, if the inspection reveals that the tank is not structurally sound or the lining is not meeting specifications and cannot be repaired, then the lined tank shall be closed. Tanks with internal lining upgrades that do not pass the periodic inspection are likely to leak, causing harm to human health or the environment.

Proposed new N.J.A.C. 7:14B-4.2(b)1iii allows a steel tank that has both an internal lining and a cathodic protection system as corrosion protection upgrades to remain in use if the lining is failing and cannot be repaired, provided the owner and operator demonstrate the UST system and cathodic protection continue to prevent the release or threatened release of any stored regulated substance. The Department proposes the owner and operator demonstrate the integrity of the UST system by providing the Department with a permit application and, at minimum, records showing the tank installation date, lining installation date with the purpose for the upgrade and internal inspections, cathodic protection system installation date with documentation demonstrating proper installation and maintenance, and tank integrity testing. This proposed amendment is consistent with the EPA's final regulations and comments the Department received on the May 2015 proposal. Similar to internal lining upgrades, the existing rule allows a tank to be upgraded with cathodic protection pursuant to N.J.A.C. 7:14B-4.2(b)2, provided certain conditions are met. The proposed amended rule adds the condition that the tank must have sufficient wall thickness before cathodic protection may be installed. In light of the specific requirements of the proposed amended rule, the Department proposes to delete N.J.A.C.

7:14B-4.2(b)3, which specifies when a tank may be upgraded by both cathodic protection and an internal lining.

The Department also proposes to replace several of the codes and standards that are to be used to comply with the cathodic protection requirements of the section and update the list to include the current name and code number of the standards. Some publications cited in the existing rule are out-of-date. The proposed amended list of standards applicable to cathodic protection contains the standards for cathodic protection recited in the EPA's final regulations. The standards are American Petroleum Institute Publication 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks"; National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection"; American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Storage Tanks and Piping Systems"; NACE International Standard Practice SP0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection"; Underwriters Laboratories Standard 58, "Standard for Steel underground storage tanks for Flammable and Combustible Liquids"; National Leak Prevention Association Standard 631, Chapter B "Future Internal Inspection Requirements for Lined Tanks"; Ken Wilcox Associates Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera"; Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems"; and Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe."

N.J.A.C. 7:14B-5 General Operating Requirements

Subchapter 5 contains the general operating requirements for underground storage tanks, including testing, inspection, and repairs. Throughout the subchapter, the Department proposes to update cross-references. The Department proposes to delete N.J.A.C. 7:14B-5.1(d), as these spill containment equipment operation and maintenance procedures are in proposed new N.J.A.C. 7:14B-5.10 and 5.12, making the existing provision unnecessary.

At proposed amended N.J.A.C. 7:14B-5.1(b), the Department is replacing the existing standards with those identified in the EPA's final regulations as applicable to spill and overfill control. These standards are the transfer procedures described in National Fire Protection Association Standard 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids," and American Petroleum Institute Recommended Practice 1007, "Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles." The Department also identifies as guidance on spill and overfill prevention, the American Petroleum Institute Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets."

At N.J.A.C. 7:14B-5.2(a)2ii, the proposed amendment replaces the general reference to codes of practice of nationally recognized associations with specific codes of practice by nationally recognized associations. The codes of practice are NACE International Test Method TM 0101, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Tank Systems," NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems," Steel Tank Institute Recommended Practice R051, "Cathodic Protection Testing Procedures for sti-P3 USTs," NACE International Recommended Practice RP- 02-85, "Control of Underground Storage Tank Systems by Cathodic Protection," and NACE International Standard Practice SP 0169, "Control of External Corrosion on

Underground or Submerged Metallic Piping Systems." The proposed codes of practice are those that the EPA identified as applicable to the operation and maintenance of corrosion protection.

In order that a substance can be safely stored in an UST system, the owner and operator must be sure that the substance is compatible with the system. Some regulated substances are corrosive, and could cause leaks if contained in an UST system with which they were incompatible. Therefore, the rules require that the regulated substance be compatible with the UST system containing it. The Department proposes to replace the reference to specific American Petroleum Institute publications at N.J.A.C. 7:14B-5.3(b) with other methods for determining compatibility. One means of determining compatibility is to refer to a certification or listing of UST system components by a nationally recognized independent testing laboratory (for example, Underwriters Laboratories). Other means are the written statement of the equipment or component manufacturer, or a method that the owner and operator demonstrates is no less protective than the other identified methods. Where American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations" is not required, it is included at proposed N.J.A.C. 7:14B-5.3(e), as a resource that may be used to comply with the compatibility provisions of the section. The proposed methods of complying with the compatibility requirements are the same as the compatibility provisions in the EPA's final regulations.

The compatibility standards in existing N.J.A.C. 7:14B-5.3 apply only to owners and operators who store alcohol blends. Because alcohol blends are not the only fuel blends available in the market, the Department proposes to amend the rule in order that it applies to ethanol and biodiesel, as well as blends of any other regulated substance. As part of the requirement to demonstrate compatibility between the UST system and the contents, proposed

new N.J.A.C. 7:14B-5.3(c) requires the owners and operators to retain records for as long as the UST system is used to store the regulated substance. This record retention provision is different from the May 2015 proposal to retain records for the life of the equipment or component, but is consistent with the EPA's final regulations. Proposed new N.J.A.C. 7:14B-2.1(b) also requires that owners and operators notify the Department at least 30 days before introducing any regulated substance that contains greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other identified regulated substance, to make it easier to comply with the compatibility requirement. The amendment allows owners, operators, and the Department opportunity to address any UST system compatibility needs prior to storing the regulated substance.

Existing N.J.A.C. 7:14B-5.3(c) requires that contents of a "compartmentalized" tank be compatible with each other, in order to prevent a safety hazard. At recodified N.J.A.C. 7:14B-5.3(d), the Department is replacing "compartmentalized" with "compartmented." In the Department's experience, the proposed term is more accurate, and more frequently used in the industry. The substance of the rule remains the same.

N.J.A.C. 7:14B-5.4 governs repairs of UST systems. The existing rule requires that fiberglass pipes and fittings be repaired or replaced in accordance with the manufacturer's specifications. The proposed amended rule refers to "non-corrodible" pipes and fittings, rather than fiberglass, because newer piping materials exist in addition to fiberglass. The proposed amended rule also requires the entire piping run to be replaced and have secondary containment when 50 percent or more of a piping run is replaced, consistent with the EPA's final regulations. In promulgating its July 15, 2015 final rule, the EPA analyzed UST regulations for the approximately 40 states that require secondary containment and interstitial monitoring; three-

quarters of these states have requirements at least as stringent as the proposed 50 percent threshold. In addition, the EPA performed a screening analysis using limited, readily available data to determine when repair cost approached replacement cost, and at what point owners and operators were most likely to replace the entire piping run rather than repair it. The EPA determined that the replacement cost of an entire piping run became equal to repair cost when approximately 60 percent of a piping run is repaired. The proposed requirement is intended to prevent owners and operators from leaving small pipe sections in the ground to avoid the secondary containment requirement. If an UST system has multiple piping runs, the secondary containment requirement will apply to only those where 50 percent or more of piping is replaced. A piping run associated with a regulated heating oil tank system and installed on or after 180 days after the operative date of the amendment must have secondary containment and interstitial monitoring. Piping associated with all other UST systems are subject to the Federal requirements, which apply to piping installed on or after April 11, 2016.

To ensure that repaired equipment is operating as required, proposed new N.J.A.C. 7:14B-5.4(a)5 and 7 require testing of secondary containment areas used for interstitial monitoring and spill equipment, or inspections of overfill prevention equipment, within 30 days following the completion of the repair. The proposed amended list of standards for repairs to UST systems, set forth at N.J.A.C. 7:14B-5.4(c), are the same as the EPA deemed appropriate in its final regulations. The standards are National Fire Protection Association Standard 30, “Flammable and Combustible Liquids Code,” American Petroleum Institute Recommended Practice RP 2200, “Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines” (proposed with spelling corrected from the existing rule), American Petroleum Institute Recommended Practice RP 1631, “Interior Lining and Periodic Inspection of Underground

Storage Tanks," National Leak Prevention Association Standard 631, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks," National Fire Protections Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair," Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to sti-P3® Tanks," NACE International Standard Practice SP 0285, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," and Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks."

Proposed new N.J.A.C. 7:14B-5.4(d) provides standards for testing repaired secondary containment areas of UST systems, consistent with those in the EPA's final regulations. The standards are Petroleum Equipment Institute Recommended Practice RP1200 "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST Facilities," Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks," and Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space." These standards were expanded from the list in the May 2015 proposed rules to include those listed in the EPA's final regulations. If spill or overfill prevention equipment is repaired, it must also be tested within 30 days following the completion of the repair to ensure that it is operating properly. Proposed new N.J.A.C. 7:14B-5.10 and 5.11 provide testing methods, as discussed below.

Existing N.J.A.C. 7:14B-5.6, Recordkeeping requirements, identifies records that must be maintained until the Department notifies the owner and operator that the records can be

destroyed. The Department proposes to add to the list of such documents those related to repairs of equipment as provided in N.J.A.C. 7:14B-5.4. In order to prevent confusion, the Department proposes to make it clear that there are other recordkeeping requirements in the chapter.

Proposed new N.J.A.C. 7:14B-5.10, Spill and overfill prevention equipment, prescribes the criteria that spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) must meet in order to prevent releases to the environment. The proposed rule requires spill prevention equipment to either have two walls with monitored interstices; or be tested at installation and at least once every three years using vacuum, pressure, or liquid testing to ensure the spill prevention equipment is liquid tight. Spill prevention equipment must be visually inspected and cleaned of liquid and debris prior to any introduction of hazardous substances to the tank.

Owners and operators of UST systems must inspect overfill prevention equipment at installation and at least once every three years. At a minimum, inspection must ensure that overfill prevention equipment is set to activate at the correct levels and will activate when a regulated substance reaches that level. As with the required spill prevention equipment, overfill prevention equipment must be inspected in accordance with the manufacturer's requirements, a code of practice developed by a nationally recognized association or independent laboratory, or a method that the owner and operator demonstrates is no less protective of human health and the environment.

Until the within proposed amendments are effective, Federally regulated UST systems installed on or after October 13, 2015, are subject to the EPA's final regulations; therefore, these systems must comply with the spill prevention and overfill requirements on installation, as set forth in the Federal rules. Similarly, regulated heating oil tanks installed on and after the

operative date of these amendments must comply with the spill prevention and overfill requirements on installation. UST systems installed prior to October 13, 2015, must meet the requirements by October 13, 2018, the compliance date in the EPA's final regulations. The Department proposes to allow regulated heating oil tank systems installed prior to the operative date of the rules until October 13, 2018, to comply. The compliance dates differ from the May 2015 proposed rules in order to conform to the EPA's final regulations.

Existing N.J.A.C. 7:14B-5.1(d)3, proposed for repeal, requires owners and operators to replace deficient spill containment equipment. Proposed N.J.A.C. 7:14B-5.10(d) expands the requirement to include that both spill and overfill equipment are repaired or replaced if deficient. If spill prevention equipment is not tested every three years, documents must be maintained to show that the spill prevention equipment has two walls and is interstitially monitored at a frequency not less often than walkthrough inspections for such equipment at N.J.A.C. 7:14B-5.12(a)1i (every 30 days). Owners and operators must maintain this documentation for as long as the spill prevention equipment is monitored and for five additional years after monitoring ends. The Department is proposing the testing and inspection records to be maintained for five years as a means to ensure the records are available to determine compliance during the three-year inspection cycle.

Commenters on the Department's May 2015 proposal requested that document retention periods throughout the Department's UST rules be for a consistent period of time, to make it easier on owners and operators. For this reason, throughout the proposed rules the Department requires new records to be maintained for five years. The EPA's final regulations require documents to be maintained for only one year; however, the Water Pollution Control Act does not require the Department's recordkeeping requirements to match the Federal requirements.

The additional retention period will enable the Department to review documents necessary to make informed compliance and enforcement evaluations.

Proposed new N.J.A.C. 7:14B-5.11, Integrity testing of containment devices where interstitial monitoring of piping is performed, requires owners and operators to monitor or test the integrity of all containment devices, in order to ensure that the device is functioning properly to detect and prevent releases to the environment. A containment device, according to the proposed amended definition at N.J.A.C. 7:14B-1.6, is a liquid-tight structure or system of structures that provide containment of any regulated substance release. Containment devices are typically used underneath product dispensers, for enclosing submersible turbine pumps or used below piping connections/transitions. Prevention and detection of UST system releases will be improved by identifying problems with containment devices. The testing requirement, as proposed, applies only to containment devices where interstitial monitoring of piping is performed and not all secondary containment areas of tanks and piping, as previously proposed by the EPA and the Department in its May 2015 proposal. These containment devices function similarly to spill prevention equipment, containing leaks from piping or other components generally located within a sump; therefore, a testing requirement equivalent to that for spill prevention equipment is proposed.

Rather than include the integrity testing of containment devices in the same section as testing of spill and overfill equipment, the Department proposes a separate section, N.J.A.C. 7:14B-5.11. Owners and operators of existing secondarily contained tank and piping systems will still need to meet the secondary containment testing requirements, as appropriate, following repairs (N.J.A.C. 7:14B-5.4) and when investigating a suspected release (N.J.A.C. 7:14B-7).

The proposed rule requires owners and operators performing interstitial monitoring of UST system piping to ensure the integrity of containment devices by testing each containment device at least once every three years, or within 30 days of discontinuing monitoring described below. A vacuum, pressure, or liquid testing method must be performed in accordance with the equipment manufacturer's requirements, a code of practice developed by a nationally recognized association or independent testing laboratory, or a method that the owner and operator demonstrates is no less protective of human health and the environment than one of the other methods. The proposed rule includes an example of a suitable code of practice. Any double walled containment device can use a monitoring method capable of detecting a breach in both the inner and outer walls of the structure. The integrity of both walls must be monitored at a frequency not less than the annual walkthrough inspection required under proposed N.J.A.C. 7:14B-5.12(a)1ii to ensure the containment device is functioning properly.

From a release detection and prevention perspective, continuous monitoring is preferable; however, the Department is aware that not all owners and operators of UST systems are in a position to immediately upgrade and install continuous monitoring equipment. Accordingly, the proposed rule allows annual monitoring of double walled containment or testing the containment sump every three years. The Department believes that testing every three years will be sufficiently protective, taking into account the overall detection and prevention benefit realized from the general requirement that all UST systems must have secondary containment.

As proposed at N.J.A.C. 7:14B-5.11(b), the owner and operator performing interstitial monitoring of UST system piping must test the containment device as set forth in the proposed rule, which is the same as in the EPA final regulation. Testing of an UST system installed prior to October 13, 2015, or a regulated heating oil tank systems installed prior to the operative date

of the rule, must begin no later than October 13, 2018, and be conducted no less than once every three years thereafter. Owners and operators of Federally regulated UST systems installed on or after October 13, 2015, and regulated heating oil tank systems installed on or after the operative date of the new rule, must comply with the containment device testing at installation.

Proposed new N.J.A.C. 7:14B-5.11(c) contains recordkeeping requirements related to monitoring and testing. Containment device testing records shall be maintained for five years. Records demonstrating the containment device has two walls and uses interstitial monitoring shall be maintained for as long as that method of monitoring is performed and for five additional years after monitoring ends. These recordkeeping requirements will allow the Department to ascertain compliance with the testing requirements.

N.J.A.C. 7:14B-6 Release Detection

Subchapter 6 contains the release detection provisions for UST systems. Throughout the subchapter, the Department proposes to refer to UST systems as installed before or on or after September 4, 1990, rather than as “existing” or “new,” as discussed above. Other proposed amendments correct the usage of the terms “release” or “released” and “leak” or “leaked” to ensure their use is consistent with the respective definitions at N.J.A.C. 7:14B-1.6.

The general release detection requirements for all UST systems are set forth at N.J.A.C. 7:14B-6.1. Proposed new N.J.A.C. 7:14B-6.1(g) requires owners and operators of all regulated UST systems to, no later than October 13, 2018, test the proper operation of electronic and mechanical components in accordance with the manufacturer’s instructions, a code of practice developed by a nationally recognized association, or an independent testing laboratory, or a method no less protective. The testing must be performed at least annually and include the

automatic tank gauge and other controllers, probes and sensors, line leak detector, vacuum pumps and pressure gauges, and handheld electronic sampling equipment, to the extent applicable. These tests are necessary to ensure that release detection equipment is working properly to detect and prevent releases. In its May 2015 proposal, the Department proposed to allow one year from the operative date of the amendment for the testing to begin. The within proposed rule provides until October 13, 2018, as set forth in the EPA final regulations. Proposed new N.J.A.C. 7:14B-6.7(k) requires the results of annual release detection operation tests to be maintained for five years, in order that the Department can ensure compliance. Similarly, owners and operators of release detection equipment, where the manufacturer provides schedules of required calibration and maintenance, must maintain the schedules for five years as proposed at N.J.A.C. 7:14B-6.7(d). A five-year record retention time period is consistent with other proposed testing record time frames throughout this rule and easier than maintaining the records for as long as the site is operational, as proposed in May 2015.

Owners and operators of UST systems associated with emergency power generators that do not have release detection must comply with the requirements of Subchapter 6 based on the installation date of the UST system. Systems installed on or before October 13, 2015, must meet the requirements on or before October 13, 2018. Systems for which installation began after October 13, 2015, must meet the requirements at installation. Once the leak detection equipment is installed, it must be tested at least annually. In its May 2015 proposal, the Department proposed to allow three years from the operative date of the amendment to install leak detection equipment. The proposed compliance dates for Federally regulated UST systems conform to the EPA's final regulations.

Specific to UST systems containing petroleum products and waste oil, the Department proposes to amend N.J.A.C. 7:14B-6.2 to differentiate the release detection requirements for petroleum underground storage tank systems and product bearing supply and return lines based upon the UST system installation dates. Petroleum underground storage tank systems installed prior to April 11, 2016, and regulated heating oil tank systems installed prior to 180 days after the operative date of the rule remain subject to monitoring at least every 30 calendar days, as in the existing rules, using the monitoring methods at N.J.A.C. 7:14B-6.5, which the Department proposes to amend, as discussed below. Under the proposed amended rule, UST systems that meet the performance standards in N.J.A.C. 7:14B-4.1 or 4.2, and the applicable monthly inventory control requirements may use tank tightness testing for up to 10 years following the tank installation date, proposed for consistency with the EPA's final regulation. The existing rule does not limit the length of time that tank tightness testing may be used. Other proposed amendments correct references to proposed amended N.J.A.C. 7:14B-6.5, which contains monitoring methods including monthly inventory control. The release detection requirements for petroleum underground storage tank systems that use separate product bearing supply and return lines are unchanged, provided the system was installed prior to April 11, 2016, or 180 days after the operative date of the rule for regulated heating oil tank systems. Such piping installed after those dates must perform interstitial monitoring.

As stated above, Federally regulated petroleum underground storage tanks installed on or after April 11, 2016, are subject to the EPA's regulations; the proposed requirements for such systems are the same as the requirements in the EPA's final regulations. The proposed amended rules require owners and operators of UST systems installed on or after April 11, 2016, to perform interstitial monitoring as release detection for tanks and piping at least every 30 days,

unless the UST system is a State-regulated heating oil tank, which has until 180 days after the operative date of the rule. The interstitial monitoring method of release detection is in N.J.A.C. 7:14B-6.5, discussed below, except no release detection is required for suction piping when the below-grade piping operates at less than atmospheric pressure, the below-grade piping is sloped so that the contents of the pipe drains back into the storage tank if the suction is released, only one check valve is included in each suction line, or the check valve is located directly below and as close as practical to the suction pump. This is consistent with existing N.J.A.C. 7:14B-6.2(a)2ii, which does not require release detection for such suction piping. Pressurized piping is subject to release detection, and must be equipped with an automatic line leak detector. This is also consistent with existing N.J.A.C. 7:14B-6.6, which provides methods of release detection for piping. The Department's May 2015 proposal did not propose amendments to N.J.A.C. 7:14B-6.2; however, the within proposed amendments are necessary in order that the Department's rules are consistent with the Federal rules.

The Department proposes to amend N.J.A.C. 7:14B-6.5, Methods of release detection for tanks. The existing rule establishes the requirements for various types of release detection, including product inventory control, manual tank gauging, tank tightness testing, automatic tank gauging, testing or monitoring for vapors within soil gas, testing or monitoring liquids floating on ground water, interstitial monitoring between the tank and a secondary barrier, and unspecified methods that are sufficiently sensitive to detect leaks from the tanks/piping. The Department proposes technical amendments to the manual tank gauging requirements at N.J.A.C. 7:14B-6.5(a)2, which will provide more flexibility for using manual tank gauging. The May 2015 proposal did not include these provisions; however, they are in the EPA's final regulations and have been in use since 1990, in accordance with Federal policy and publications.

The amendments include proposed new minimum test durations, nominal tank capacities with specific diameter criteria, and weekly and monthly standard variation allowances. Tanks with capacity of 550 gallons or less can use manual tank gauging as the only method of release detection (see N.J.A.C. 7:14B-6.2(a)1ii); the proposed amendments include tanks with capacity of 551 to 1,000 gallons when the tank diameters are 64 or 48 inches. Tanks with nominal capacity of 551 to 1,000 gallons that do not meet the diameter criteria, or are between 1,001 to 2,000 gallons, must include tank tightness testing with the manual tank gauging method, in accordance with the proposed amendments at N.J.A.C. 7:14B-6.2(a)1.

The Department proposes to amend the automatic tank gauging requirements at N.J.A.C. 7:14B-6.5(a)4i. One of the requirements for automatic tank gauging is that the product level monitor must detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product. The proposed amended rule specifies the acceptable modes for conducting those tests, and prescribes the frequency of the test. The automatic product level monitor test can be in-tank static testing conducted with passing results at least once every 30 days, or the test can be through continuous in-tank leak detection. The continuous in-tank leak detection must be operated on an uninterrupted basis, or with a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days. Testing the automatic tank gauge in one of these modes ensures the equipment is functioning properly, thus contributing to early release detection and prevention.

The proposed amended rule expressly allows statistical inventory reconciliation as a method of release detection. Although such reconciliation is allowed under the existing rule if it meets the detection limits in the rule, it was not specifically mentioned. Statistical inventory reconciliation analyzes inventory, delivery, and dispensing data collected over a period of time to

determine if the UST system is leaking. The testing method is, however, subject to the additional requirements at proposed new N.J.A.C. 7:14B-6.5(a)8i. UST systems using statistical inventory reconciliation methods shall report a quantitative result with a calculated leak rate, use a threshold that does not exceed one-half the minimum detectible leak rate, and be conducted at least once every 30 days. In the Department's experience, statistical inventory reconciliation methods that do not meet the proposed requirements are not sufficient for early release detection.

N.J.A.C. 7:14B-9 Out-of-Service Underground Storage Tank Systems and Closure of Underground Storage Tank Systems

N.J.A.C. 7:14B-9 governs out-of-service UST systems and closure of UST systems. In order to take an UST system out of service, the owner and operator must notify the Department, remain in compliance with all applicable environmental rules, maintain release detection monitoring, maintain corrosion protection, and install spill and overfill prevention for systems that do not have these. Under existing N.J.A.C. 7:14B-9.1, notice to the Department is to be provided "within five calendar days of the tank becoming out of service," on a form obtained from the Department. The proposed amended rule requires the owner and operator to submit an amended New Jersey Underground Storage Tank Facility Questionnaire within seven days after the UST system is placed out of service. The proposed requirement is consistent with N.J.A.C. 7:14B-2.1(b)7, which requires the owner and operator to submit a questionnaire within seven days after taking an UST system out of service or completing the closure. The proposed amended rule allows only those tanks with secondary containment to remain out of service for more than 12 months. Single wall UST systems that have been out of service for more than 12 months and UST systems with secondary containment that do not meet the criteria of proposed

amended N.J.A.C. 7:14B-9.1(c), discussed below, must be closed. (See proposed N.J.A.C. 7:14B-9.1(c) and (d).)

The Department's goal is to ensure that an UST system that has been out of service for an extended period of time will not release hazardous substances into the environment. "Mothballing" older underground storage tank systems – those with single walls, and without proper secondary containment and corrosion protection – for potential future reuse is inconsistent with the Department's goal of preventing releases to the environment. Such mothballing is also inconsistent with the EP Act and the Secondary Containment Guidelines, which require additional measures to protect ground water from contamination. (See Secondary Containment Guidelines, p. 1.)

Under the existing rule at N.J.A.C. 7:14B-9.1(c), a tank that has been out of service for 12 months does not need to be closed if the owner and operator either submits a site investigation report prepared by a licensed site remediation professional, or submits documentation showing that the underground storage tank is being maintained in compliance with all applicable environmental rules, including release detection monitoring. The proposed amended rule requires owners and operators to also submit documentation showing that the corrosion protection is in place and will be operated and maintained in accordance with N.J.A.C. 7:14B-5.2. If the corrosion protection is an impressed current cathodic protection system, the owner and operator must also demonstrate that the system will be inspected every 60 days to ensure that the system is on and working properly while the tank is out of service.

In order to put an UST with secondary containment back in service after it has been out of service for more than 12 months, proposed new N.J.A.C. 7:14B-9.1(e) requires the owner and operator to submit an amended New Jersey Underground Storage Tank Facility Certification

Questionnaire to the Department 30 days prior to introducing product into the underground storage tank system. The questionnaire requires a statement from a certified installer certifying that the system is properly designed and capable of being put back into service, and documentation that the corrosion protection for the system was properly maintained for the entire time that the tank was out of service. The purpose of both N.J.A.C. 7:14B-9.1(e)1 and 2 is to ensure that the tank is being properly maintained and that no discharge of hazardous substances has occurred.

The Department proposes new N.J.A.C. 7:14B-9.2(g) and 9.4(d) to provide industry codes and standards, also provided in the EPA's final regulations, that may be used to comply with the requirements for UST system closure or change in service to a nonregulated substance. American Petroleum Institute Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning," American Petroleum Institute Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks," American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks," National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair," and National Institute for Occupational Safety and Health Publication 80–106, "Criteria for a Recommended Standard: Working in Confined Space" are proposed new standards, not previously included in the May 2015 proposal.

Operator Training, Designation, and Duties

In addition to requiring secondary containment of tanks and piping, the EP Act requires the EPA, in coordination with states, to develop training guidelines for three distinct classes of

operators who operate and maintain Federally regulated UST systems. In New Jersey, Federal- and State-regulated UST systems are governed by N.J.A.C. 7:14B. As discussed above, the EPA issued the Operator Training Guidelines, which describe the minimum requirements a state's UST program must contain in order for a state to comply with the EP Act's requirements for Subtitle I funding. These guidelines include a description of the classes of operators, mandatory training for each class of operator, deadlines by which operators must be trained, and examples of acceptable state approaches to operator training. The three classes of operators are Class A, Class B, and Class C, the duties of which are discussed below. The EPA's final regulations establish requirements similar to the UST operator training requirements of the EP Act. A facility must designate a Class A, Class B, and Class C operator, and each of the designated operators must meet the requirements for operator training. One person may be designated under more than one of the classes of operators, in which case the person must be trained for each class for which he or she is designated. Proposed amended N.J.A.C. 7:14B applies the operator training requirements to all Federal- and State-regulated UST systems. In accordance with the authority of the Water Pollution Control Act at N.J.S.A. 58:10A-25, the Department may develop standards no more stringent than the Federal rule for any UST the EPA does not regulate. Therefore, the Department is proposing the equivalent operator training standards for State-regulated UST systems, which will ensure those facilities have the same protections and benefits that are associated with trained individuals operating the UST systems.

A Class A operator has primary responsibility to operate and maintain the UST system. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, in order to achieve and maintain compliance with regulatory requirements. The Class A operator must, at a minimum, have a general knowledge of UST

system requirements so he or she can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and recordkeeping requirements.

A Class B operator is in charge of day-to-day aspects of operating, maintaining, and recordkeeping for USTs at one or more facilities. For example, this individual typically ensures that the requirements for release prevention equipment, recordkeeping, and reporting are met, and that all relevant equipment complies with performance standards. He or she also makes sure that appropriate individuals, typically Class C operators, are trained to properly respond to emergencies caused by releases or spills from underground storage tank systems at the facility. Training for the Class B operator includes more specific understanding of operation and maintenance aspects of the UST system equipment, but may not cover other regulatory requirements in as much detail as the training for a Class A operator. Training for Class B operators includes understanding the general regulatory requirements and the purpose and function of the equipment associated with underground storage tank systems.

A Class C operator is generally the first to respond to potential emergencies caused by spills or releases from underground storage tank systems. For example, he or she may monitor the dispensing or sale of regulated substances or, for retail gas stations, be an attendant at a gasoline pump. This individual must understand how to respond appropriately to spill or release emergencies at a facility and notify the appropriate authorities when necessary. Not every employee at the facility must be a Class C operator. Training for a Class C operator includes how to take action in response to emergencies or alarms caused by spills or releases from an underground storage tank system and an evaluation where the trainee demonstrates his or her understanding and ability to respond appropriately. Although each facility must designate and train a Class C operator, some unmanned facilities are not required to have a Class C operator on

site. Examples of these types of facilities are emergency generators and card lock/card access facilities, such as at a gas pump for municipal or corporate vehicles.

Owners and operators can designate themselves as Class A, Class B, or Class C operators or they can designate contractors or employees. If contractors or employees are designated, the UST system owners and operators still retain liability for all regulatory issues, including ensuring their Class A, B, and C operators have received the required training and passed the applicable examinations.

N.J.A.C. 7:14B-1 General Information

The Department proposes to amend N.J.A.C. 7:14B-1.3, Purpose, to include among the various purposes of the chapter the designation and training of the three classes of operators. In the definitions applicable to the chapter, N.J.A.C. 7:14B-1.6, the Department proposes to define the three classes of operators, and "unmanned facility." The definitions of the operators are consistent with the description of the duties of the classes of operators, discussed above. In order to reduce confusion, the proposed definition for each class of operator states that an individual does not become an "operator" solely by virtue of being designated a particular class of operator. An "operator" has responsibilities throughout the chapter that a person designated as a Class A, B, or C operator does not have. An "unmanned facility" does not have an attendant present during all hours of operation to respond to alarms or emergencies related to the UST system. Examples of unmanned UST facilities include, but are not limited to, card lock or card access fueling stations, telecommunication towers or utility transfer stations serviced by emergency generator USTs, and unattended UST systems located at industrial or governmental facilities. The proposed definitions are based upon the descriptions of the operators and facilities contained

in the EPA's final regulations and the Operator Training Guidelines. Of the amendments discussed above, only the definition of "Class C operator" is different from the May 2015 proposal. In accordance with the EPA's final regulations, the Class C operator does not have to be a facility employee, but can be any individual responsible for initial response.

N.J.A.C. 7:14B-2 Registration Requirements and Procedures

Subchapter 2 contains the registration requirements and procedures related to UST systems. Proposed new N.J.A.C. 7:14B-2.2(c)7 requires owners and operators to include on the New Jersey Underground Storage Tank Facility Certification Questionnaire the name and information for each of the designated Class A and designated Class B operators for the facility. The underlying requirement to designate operators in each class is in the proposed amendments to N.J.A.C. 7:14B-5, General Operating Requirements. Designation of a new Class A or Class B operator constitutes a change in status of the UST system, in accordance with proposed amended N.J.A.C. 7:14B-2.1(b)5; therefore, when an owner and operator designates a new Class A or B operator, because of personnel turnover or otherwise, the owner and operator must amend the facility's Underground Storage Tank Facility Certification Questionnaire within 30 days. This is equivalent to existing N.J.A.C. 7:14B-2.4(a), which requires the owner and operator to notify the Department within 30 days after any modification to the information in the New Jersey Underground Storage Tank Facility Certification Questionnaire. Class C operators need not be identified on the UST facility registration or renewals, and identification of a new Class C operator does not constitute a change in status of a facility. There is considerable turnover among employees, such as gas pump attendants, who are the most likely candidates to serve as Class C operators. Accordingly, requiring updates to the registrations and renewal upon a

change in Class C operator could be unmanageable for facilities. Instead, under the proposed new recordkeeping requirements at N.J.A.C. 7:14B-5A.5, Documentation of training, the owner and operator must maintain training records for all designated operators, and make the records available on-site for Department inspection. These records will enable the Department to ensure that at least one trained Class C operator is designated for the facility at all times. The substantive requirements of the proposed amended rules are the same as the Department proposed in May 2015.

N.J.A.C. 7:14B-5 General Operating Requirements

N.J.A.C. 7:14B-5 contains the general operating requirements for UST facilities. Proposed new N.J.A.C. 7:14B-5.14, Designation of Class A, Class B, and Class C operators, requires an owner and operator to designate Class A, Class B, and Class C operators for the facility. The Class A and Class B operators are identified on the facility's New Jersey Underground Storage Tank Facility Certification Questionnaire. The Class A, Class B, and Class C operators must also be identified in the release response plan, as set forth at proposed amended N.J.A.C. 7:14B-5.5. These individuals have responsibility for the operation of the facility during an emergency. In order that a facility has appropriately trained people available at all times, a facility must have at least one of each class of operator designated at all times. There can be no break between the time that one operator of a class leaves a facility, and another of the same class is designated, leaving a facility without an operator of a particular class.

In addition to requiring the name and contact information of the various classes of operators at a facility to be included in the release response plan, the proposed new rule also

requires that the release response plan include procedures to address alarms associated with release detection equipment and procedures to be followed in the event of a leak or discharge of a hazardous substance. Existing N.J.A.C. 7:14B-5.5 requires the release response plan to include the procedures to be followed in the event of a leak of a hazardous substance, in accordance with the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, and 7:14B-9, in the event the UST must be closed. The Department proposes to delete this requirement. Existing N.J.A.C. 7:14B-9.2(a)5 of the rules governing closure of UST systems requires any remediation to be conducted in accordance with the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C; therefore, it is unnecessary that the release response plan contain a list of steps to be followed in accordance with N.J.A.C. 7:26C.

As discussed above, proposed new N.J.A.C. 7:14B-5.14 requires the owner and operator of an UST facility to designate at least one of each class of operator, to have at least one of each class of operator designated at all times, and to ensure that at least one designated operator (Class A, B, or C) is present at all hours that a facility (other than an unmanned facility, discussed below) is operating, including when hazardous substances are being introduced into or removed from an UST system. The proposed new rule gives facilities until October 13, 2018, to designate the operators in each class, which will allow the facilities time to develop a training plan for Class C operators, and time for Class A and Class B operators to undergo required training. An individual may be designated under more than one operator class provided he or she has completed the respective training. Once a facility has designated at least one of each class of operator, it may designate additional operators in each class at any time, provided each is trained prior to being designated, and provided there is always at least one of each class designated.

As stated above, a facility, other than an unmanned facility, must have a designated Class A, B, or C operator present at all times, including when hazardous substances are introduced to or removed from an UST system. This requirement could create a hardship for otherwise manned facilities that accept deliveries of hazardous substances outside of business hours, since the facility would be required to have an operator of at least Class C designation present for the delivery. The proposed rules provide two alternatives for these after-hours deliveries: the owner and operator of the facility may either contract with the supplier or transporter to ensure that a Class C operator is present at the delivery; or the owner and operator may post signs that meet the requirements for an unmanned facility, as discussed below. Under the first option, the transporter or supplier would ensure that the individual introducing hazardous substances into (or removing the hazardous substance from) the UST system has completed Class C operator training and can appropriately respond in accordance with the facility release response plan. A copy of the contract shall be maintained by the owner and operator on-site and made available to the Department on request. Under the second option, the owner or operator would post signs with instructions for responding to a spill or release. A copy of the contract shall be maintained by the owner and operator on-site and made available to the Department on request. As discussed above, unlike the designation of a Class A or Class B operator, the designation of a Class C operator does not require notification to the Department on the facility's New Jersey Underground Storage Tank Facility Certification Questionnaire.

Proposed new N.J.A.C. 7:14B-5.13, Specific operating requirements for unmanned facilities, applies to unmanned facilities as defined in N.J.A.C. 7:14B-1.6. These facilities do not have an attendant present during all operating hours. The owner and operator of an unmanned facility must ensure that the facility has clearly visible, weather resistant signs providing

emergency procedure information and notification information. Such signs are a low cost, common sense tool for providing information on responding to emergencies. The proposed rule allows the owner and operator to obtain Department approval for a sign displaying alternate emergency information, provided the resulting notifications and procedures are equivalent to those described above. This alternative is proposed in response to comments received on the May 2015 proposed rules, which indicated a facility may have an established emergency call center to perform the same response and notification functions, which the Department can then review to ensure it meets the intent of the requirement.

N.J.A.C. 7:14B-5A Class A, Class B, and Class C Operator Training

Proposed new N.J.A.C. 7:14B-5A contains the operator training requirements from the EPA's final regulations. Proposed new N.J.A.C. 7:14B-5A.1 sets forth the general Class A, Class B, and Class C operator training requirements, and proposed new N.J.A.C. 7:14B-5A.2 sets forth the requirements specific to each class of operator. Each owner and operator must ensure that each of the facility's designated Class A, Class B, and Class C operators is properly trained. Training of Class A and Class B operators is through a program that the Department or its designee provides, as discussed below, or through a program eligible for reciprocity in accordance with proposed N.J.A.C. 7:14B-5A.3. The owner and operator determine the method of training for Class C operators. As discussed above, there is considerable turnover among Class C operators, many of whom will be gas station attendants. Accordingly, it is impractical to require these individuals to undergo formal training and examination at the Department-approved courses.

In the May 2015 proposed rules, the Department based the operator training requirements of Subchapter 5A on the Operator Training Guidelines established by the EPA pursuant to the EP Act. The amendments proposed herein include the same requirements with some changes to ensure consistency with the EPA's final regulations. Changes include adding terms to describe the specific requirements within proposed N.J.A.C. 7:14B-5A.2 to clarify what the training must include.

In accordance with the EPA's final regulations and the Operator Training Guidelines, Class A operators are to be trained in spill prevention, overfill prevention, release detection, corrosion protection, emergency response, demonstrating product and equipment compatibility, financial responsibility, notification and registration requirements, closures, reporting, recordkeeping, testing, inspection, consequences of releases, and training requirements for Class B and Class C operators. Class B operator training includes specific knowledge of operation and maintenance requirements, including spill prevention, overfill prevention, release detection and related reporting, corrosion protection, emergency response, demonstration of product and equipment compatibility, reporting, recordkeeping, testing and inspecting requirements, and the consequences of releases. The Class B operator must also be knowledgeable about Class C operator training requirements. Class C operator training includes responding to emergencies or alarms caused by spills or releases from an underground storage tank system. Training must meet the minimum requirements of the section, and for Class A and Class B operators will include an examination to test the operator's knowledge of the material. Because some facilities may designate the same person as the Class A and Class B operator, the Department anticipates development of training and examination for combined Class A and B operators.

The Department will develop the training program in conjunction with Rutgers Continuing Education Program and will develop the examination in conjunction with the International Code Council (ICC). This is similar to how training and testing is provided to State and municipal construction code enforcement officials, for example. Department staff, with Rutgers' assistance, will develop the training materials, assist in classroom instruction and, along with ICC, develop the battery of test questions. Rutgers will host the training courses and will, the Department anticipates, develop a web-based version for future convenience. The Department expects the combined training and testing fees (payable to Rutgers and ICC) will be in the range of $250.00 to $500.00. The Department considered allowing independent organizations to provide training and testing overseen by the Department; however, the Department determined that it does not have the staff resources required to review, approve, and monitor numerous training and testing programs, which it would have to do if testing and training were provided by independent organizations. In addition, the Department's arrangement with Rutgers will provide convenience by virtue of multiple training and testing sites throughout the State. The Department will develop and make available on its website (www.nj.gov/dep/enforcement/ust.html), the Department's "Regulated UST Class A, Class B, and Class C Operator Training Guide" to advise owners and operators of the Class A, Class B, and Class C operator training requirements and provide specific information on the training courses, locations, and costs.

In contrast to the Class A and Class B operators, Class C operators are not required to attend training classes or take an examination, but shall receive, at a minimum, instruction and evaluation of their ability to respond to spills or releases from the UST system (such as those that pose an immediate danger or threat to the public or to the environment), appropriate actions in

response to alarms associated with release detection equipment or UST system, and notifying the appropriate authorities. Each UST owner and operator is responsible for ensuring that the facility's Class A, B, and C operators are trained pursuant to the requirements in Subchapter 5A.

Because all states that receive Section I funding from the EPA are required to comply with the Operator Training Guidelines, on which the Department's proposed training requirements are partly based, other states also require facilities to identify Class A, B, and C operators, and require the operators to undergo appropriate training. To the extent that another state has a training and evaluation program that meets the requirements of the proposed rules, proposed new N.J.A.C. 7:14B-5A.3 provides for reciprocity. When the owner and operator submits the New Jersey Underground Storage Tank Facility Certification Questionnaire identifying the newly designated Class A or Class B operator, the owner and operator must submit documentation of the designated operator's training and good standing in the other state. If training and evaluation methods in that state are comparable to the Department's training and examination method for the relevant class of operator, then the Department will allow designation without New Jersey-specific training. The Department will post a list on its website, indicating the states whose training and evaluation methods are comparable to the Department's. A Class C operator is not entitled to reciprocity, but must undergo training in accordance with proposed N.J.A.C. 7:14B-5A.2(c). Unlike Class A and Class B operators, Class C operators do not undergo formal training and examination; instead, the owner and operator ensure that the Class C operators are appropriately trained. Accordingly, there is no means for the Department to measure the adequacy of any training a Class C operator previously received.

If the Department determines, through compliance reviews or some other manner, that an UST system is out of compliance with one or more significant UST requirements, such as not

having operating release detection or maintaining cathodic protection systems, failing to respond to alarms, failing to correct an ongoing discharge, or repeatedly violating the same requirements over multiple inspections, the Department will require the UST system owner and operator to arrange for the retraining and retesting (as applicable) of the designated Class A or B operators of the UST system in accordance with N.J.A.C. 7:14B-5A.2. This differs from the May 2015 proposal, which required retraining if the Department determines an UST system is significantly or repeatedly out of compliance. The Department is matching EPA's final regulations by applying retraining to significant UST requirements. Owners and operators shall ensure the retraining is completed no later than 30 days from the date the Department advises the facility of non-compliance, or within an alternate timeframe as agreed to by the Department. The Department may waive retraining if the Department finds that the UST system's non-compliance resulted from unanticipated equipment failure, improper contractor repairs, or other factors beyond the normal control and diligence of the owner and operator. See proposed new N.J.A.C. 7:14B-5A.4.

In order that the Department can verify that the designated operators at a facility have undergone appropriate training, the Department must have access to training records. Accordingly, proposed N.J.A.C. 7:14B-5A.5 specifies the contents of training records, and how and when an owner and operator shall maintain and make records available. Each Class A, Class B, and Class C operator will be identified by name with details specific to the training program, and retraining as applicable, each operator has completed. The proposed rule specifies the length of time the records must be kept, and what the records must show, in order that the Department can confirm the designations for Class A, Class B, and Class C operators meet the requirements. The Department's proposed amendments require training records with training program details

pertaining to the currently designated classes of operators, in contrast to the May 2015 proposal, which required the records to identify designated individuals over various periods of time without training program details.

Partially regulated underground storage tank systems

As proposed in N.J.A.C. 7:14B-1.4(c), partially regulated tank systems include systems used to contain radioactive materials, regulated under the Atomic Energy Act of 1954; tanks that are part of an emergency generator system at nuclear power generator facilities licensed by the Nuclear Regulatory Commission pursuant to 10 CFR Part 50 Appendix A; and wastewater treatment tanks not exempted under N.J.A.C. 7:14A, the New Jersey Pollutant Discharge Elimination System (NJPDES) permitting requirements. These tank systems are subject to the existing registration requirements, fees, release reporting and investigation, and remediation, N.J.A.C. 7:14B-2, 3, 7, and 8. The Department proposes that these partially regulated systems also be subject to proposed new installation requirements for partially regulated underground storage tank systems at N.J.A.C. 7:14B-4.3, and the proposed amended financial responsibility requirements at N.J.A.C. 7:14B-15. The EPA final regulations at 40 CFR 280.11 state that under most circumstances no person may install an UST system to which the UST system rules apply, unless the UST system will prevent releases due to corrosion or structural failure, is protected against corrosion, and is constructed or lined with material that is compatible with the stored substance. Proposed N.J.A.C. 7:14B-4.3(b) contains the same requirements as the Federal rule, and proposed subsection (c) contains the same exception as in the Federal rule. The requirements of subsection (b) apply only to the partially regulated UST systems installed after

the Federal effective date, October 13, 2015. The Department provides a list of codes of practice that may be used as guidance to meet the proposed requirements.

The proposed amendments regarding partially regulated tanks were not in the Department's May 2015 proposal. As required by the State Act, the Department is proposing the amendments to ensure the Department's rules for Federally regulated UST systems are substantially identical to the EPA's final regulations.

Field-constructed tanks and Airport hydrant systems

As set forth at proposed amended N.J.A.C. 7:14B-1.6, a "field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed. An "airport hydrant system" means an underground storage tank system that fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier. The EPA has historically excluded these systems from regulation because sufficient information and technology was not readily available for them. As evidenced by the EPA's final regulations, the EPA has determined that technology is now available to monitor and detect releases at alternative leak rates and frequencies. The Federal regulations regarding field-constructed tanks and airport hydrant systems were effective on October 13, 2015. Accordingly, tanks installed after that date must already comply with the Federal requirements, which are the same as in the proposed rules.

While New Jersey does not currently have any field constructed tanks or airport hydrant systems subject to these proposed new requirements, it may in the future. For this reason and in order that the State's rules are consistent with the Federal rules at 40 CFR Part 280, Subpart K, the Department proposes new N.J.A.C. 7:14B-4A, Field-constructed tanks and airport hydrant systems. However, because the State has no field-constructed tanks or airport hydrant systems, the Department's rules do not contain phase in or other requirements for such systems installed on or before October 13, 2015, the effective date of the Federal regulations. The rules applicable to such systems would be moot, since there are no such systems. The proposed rules address only those systems installed after October 13, 2015.

Proposed N.J.A.C. 7:14B-4A.2 provides the installation, inspection, and release detection requirements specific to these systems. The systems subject to proposed N.J.A.C. 7:14B-4A are subject to many of the same requirements that apply to other regulated underground storage tank systems. However, there are some requirements unique to these systems, and some provisions that do not apply. For instance, owners and operators may use single walled piping when installing or replacing piping associated with underground storage tank systems with field-constructed tanks greater than 50,000 gallons and piping associated with airport hydrant systems. These large UST systems are also provided the option of complying with release detection requirements in N.J.A.C. 7:14B-6 (except the release detection methods at N.J.A.C. 7:14B-6.5(a)5 or 6 must be combined with inventory control, as discussed below) or through alternative methods provided in proposed N.J.A.C. 7:14B-4A.2(c)2 and 3. Field constructed tanks and associated piping less than or equal to 50,000 gallons must comply with the release detection requirements at N.J.A.C. 7:14B-6. Owners and operators must perform walkthrough inspections as proposed at N.J.A.C. 7:14B-5.12. Owners and operators of airport hydrant systems must also

visually check hydrant pits and hydrant piping vaults at least every 30 days, or annually if confined space entry is required (N.J.A.C. 7:14B-4A.2(b)). These are additional provisions specific to airport hydrant systems where leaks or releases can occur, similar to the containment devices of all UST systems.

As these systems are often located at military facilities, owners and operators may use military construction criteria, such as Unified Facilities Criteria (UFC) 3–460–01, "Petroleum Fuel Facilities," in addition to the codes of practice listed in N.J.A.C. 7:14B-4.1, when designing, constructing, and installing airport hydrant systems and underground storage tank systems with field-constructed tanks.

The proposed amendments regarding field constructed tanks and airport hydrant systems were not in the Department's May 2015 proposal. As required by the State Act, the Department is proposing the amendments to ensure the Department's rules for Federally regulated UST systems are substantially identical to EPA's final regulations.

Operation and maintenance walkthrough inspections

Among the purposes of the EP Act is the prevention of releases from UST systems; consequently, the EPA's final regulations require regular inspections of UST systems to prevent or reduce the impact of releases. "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product (see N.J.A.C. 7:14B-1.6, Definitions). Proposed new N.J.A.C. 7:14B-5.12, Operation and maintenance walkthrough inspections, requires a walkthrough inspection of the UST system conducted at least once every 30 days to be sure that spill prevention equipment is working properly, areas of facilities without containment sumps, including dispenser systems, are opened and visually inspected and release

detection systems are checked to make sure the system is on and operating with no alarms or other unusual operating conditions present. The Department is proposing equipment inspections for UST system and dispenser areas without containment on a 30-day frequency because these areas have a higher likelihood for discharges than systems with containment devices. The EPA's final regulations do not include such areas as part of a walkthrough inspection; however proposed new N.J.A.C. 7:14B-5.12(a)1i(2) and (3) are consistent with the prevention and early detections goals of secondary containment and under dispenser containment for new installations, without imposing additional burden on existing facilities to install such equipment. A majority of existing facilities have containment systems that will require annual inspections. More frequent inspection of dispenser or UST equipment where there is potential to release hazardous substances directly to the environment is a common sense protective measure for facilities without containment devices. This provision is also consistent with the Spill Compensation and Control Act, which prohibits the unpermitted discharge of hazardous substances at N.J.S.A. 58:10-23.11c.

Annual inspections ensure containment devices, sumps, and dispenser cabinets are opened and visually checked for damage or releases and devices such as tank gauge sticks or ground water bailers are checked for operability and serviceability. The proposed new rule also allows for alternative inspection practices, provided they are conducted in accordance with a standard code of practice developed by an independent testing agency or nationally recognized association, such as the Petroleum Equipment Institute's (PEI) Recommended Practice RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems." The Petroleum Equipment Institute's code of practice is available for a fee from www.pei.org . To substitute for

the inspection in the rules, the code of practice must be comparable to the requirements of proposed N.J.A.C. 7:14B-5.12(a)1.

Walkthrough inspections are necessary for early detection and prevention of discharges, spills, and monitoring problems. The Department's May 2015 proposed rules required inspections by a Class A or Class B operator beginning no later than the operative date of the rule. The within proposed rules differ, in order to be consistent with the EPA's final regulations. Walkthrough inspections of UST systems must begin no later than October 13, 2018; provided the inspections comply with proposed new N.J.A.C. 7:14B-5.12, the rule does not specify who must perform the inspection. The Department suggests that the individual who performs the inspection be familiar with the UST system and requirements of the walkthrough inspections, in order that the inspection satisfies the goal of early detection and release prevention from UST systems.

If the walkthrough inspection identifies a release to the environment, the owner and operator must immediately remove the deficient equipment from use and comply with N.J.A.C. 7:14B-7 for release reporting and investigation. The Department is aware that many facilities have been performing these inspections even in the absence of regulatory requirements; however, the Department anticipates that mandatory inspections will result in a greater level of compliance, leading to fewer enforcement actions and fewer penalties. The Department recommends that facilities perform routine equipment inspections in addition to the proposed mandatory inspection. The proposed rule requires owners and operators to maintain records of operation and maintenance walkthrough inspections for five years, rather than the 10 years required in the May 2015 proposal, consistent with other record retention provisions in the proposed rules.

Proposed Rules Unrelated to Federal Requirements

In addition to the above proposed new rules and amendments, and proposed updates to cross-references throughout the chapter, the Department proposes amendments unrelated to Federal requirements.

Civil Administrative Penalties

N.J.A.C. 7:14-8 Civil Administrative Penalties and Requests for Adjudicatory Hearings

In accordance with the State Act, the Department has established standards for construction, installation, and operation of new and existing underground storage tanks, including standards for secondary containment, monitoring systems, release detection systems, corrosion protection, spill prevention, overfill prevention and other underground storage tank equipment, and operator training. The State Act provides at N.J.S.A. 58:10A-32 that a person violating the provisions of the State Act is subject to the penalties prescribed in the Water Pollution Control Act, N.J.S.A. 58:10A-10. Thus, as set forth at proposed amended N.J.A.C. 7:14B-12.1(b), if the Department finds that an owner, operator, or both have failed to comply with the requirements of the State Act or the Underground Storage Tank rules, N.J.A.C. 7:14B-2, 4, 4A, 5, 5A, 6, or 15, the Department may assess a civil administrative penalty.

The Department proposes to amend the Water Pollution Control Act rules at N.J.A.C. 7:14-8 to include violations and administrative penalties applicable to the State Act and the proposed new provisions of N.J.A.C. 7:14B. In addition, the Department proposes to establish specific base penalties for all violations. Because the existing rules do not provide for base penalties, the Department proposes to amend Table 2 at N.J.A.C. 7:14-8.18(c), which lists

violations, designates them as minor or non-minor for purposes of a grace period, and specifies the duration of any applicable grace period, by adding the applicable base penalty. The proposed new table is discussed further below.

Proposed new N.J.A.C. 7:14-8.19, Civil administrative penalties for violations of the Underground Storage of Hazardous Substances Act, describes the means by which the Department will calculate administrative penalties for violations of the State Act and N.J.A.C. 7:14B. As required by the Water Pollution Control Act at N.J.S.A. 58:10A-10.d, the Department proposes to cap the penalty for each violation at $50,000, with each day that the violation continues constituting a separate violation. If a violation can pertain to more than one act, condition, occurrence item, unit, waste, parameter, or the like, then the failure to comply constitutes a separate and distinct violation for each. The Department may use its discretion to determine violations. For example, if an action (or inaction) could fall within two or more rule provisions, the Department may choose which provision to apply for purposes of a violation, and calculate the penalty accordingly. In assessing a penalty for a violation of an administrative order, permit, or license, for which there is no corresponding penalty in proposed Table 2 at N.J.A.C. 7:14-8.18(c), the Department will base the penalty on a similar violation.

In establishing administrative penalties, the Water Pollution Control Act at N.J.S.A. 58:10A-10.d(1)(b) requires the Department to take into account the type; seriousness (including extent, toxicity, and frequency of a violation) based upon harm to public health or the environment resulting from the violation; the economic benefits from the violation gained by the violator; the degree of cooperation or recalcitrance of the violator in remedying the violation; any measures taken by the violator to avoid a repetition of the violation; any unusual or extraordinary costs directly or indirectly imposed on the public by the violation; and any other pertinent factors

that the Commissioner determines measure the seriousness or frequency of the violation, or the conduct of the violator.

Proposed amended Table 2 at N.J.A.C. 7:14-8.18(c) contains base penalties that reflect a scenario in which the violator does not have a history of violations, and there are no aggravating factors, such as those identified in N.J.S.A. 58:10A-10.d(1)(b), discussed above. Proposed N.J.A.C. 7:14-18.19(f) provides for a severity penalty component, based upon the behavior of the violator. The Department may add as much as 100 percent to the base penalty if there is a history of violations. The severity factor multipliers are based on whether the violator committed the same or different violation within the last 12 months (1.0 or 0.50 of the base penalty, respectively), or the violator committed the same or different violation within the last 24 months (0.50 or 0.25 of the base penalty, respectively), and is in addition to the base penalty listed in proposed Table 2. The proposed rule gives an example of the calculation of a penalty at proposed N.J.A.C. 7:14-8.19(f)4.

There may be a violation of the State Act or N.J.A.C. 7:14B that is not identified in Table 2 at N.J.A.C. 7:14-8.18(c) or, because of the specific circumstances of the violation, the Department may determine that the penalty amount under N.J.A.C. 7:14B-8.18(c) would be too low to account for the seriousness of the violation or the conduct of the violator. This could include the frequency of a violation. The Department would make such a determination based upon its evaluation of the harm to public health or the environment resulting from the violation, or the lack of cooperation or recalcitrance of the violator in remedying the violation, or any other pertinent factors that the Department determines measure the seriousness or frequency of the violation or conduct of the violator as required by the State Act. In such cases, in order that the assessed penalty takes into account the factors required at N.J.S.A. 58:10A-10.d(1)(b), proposed

N.J.A.C. 7:14-8.19(g) applies. The Department would apply the penalty matrix at existing N.J.A.C. 7:14-8.5(f), determine the seriousness of the violation in accordance with existing N.J.A.C. 7:14-8.5(g), and evaluate the conduct of the violator in accordance with N.J.A.C. 7:14-8.5(h). For example, if an UST system owner or operator intentionally disables monitoring equipment to hide the fact of a discharge, and a significant discharge results, the Department may apply the existing matrix, rather than Table 2. If the violation has caused or has the potential to cause serious harm to human health or the environment, the seriousness of the violation may be deemed "major" under N.J.A.C. 7:14-8.5(g)1iii(2). Such a violation is assessed a penalty of between $15,000 and $50,000 under the existing rule, depending on the seriousness of the conduct of the violator.

Proposed amended Table 2 at N.J.A.C. 7:14B-8.18(c) identifies specific violations of N.J.A.C. 7:14B, assigns a base penalty, and identifies whether the violation is minor or non-minor for purposes of the Grace Period Law, N.J.S.A. 13:1D-125 et seq. If the violation is deemed minor, and, therefore, subject to a grace period, the table specifies the length of the grace period. Under the Grace Period Law, any person responsible for a minor violation is afforded a period of time (a grace period) during which to correct the violation. If the minor violation is corrected as required, then no penalty is assessed. In those cases in which a violation is not corrected within the grace period, the Department may assess a penalty in accordance with its statutory authority including, but not limited to, the assessment of penalties as may be appropriate within the exercise of the Department's enforcement discretion.

To determine whether a particular violation or category of violations is minor or non-minor, the Department is required to apply the criteria set forth in the Grace Period Law at N.J.S.A. 13:1D-129(b). These criteria are as follows: the violation is not the result of the

purposeful, knowing, reckless, or criminally negligent conduct of the person responsible for the violation; the violation poses minimal risk to the public health, safety, and natural resources; the violation does not materially and substantially undermine or impair the goals of the regulatory program; the activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency; the person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12-month period; and, in the case of a violation that does not involve a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period.

In applying the criteria in the Grace Period Law, the Department has determined that violations that pose minimal risk to public health, safety, and natural resources, do not undermine or impair the goals of the program, and can be corrected within a designated grace period, would be designated in Table 2 as minor. A designation of a violation as minor in Table 2 is not absolute. The additional statutory criteria regarding the intent of the violator, the duration of the violation, and whether the violation is a repeat offense, are fact-specific for each violation and must be considered on a case-by-case basis. Thus, each violation listed in proposed Table 2 that is identified as minor will be eligible for a grace period only if it meets these additional criteria. The Department has clarified this in its proposed amendment to N.J.A.C. 7:14-8.4A(c).

The Grace Period Law at N.J.S.A. 13:1D-127 also requires the Department to establish the length of the grace period, which generally may be no fewer than 30 days or more than 90

days (unless extended by the Department), based upon the nature and extent of the minor violation and a reasonable estimate of the time necessary to achieve compliance. Table 2 at N.J.A.C. 7:14-8.18(c) identifies the grace period applicable to each minor violation.

The Department also reviewed the existing designations of violations as minor or non-minor, and has determined that several redesignations are necessary. Based upon this review, along with the Department's experience and expertise in determining risk and impacts associated with UST system violations, four violations designated as non-minor in the existing rules are proposed to be redesignated as minor and afforded a 30-day grace period. These are N.J.A.C. 7:14B-2.2(c) recodified as 2.1(d), failure to renew the UST registration at least 60 days prior to the expiration of the facility's UST Registration Certificate; N.J.A.C. 7:14B-2.6(a) recodified as 2.5(a), failure to display or make available during the inspection the UST Registration Certificate; N.J.A.C. 7:14B-5.2(a)3, failure to inspect the impressed current cathodic protection system every 60 days to ensure the system is compliant with operation and maintenance standards; and N.J.A.C. 7:14B-5.2(a)4, failure to maintain records of the operation of the corrosion protection system, including all required inspections and tests. The Department proposes to delete the existing registration and certification procedure penalties for violations of N.J.A.C. 7:14B-2.2; however, the requirements are included in the penalties for violations of proposed new N.J.A.C. 7:14B-2.1, General registration requirements, done pursuant to proposed new N.J.A.C. 7:14B-2.2, which contains the procedure to apply for, renew, or amend an UST registration. Additional penalties are proposed to be deleted or amended pursuant to the amendments proposed throughout the chapter and discussed in this summary. Two violations, N.J.A.C. 7:14B-6.5(a)1, failure to conduct and record daily inventory readings, including bottom water levels to the nearest 1/8th inch, and 6.6(a)1, failure to annually test line leak detectors,

originally designated as minor, have been redesignated as non-minor. The Department has determined that daily inventory readings are critical when using the monthly product inventory control method for release detection, as these readings form the basis for the mathematical analysis required. Without the daily readings, release detection cannot be assured. With regard to testing of line leak detectors, failing to test these detectors on a routine frequency has substantial risk and can result in a significant impact in the event the detectors are not functioning properly and are not detecting a discharge.

The Department has applied the factors at existing N.J.A.C. 7:14-8.5(g) and (h) (seriousness and conduct) in establishing the base penalties at proposed Table 2. A violation that has the potential to cause serious harm to human health, such as locating or operating an UST system within 50 feet of a public community supply system well (N.J.A.C. 7:14B-4.1(l)), or introducing a hazardous substance into an UST system that is known or suspected to be leaking (proposed N.J.A.C. 7:14B-5.9(a)) are assessed base penalties of $15,000, among the highest base penalties. In contrast, failing to timely submit a New Jersey Underground Storage Tank Facility Certification Questionnaire to inform the Department to amend the UST facility registration (N.J.A.C. 7:14B-2.1(b)), is assessed a relatively low base penalty of $1,750, and provided a grace period of 30 days. This is consistent with the violation being considered minor in seriousness and minor in conduct for purposes of the existing penalty matrix, under which the violation would be assessed a penalty of between $1,000 and $2,500, and provided a grace period during which to come into compliance. Under both the existing and proposed amended rules, if the questionnaire is submitted within the 30-day grace period, no penalty would be assessed.

N.J.A.C. 7:26C-9.5 Civil administrative penalties determination

The Department proposes to amend the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-9.5 to include the violation and administrative penalty applicable to the proposed new 14-day notification requirement at N.J.A.C. 7:14B-10.1A. The provision requires notice to the Department prior to the commencement of any work activities related to installation, substantial modification, or closure of an underground storage tank system. As set forth at proposed amended N.J.A.C. 7:14B-12.1(a), if the Department finds that an owner, operator, or both have failed to comply with the requirements of the State Act or the Underground Storage Tank rules, N.J.A.C. 7:14B-1, 3, or 7 through 11, the Department may assess a civil administrative penalty pursuant to the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-9. N.J.A.C. 7:14B-10.1A is designated as a "minor" violation, and provided with a 30-day grace period. Failure to comply within that 30 days could result in a $1,750 base penalty assessment.

Additional Amendments

General information

At N.J.A.C. 7:14B-1.4, which contains the applicability provisions of the Underground Storage Tank rules, the Department proposes to add vaults to the examples at N.J.A.C. 7:14B-1.4(b)8 and 9 of underground areas to which the chapter does not apply. The term "vault" is commonly used in the underground storage tank industry. Tanks situated in vaults, and meeting the stated exemption criteria, are, and have always been, exempt from the chapter, inasmuch as they are a type of underground area; however, to avoid confusion the Department proposes to expressly add them to the exemptions. At proposed new N.J.A.C. 7:14B-1.4(b)15, the

Department is clarifying that any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances is not regulated pursuant to these rules. UST systems storing hazardous waste are considered RCRA units requiring a hazardous waste facility permit.

The Department proposes new definitions at N.J.A.C. 7:14B-1.6. "Compartmented tank" is a new term, meaning any underground storage tank that is divided by one or more walls or bulkheads to create individual and separate compartments within the tank. The Department considers each compartment to be a separate regulated tank, requiring individual tank identification on the registration. The proposed definition will eliminate confusion regarding tank registration requirements for this particular tank system. Additionally, "regulated substance" is a term used throughout the chapter, but is not defined in the existing rules. A "regulated substance" is a "hazardous substance," and the terms are used interchangeably in the rules; therefore, the proposed definition of "regulated substance" redirects to the existing definition of "hazardous substance."

In order to distinguish Federally regulated UST systems from those that are solely State regulated, the Department proposes to define "regulated heating oil tank systems" as a subset of UST systems. These are UST systems with capacity of 2,001 gallons or more used to store heating oil for on-site consumption in a nonresidential building. The existing rule at N.J.A.C. 7:14B-1.4(b)2 and 3 exempt from regulation tanks with a capacity of 2,000 gallons or less used to store heating oil for onsite consumption in a nonresidential building, and tanks used to store heating oil for onsite consumption in a residential building. The Federal rules exclude from Federal regulation tanks used for the storage of heating oil for consumptive use on the premises where stored; therefore, only the State's rules apply to such tanks. The applicability of the

proposed secondary containment and operator training provisions to the regulated heating oil tank systems is discussed above.

The Department also proposes to amend existing definitions to reflect current industry standards and practices. The proposed amended term "abandon in place" or "abandonment in place" refers to a tank that is permanently eliminated from service, and not just rendered nonoperational. A nonoperational tank could, potentially, be made operational; a tank that is permanently eliminated from service cannot be made operational. For clarity, the term “annular space,” which means the space created between the primary and secondary container of an underground storage tank system with secondary containment, is proposed to be amended to indicate that this term also applies to “ancillary piping and containment systems.” The definition of “entire piping run” is proposed to be amended to restrict the term to the piping length that bears product, or the hazardous substance contained in the piping, from the tank to the dispenser. Piping that contains something other than product is not included in the proposed amended definition. The proposed amended definition of “heating oil” lists residual fuel oils as an example, and identifies the use of the oil as for the operation of heating equipment, boilers, or furnaces, regardless of property type. The existing definition was limited to petroleum products used to heat residential, industrial, or commercial premises. The definition of “motor fuel” is proposed to be amended to include petroleum-based substances used in the operation of engines, biodiesel, and ethanol blends, to be consistent with the EPA’s corresponding definition.

The Department is also proposing to include in the definition of “person” the sentence, “‘Person’ shall, for the purpose of enforcement, also include a responsible corporate official, which includes a managing member of a limited liability company or a general partner of a partnership.” The imposition of liability on a business official or an estate advances the State’s

purpose to protect and preserve New Jersey's natural resources by holding accountable those officials of corporations, limited liability companies, or partnerships and the like, who have actual responsibility for the condition or act resulting in a violation but neither prevent nor correct the violation. In addition, the Department proposes to amend the reference to political subdivisions in the definition of "person" to include the State of New Jersey or any of its political subdivisions. Accordingly, the description "of or found within the State of New Jersey" is no longer necessary.

The EP Act requires new or replaced USTs or piping located within 1,000 feet of an existing community water system or existing potable drinking water well to have secondary containment and be monitored for leaks as an additional protection from ground water contamination. The State Act (N.J.S.A. 58:10A-25) aligns with this objective by allowing the Department to adopt standards that may be more stringent than the Federal UST rules for any UST located in a wellhead protection area. The Department proposes to replace the definition of "wellhead protection area" to reflect up-to-date wellhead protection area delineations that conform to the definition within the State Act. The existing definition at N.J.A.C. 7:14B-1.6 establishes a protection area based upon the hazardous substance stored in the UST system; however, the State Act at N.J.S.A. 58:10A-22 defines "wellhead protection area" as an aquifer area described in a plan view around a well, from within which ground water flows to the well and through which ground water pollution, if it occurs, may pose a significant threat to the water quality of the well. The wellhead protection area is delimited by the use of time-of-travel and hydrologic boundaries. As proposed, the amended definition applies a scientific method to determine an appropriate protection area around a well. The Department completed delineations of the public community and non-community water supply wells in New Jersey and provides

mapping tools, data, and delineation guidelines at the Geological and Water Survey website, http://www.nj.gov/dep/njgs/functions/index.htm.

Registration of UST systems

The registration requirements and procedures for UST systems are contained in N.J.A.C. 7:14B-2. Under the existing rule, either an owner or operator must submit a New Jersey Underground Storage Tank Facility Certification Questionnaire (questionnaire), registering the underground storage tanks at the facility. Based on the information provided in the questionnaire, the Department issues the UST registration certificate, which authorizes the facility to use the underground storage tank(s) identified on the certificate. The Department has found that allowing either the owner or the operator to submit the questionnaire can lead to discrepancies. For example, the contact information that an owner provides may not be the same as what the operator would provide. The State Act, and any rule or regulation adopted under the State Act, and the New Jersey Discharges of Petroleum and Other Hazardous Substances Act rules (N.J.A.C. 7:1E) hold any "person" liable for violations; thus, the owner and operator are responsible for complying with the requirements for storing hazardous substances in an UST system. Accordingly, the Department proposes to require the owner and each operator to together submit a single questionnaire to apply for, renew or amend an UST registration. If there is more than one operator, for example as a result of a sublease or other arrangement, the registration requirements apply to all of the operators. Proposed new N.J.A.C. 7:14B-2.2(c)11 requires the owner and each operator to certify the information contained on the questionnaire, thus ensuring that each reviews the information they submit to the Department.

Consistent with the UST registration requirement discussed above, throughout the chapter the Department proposes amendments to clearly indicate those provisions for which both the owner "and" operator are responsible. In most instances, the existing rule obligates either the owner or the operator, to comply. The proposed language does not mean that the owners and operators are expected to individually and separately take action to comply with all requirements, unless otherwise stated, such as in registration certifications at proposed amended N.J.A.C. 7:14B-2.2(c)11. However, each owner and operator is equally responsible and independently liable if another owner or operator fails to comply with the statutory or regulatory requirements.

The Department's May 2015 proposed rules included amendments to N.J.A.C. 7:14B-2, primarily related to operator training and secondary containment. After further review of N.J.A.C. 7:14B-2, the Department is proposing amendments beyond the operator training and secondary containment provisions in the May 2015 proposal. The Water Pollution Control Act does not require the Department's rules regarding registration of UST facilities to be substantially identical to EPA's final regulations.

Proposed new N.J.A.C. 7:14B-2.1(a)1 and 2 provide deadlines by which the owners and operators must register an UST facility with the Department. For any UST system installed after December 21, 1987, the questionnaire must be submitted at least 30 days before the use of the system. This is consistent with existing N.J.A.C. 7:14B-2.1(d), proposed for deletion, which governs the timing of registration of USTs. If an UST system is not already registered, the owner and operator must register it before conducting closure activities on the system. This is consistent with existing N.J.A.C. 7:14B-2.1(f), proposed for deletion, which requires registration of a tank before closure. The Department proposes to delete other existing general registration

requirements at N.J.A.C. 7:14B-2.1 that no longer apply, or that have a compliance deadline that has passed, such as N.J.A.C. 7:14B-2.1(b) and (e).

Proposed new N.J.A.C. 7:14B-2.1(b) addresses changes to the facility's registration. Similar requirements are in existing N.J.A.C. 7:14B-2.4, which the Department proposes to repeal. Existing N.J.A.C. 7:14B-2.4 identifies circumstances under which an owner or operator must amend the facility's questionnaire. In addition to amendments to reflect modifications that the existing rule requires, proposed new N.J.A.C. 7:14B-2.1(b) requires an amendment to the facility's registration when there is a change in the designated Class A or Class B operator, as discussed above, a change in an operator of the facility, or a change to the financial responsibility for the UST system, such as a modification, addition, or termination of an insurance policy; each amendment shall be submitted within 30 days after the change occurs. The owner and operator must also amend the registration within seven days after taking an UST system out of service or closure of an UST system, and at least 30 days prior to putting an out-of-service UST system back into service. These events or activities may directly impact whether a facility remains in compliance with the UST rules. The proposed timeframes for amending the registration will allow the Department time to inspect the facility, if necessary, to ensure compliance with the rules. Such an inspection may take place, for example, prior to refilling a previously out-of-service tank. The proposed timeframes for submitting the closure and out-of-service questionnaire are the same, unlike in the existing rule. The existing rule provides seven days to submit a closure questionnaire (existing N.J.A.C. 7:14B-2.4(c), proposed to be repealed), but five days to submit an out-of-service questionnaire (existing N.J.A.C. 7:14B-9.1(a)). From a regulatory and operational perspective, a consistent timeframe is preferred. The Department

proposes a related amendment to N.J.A.C. 7:14B-9.1(a)1 to make it clear that notice to the Department is provided through an amended questionnaire, rather than by some other means.

The proposed rule refers to the UST registration, the UST registration certificate, and the New Jersey Underground Storage Tank Facility Certification Questionnaire. The owner and operator register the UST systems by submitting the questionnaire. The Department then issues the UST registration certificate. If the owner and operator need to amend or renew the registration, they must submit a new questionnaire, and the Department issues a new certificate. The distinction is not clear in the existing rules. The term "underground storage tank registration certificate" or "UST registration certificate" is defined at proposed amended N.J.A.C. 7:14B-1.6, and replaces "registration certificate," which is proposed to be deleted.

The Department proposes amendments to the general registration requirements at N.J.A.C. 7:14B-2.1(c) and (d) pertaining to the registration cycle and renewal for facilities that have a current UST registration certificate. In 1987, when the UST rules were first adopted, annual registration was required. (See 19 N.J.R. 1477(a); 2417(a).) By 1993, there were approximately 17,000 facilities submitting annual registrations. Citing the administrative cost of processing the registrations for all of the 17,000 UST facilities every year, the Department amended the rule to extend the registration period to three years, so that only a third of the facilities, approximately 5,700, would submit registrations per year (25 N.J.R. 1363(a) at 1366). Since 1993, the number of regulated UST facilities has decreased to approximately 4,500; some facilities have closed, and others have switched to above ground storage tanks. Therefore, the administrative burden on the Department from annual UST registration certificate renewal is more manageable. Accordingly, the Department proposes to reduce the UST registration certificate cycle for a facility from three years to one year at N.J.A.C. 7:14B-2.1(c) and renewals

need to be submitted at least 60 days prior to expiration of the UST registration certificate, see proposed new N.J.A.C. 7:14B-2.1(d). At N.J.A.C. 7:14B-1.3(a)3 the Department proposes to amend one of the chapter's purposes to indicate it will establish initial registration and annual renewal certification fees. The general requirements to obtain, amend or renew a facility's UST registration must be done in accordance with proposed amended N.J.A.C. 7:14B-2.2, discussed below.

The Department proposes amendments to the registration and certification procedure at N.J.A.C. 7:14B-2.2 to update the processing of the UST registrations. An owner and operator of a facility generally follow the same process of submitting a questionnaire when they are applying for a new UST registration, or renewing or amending an existing UST registration. Therefore, the Department proposes amending the heading of N.J.A.C. 7:14B-2.2 to reflect that it applies to all three activities. Proposed amendments to N.J.A.C. 7:14B-2.2(a) instruct owners and operators to use the New Jersey Underground Storage Tank Facility Certification Questionnaire, available online at the Department's UST website and from the Department. The requirement for both an owner and operator to use the questionnaire as required by N.J.A.C. 7:14B-2.1 (discussed above) is repeated here with emphasis on the importance of complete and accurate information.

Proper use of the questionnaire, explained in the proposed amendments at N.J.A.C. 7:14B-2.2(b), includes providing any applicable forms or attachments with the appropriate signatures. The information required on the New Jersey Underground Storage Tank Facility Certification Questionnaire is listed at proposed N.J.A.C. 7:14B-2.2(c), which includes the new information required as a result of proposed amendments to the chapter, such as designation of

Class A and Class B operators. The information from existing N.J.A.C. 7:14B-2.2(d), (e), and (f) is condensed into one list at proposed N.J.A.C. 7:14B-2.2(c).

Existing N.J.A.C. 7:14B-2.2(d)3 requires that the registration provide the name and address of the owner of the facility; however, the existing rule does not require that the registration provide name and address of the operator. Proposed new N.J.A.C. 7:14B-2.2(c)4 corrects that omission. At N.J.A.C. 7:14B-2.2(c)3 and 4, the Department proposes to require that if the owner or operator is a corporation, a limited liability company, a partnership, a limited partnership, or other form of business, information regarding the business entity be included on the initial registration and any subsequent Underground Storage Tank Facility Certification Questionnaire. In accordance with the general registration requirements discussed above, the owner and operator shall include on the questionnaire designated Class A and Class B operator contact information, the billing contact information, the installer certification (as applicable), and certifications of compliance by the UST facility owner and each operator on the questionnaire, pursuant to proposed new N.J.A.C. 7:14B-2.2(c)7, 8, 10, and 11.

As a condition of registration, the owner and operator must demonstrate that there is insurance or another method of financial responsibility in place. Financial responsibility, also called financial assurance, is required under existing N.J.A.C. 7:14B-15, for the purpose of paying for any necessary remediation and for compensating third parties for bodily injury and property damage as a result of a discharge. Usually financial assurance is in the form of an insurance policy, most of which are issued for one year. Since proof of insurance is required only once every three years, the Department cannot easily verify that the system remained insured for the entire term of the registration. In fact, the Department frequently finds during its inspections that a facility has allowed its insurance policy to lapse, in violation of the rules. As a

result of the proposed amendment to N.J.A.C. 7:14B-2.1(c), the registration period and the insurance coverage period will coincide, meaning that each year the UST system owner and operator must demonstrate that there is financial assurance in place, in order to register the UST system. Although the proposed amendment will not eliminate lapses in insurance coverage, it should reduce the number of facilities that operate without the required financial assurance.

At recodified N.J.A.C. 7:14B-2.2(c)9, the Department proposes to expand the information owners and operators are required to provide on the questionnaire to demonstrate evidence of financial responsibility. The requested information and terminology is consistent with policies or endorsements issued by the insurance industry to comply with the Federal financial responsibility requirements, incorporated by reference in N.J.A.C. 7:14B-15. Also included in the above proposed amendments, the Department has included the language "exclusive of legal defense costs," to highlight a specific, sometimes overlooked, requirement of 40 CFR 280.97 that the limits of liability of an insurance policy used to demonstrate required financial responsibility shall be "exclusive of legal defense costs." In other words, the financial responsibility insurance policy must not provide that the costs of defending an owner or operator against claims covered by the policy reduce or erode the amount of liability coverage afforded to the owner or operator by the policy. The Department anticipates that the additional information in the questionnaire required by the above amendments will assist owners and operators in understanding and complying with the financial responsibility assurance requirements, resulting in the submission of a greater number of financial responsibility mechanisms that are compliant with N.J.A.C. 7:14B-15.

In addition, the Department at new N.J.A.C. 7:14B-2.2(c)9viii proposes to require that owners and operators attach to the questionnaire, the entire financial responsibility document

(such as an insurance policy) identified on the questionnaire. Existing N.J.A.C. 7:14B-15.1(h) requires the owner and operator to submit evidence of financial responsibility if the Department requests it. The Department has found that owners and operators often do not maintain the financial responsibility that is identified on the questionnaire (either because it does not exist or because the information is incorrect); therefore, the proposed rule requires that the owner and operator provide a copy. The Department proposes a related amendment to N.J.A.C. 7:14B-15.1(h). Electronic submittals of financial assurance documents through e-mail are acceptable and encouraged to reduce the number of paper records being submitted and retained.

Proposed new N.J.A.C. 7:14B-2.2(d) requires the owner and operator to submit a revised New Jersey Underground Storage Tank Facility Certification Questionnaire to amend the UST facility registration. When specific tank information for a facility is accurate and not being amended, the questionnaire's section for Specific Tank Information, need not be provided.

Existing N.J.A.C. 7:14B-1.7 requires a certification on any document submitted to the Department in accordance with the chapter. The language of the existing rule is general, and applicable to anyone submitting a document. Proposed new N.J.A.C. 7:14B-2.2(e) recites the instructions for signatures at existing N.J.A.C. 7:14B-1.7(b)2, as they pertain to the questionnaire, and provides additional detail to identify the legally responsible individuals when the owner or operator of the UST facility is a business or government agency. Additionally, the existing certification language at N.J.A.C. 7:14B-1.7(b) is included and expanded at proposed new N.J.A.C. 7:14B-2.2(f) and (g) to make it clear that the owner and operator are certifying their familiarity with the information in the submission and that the facility is in compliance with the rules. Based on the proposed new signature and certification provisions at N.J.A.C. 7:14B-

2.2(e), (f), and (g), the Department proposes to delete the existing provision at N.J.A.C. 7:14B-1.7(b).

Proposed new N.J.A.C. 7:14B-2.2(h) requires the owner and operator to include a certification from an UST system installer for newly installed UST systems or out-of-service systems being returned to service. The performance standards and requirements for new underground storage tank systems are in existing N.J.A.C. 7:14B-4.1. The installer certification is required under proposed N.J.A.C. 7:14B-4.1(a)5iv, consistent with the EPA's final regulations at 40 CFR 280.22(f). Although the owner and operator must ensure the certification and inspection methods of N.J.A.C. 7:14B-4.1(a)5 are followed, the owner and operator may not be familiar with the applicable codes, standards, or manufacturer's instructions for installation. The installer certified by the Department in accordance with N.J.A.C. 7:14B-13 performs the installation of new UST systems and is better able to confirm the work was properly performed and the manufacturer's installation requirements were completed.

An underground storage tank system with secondary containment that has been out of service for more than 12 months and is being returned to service after the operative date of this rulemaking, must comply with proposed new N.J.A.C. 7:14B-9.1(e), which requires the owner and operator to submit an amended New Jersey Underground Storage Tank Facility Certification Questionnaire to the Department 30 days prior to introducing product into the UST system. The questionnaire shall include a statement from a Department certified installer certifying that the system is properly designed and capable of being put back into service, and documentation that the corrosion protection for the system was properly maintained for the entire time that the tank was out of service. The purpose of both N.J.A.C. 7:14B-9.1(e)1 and 2 is to ensure that the tank is being properly maintained and that no discharge of hazardous substances has occurred.

Accordingly, proposed new N.J.A.C. 7:14B-2.2(h) is the method for the owner and operator to obtain an UST registration certificate and resume operating the system.

Proposed new N.J.A.C. 7:14B-2.3, Change in ownership of a facility, requires the existing facility owner to notify the Department at least 30 days prior to the sale or transfer of the facility, and provide information relating to the facility and the prospective owner. The existing rule, "transfer of registration," combined with existing N.J.A.C. 7:14B-2.4, Changes to registration (both of which are proposed to be repealed) imply that the underground storage tank registration certificate is transferrable; this is not the case. The new owner must obtain an UST registration certificate by amending the facility's registration information with the Department in accordance with proposed new N.J.A.C. 7:14B-2.3(a). Proposed N.J.A.C. 7:14B-2.1(b)3 identifies the sale or transfer of ownership of all or a part of an UST facility as requiring an amendment to the UST facility registration within 30 days after the sale or transfer. When the Department receives a complete registration amendment questionnaire, a new UST registration certificate is generated and provided to the owner. No additional fee is required.

Existing N.J.A.C. 7:14B-2.3(b) and (c) require the owner or operator notify the Department of any change in ownership of a facility within 30 days after the contract date or date of closing. However, the Department's experience has shown many new owners are not familiar with these requirements and begin operating a facility with a previous owner's UST registration certificate. Under the proposed new rule, the Department will have notice of a sale or transfer in advance, and can assist the new facility owner to obtain and operate with a valid UST registration certificate.

The Department proposes to amend the rules for denial or revocation of an UST registration certificate at recodified N.J.A.C. 7:14B-2.6 to make use of newly defined terms, and

to clarify the grounds on which the Department may revoke an UST registration certificate. In addition, as both the owner and operator are responsible for violations of the rules, the Department must notify both the owner and operator of the denial or revocation of an UST registration certificate, and notify each of the procedure for requesting a hearing. The owner and operator, either collectively or independently, may request a hearing on the denial or revocation.

Fees

At N.J.A.C. 7:14B-3.1, Registration fee, the Department proposes to amend the section heading and the rule to refer to "initial registration fee," to more accurately reflect the purpose of this fee. The fee applies only to new facilities and covers the Department's costs associated with the review and approval of the initial UST system registration, the establishment of the UST system information in the Department's data systems, and the issuance of the registration certificate. The Department is proposing to amend the fee to include the cost of the review and processing of the New Jersey Underground Storage Tank Facility Certification Questionnaire, normally a separate fee issued pursuant to N.J.A.C. 7:14B-3.2. The New Jersey Underground Storage Tank Facility Certification Questionnaire is a multi-purpose document that is used for initial registrations, amendments, and renewals. During initial registration, the owner and operator are required to supply detailed facility information in accordance with proposed N.J.A.C. 7:14B-2.2(c)1 through 11. In the annual renewal or as part of an amendment to the UST registration, the owner and operator are required to notify the Department of any changes to the facility and/or any changes to the information previously included on the questionnaire, and provide evidence of financial responsibility. Under the existing rule, a new facility pays $150.00 for new registration under N.J.A.C. 7:14B-3.1, and $150.00 for the three-year facility

certification under N.J.A.C. 7:14B-3.2. As amended, N.J.A.C. 7:14B-3.1 requires a new facility to pay $200.00, which is the equivalent of the existing administrative fee ($150.00) and the fee for one-year certification ($50.00), discussed below.

The Department is proposing to redesignate the "Facility Certification" fee at N.J.A.C. 7:14B-3.2 as the "annual renewal certification" fee in both the heading and the rule. This fee covers the Department's costs associated with processing the annual renewal submittals, primarily the review of the New Jersey Underground Storage Tank Facility Certification Questionnaire. The Department is also proposing to change the fee from a three-year certification fee of $150.00 to $50.00 per year. Instead of assessing the fee every three years, the Department will assess the fee annually. Annual renewal allows the Department to better ensure that owners/operators are maintaining the required financial assurance, as discussed above with regard to proposed amendments to N.J.A.C. 7:14B-2.1(c).

The proposed amendments discussed above to N.J.A.C. 7:14B-3, Fees, are essentially the same as in the May 2015 proposal. The Department is proposing amendments to N.J.A.C. 7:14B-3, in addition to those in the May 2015 proposal, to indicate both owner "and" operator, rather than owner "or" operator, share responsibility to comply with the provisions of N.J.A.C. 7:14B-3. As discussed above, the owners and operators are not required to individually and separately take actions duplicative of the ones taken by one or the other to comply, unless otherwise stated; however, each owner and operator is equally responsible and independently liable if the other fails to comply with the rules.

Permit requirements

The Department proposes to delete N.J.A.C. 7:14B-4.1(a)1v and (a)2iv, which state that the Department shall issue a permit for the installation of a new tank and piping system pursuant to N.J.A.C. 7:14B-10. Existing N.J.A.C. 7:14B-10.1(b) and proposed amended N.J.A.C. 7:14B-10.1(d) specify that an owner and operator of an existing or proposed UST system does not need a permit, if the UST or piping is protected from corrosion, spills, and overfills, and has secondary containment and interstitial monitoring. Since all new UST systems (tanks and piping) must have corrosion protection, spill and overfill prevention, and release detection (secondary containment with interstitial monitoring), there is no need for a permit. Although a permit is not required, the proposed amended rule requires the owner and operator to notify the Department that the installation is taking place and provide evidence the UST system complies with N.J.A.C. 7:14B-4.1(a) for new installations. The notification provisions are contained at proposed new N.J.A.C. 7:14B-10.1A, discussed below.

At N.J.A.C. 7:14B-4.1(a)2, the Department is clarifying that metallic swing joints and flex connectors are considered to be part of the UST system piping as they connect rigid piping runs and routinely contain regulated substances.

Release reporting and investigation

Existing N.J.A.C. 7:14B-7.1(a) lists the circumstances and timeframe under which an owner or operator must investigate a suspected release. The Department proposes to amend N.J.A.C. 7:14B-7.1(a) to require an owner and operator to investigate if monitoring results, including alarms from a release detection method required under N.J.A.C. 7:14B-6 indicate a leak into the interstice or a release may have occurred as a situation requiring a suspected release investigation. The existing rule does not specify monitoring results among the occurrences that trigger an investigation. Inasmuch as the purpose of monitoring is to detect releases, it is

necessary that an owner and operator investigate if the monitoring results indicate a release may have occurred. The Department is also proposing, at N.J.A.C. 7:14B-7.2(a), that testing of tanks, piping, or secondary containment, as appropriate, be conducted when confirming or disproving a suspected release.

Fourteen-day notification

At proposed new N.J.A.C. 7:14B-10.1A, the Department proposes to require the owner and operator, preparing for work related to installations, substantial modifications, or closure of an underground storage tank system, to notify the Department at least 14 days prior to commencing physical on-site work. This provides an opportunity for the Department's inspectors to visit the site to ensure the work is being conducted in accordance with the registration/permit and is being performed by individuals and business firms certified to perform these activities, pursuant to N.J.A.C. 7:14B-13. The Department intends through this proposed amendment to ensure that only UST contractors certified pursuant to N.J.A.C. 7:14B-13 are performing this work. The notice also allows the Department to provide compliance assistance and more easily ascertain whether there are environmental concerns, as the systems are usually uncovered during these activities. The Department proposes to add references to the notification requirements at N.J.A.C. 7:14B-10.1(a) and (b). An individual or business firm certified to perform these work activities pursuant to N.J.A.C. 7:14B-13 can notify the Department on behalf of the owner and operator, as can a Licensed Site Remediation Professional, licensed pursuant to N.J.A.C. 7:26C-1.3. Work activities conducted on an emergency basis are exempt from the 14-day pre-notification requirement, but notification must still be provided as soon as practicable

within 14 days thereafter. The proposed rule identifies the information to be provided, and specifies that the notice is to be provided by e-mail.

Adjudicatory hearings

N.J.A.C. 7:14B-12.2 establishes the procedure for requesting an adjudicatory hearing. The Department proposes to repeal the existing rule and replace it with new N.J.A.C. 7:14B-12.2, Adjudicatory hearings. The existing rule identifies specific documents from which an appeal to the Department, through a hearing request, may be taken. The Department proposes to list the specified documents at proposed new N.J.A.C. 7:14B-12.2(a) and replace the specific individuals (for example, registrant, permittee, certificant) with the "person" as defined by the proposed rule. A person is defined at N.J.A.C. 7:14B-1.6 as a broad range of individuals and entities, making the term an appropriate substitution in the proposed rule. The use of the term "person" does not, however, mean that a third party may contest a permit decision. In order that there is no confusion, the proposed rule refers to the Administrative Procedure Act, N.J.S.A. 52:14B-3.1 through 3.3, which states that "except as otherwise required by federal law or by a statute that specifically allows a third party to appeal a permit decision, a State agency shall not promulgate any rule or regulation that would allow a third party to appeal a permit decision." (See N.J.S.A. 52:14B-3.3(a).)

The Department proposes to shorten from 30 days to 20 days the timeframe for a requestor to submit an adjudicatory hearing request. The Water Pollution Control Act at N.J.S.A. 58:10A-10, and the State Act at N.J.S.A. 58:10A-24.6, both of which are authority for the Underground Storage Tank rules, allow only 20 days to submit a request for a hearing on the assessment of a civil administrative penalty. For consistency, the Department proposes to apply

the same 20-day timeframe to requests for hearings on the issuance or denial of permits. The Department proposes the same amendment at N.J.A.C. 7:14B-13.10 and 16.11.

The proposed rule requires a completed adjudicatory hearing request checklist to accompany a request for a hearing. A checklist accompanies all current permit and enforcement actions issued by the Department. The proposed rule identifies information that must be included in a request for a hearing, which is substantively the same as in the existing rule. As in the existing rule, the proposed rule allows a permittee to request a stay of the revocation of a permit pending a decision on the appeal.

Similar amendments are proposed for the provisions governing civil administrative penalties for violations of N.J.A.C. 7:14B-13 and 16. Proposed amendments to N.J.A.C. 7:14B-12.4(a) and (b) are intended to make the rule clearer, as well as consistent with proposed new N.J.A.C. 7:14B-12.2. The May 2015 proposal did not include amendments to N.J.A.C. 7:14B-12.4.

The existing rule at N.J.A.C. 7:14B-12.2(f) allows a person requesting a hearing to include a request to stay a permit revocation. The proposed new rule does not contain this stay provision, but creates a new one at N.J.A.C. 7:14B-12.3. The proposed stay provision provides more detailed standards for requesting a stay. This provision is similar to those currently in place under the Solid Waste Regulations, N.J.A.C. 7:26-2C.14, the Air Pollution Control Regulations, N.J.A.C. 7:27-1.33, and the Radiation Protection Regulations, N.J.A.C. 7:28-4.18.

Certification of individuals and business firms

If an individual or business firm performs any of the underground storage tank services identified at N.J.A.C. 7:14B-13.2 (installation, closure, tank testing, and corrosion protection

analysis), the business firm or person must obtain a certification from the Department. N.J.A.C. 7:14B provides the requirements for such certification. The Department proposes to amend N.J.A.C. 7:14B-13.2(b)4, which identifies tank testing activities relative to certification classifications, to include new testing activities in accordance with the proposed new requirements for testing of spill prevention, secondary containment, electronic and mechanical components, and overfill prevention equipment inspections. Individuals or businesses seeking tank testing certification will require expertise in these newer test activities. Similarly, the Department proposes to amend N.J.A.C. 7:14B-16.3(b)4 to include the new testing activities. These amendments were included in the Department's May 2015 proposal. With the exception of one amendment identified below, the remaining proposed amendments to N.J.A.C. 7:14B-13 and 16 are new. Subchapter 16, applies nearly all the same requirements for certifications for unregulated UST systems as Subchapter 13 does for regulated UST systems. The main difference is N.J.A.C. 7:14B-16 applies only to certification of individuals and business firms for unregulated UST systems (typically heating oil USTs 2,000 gallons or less) and has an additional service classification for subsurface evaluation of unregulated heating oil tank systems. Therefore, proposed amendments to the two subchapters are similar.

The application procedures of the existing rule require a business firm to supply a copy of a certification card noting each of the classifications for which certification is sought. The proposed amended rule requires only the business firm's certification number for each classification, which is obtained from the Department-issued individual certification cards. Proposed amended N.J.A.C. 7:14B-13.3 provides a web address where an applicant for certification or renewal of a certification may obtain the most current forms. No longer must the applicant contact the Department at a physical address or by telephone. The Department

proposes the same amendments at N.J.A.C. 7:14B-16.4, which relates to certification of individuals and business firms for unregulated UST systems.

N.J.A.C. 7:14B-13.4 establishes the eligibility requirements for individuals and business firms to be certified. Under the existing rule, licensed professional engineers and licensed plumbing contractors are eligible for certification in certain categories without taking an examination. Individuals who are not professional engineers or licensed plumbing contractors must meet the criteria for eligibility in the rules, which includes passing a proficiency examination for all classifications. The Department proposes to amend the rules to require a proficiency examination for only the entire system installation classification, closure classification, and tank testing classification. Individuals seeking certification for release detection monitoring system installation, cathodic protection specialist, or cathodic protection tester are not subject to examination. Although examination is no longer required for the classifications in proposed amended N.J.A.C. 7:14B-13.4(b)1 through 3, the applicant must still meet the existing minimum criteria by having specific experience, manufacturer approved training, and health and safety training in accordance with EPA and U.S. Department of Labor guides, as applicable (see N.J.A.C. 7:14B-13.4(a)2 and 6). As the Department proposed in its May 2015 proposal, the proposed amended rule allows an applicant for certification in the cathodic protection tester classification to fulfill the requirements of the Steel Tank Institute's Cathodic Protection Tester Certification Program, as an alternative to the NACE International's Certification Committee requirements. The Department has found that the training individuals obtain from the manufacturers and in accordance with the EPA and Department of Labor guides are sufficient for certification in these three categories, and provide more stringent and more

current training than the training/knowledge that would be required to pass the Department's examinations.

The Department proposes corresponding amendments to the certification requirements at N.J.A.C. 7:14B-16.5 for unregulated UST systems. The proposed amended rule requires an examination for certification in the entire unregulated heating oil tank system installation classification, closure of unregulated heating oil tank systems classification, tank testing of unregulated heating oil tank systems classification, and subsurface evaluation of unregulated heating oil tank systems classification. No examination is required for certification in the unregulated heating oil tank system release detection monitoring installation classification, or the unregulated heating oil tank system corrosion protection analysis classifications. Because the proposed rules do not require examinations for several classification certifications, the Department proposes to amend the examination provisions at N.J.A.C. 7:14B-13.5 and 16.6. The Department proposes to delete N.J.A.C. 7:14B-13.5(d) and 16.6(d), which condition the Department's issuance of an initial certification upon passing an examination.

In order that the Department can verify that an individual or business firm has met the eligibility criteria, the Department proposes to require each certified individual and business firm to maintain records demonstrating compliance with the rule, and to make the records available to the Department on request. The records must be maintained for six years following the expiration of the certification. These requirements are proposed at N.J.A.C. 7:14B-13.4(f) and (g), and 16.5(e) and (f). Other proposed amendments related to records demonstrating compliance with renewal requirements are proposed at N.J.A.C. 7:14B-13.7 and 16.8. In order to renew a certification, the applicant must provide the Department with records demonstrating that the applicant has complied with the continuing education requirements of N.J.A.C. 7:14B-

13.6 or 16.7, as applicable. The proposed amendments also conform the language of N.J.A.C. 7:14B-13.7(b) to 16.8(b), for consistency.

As discussed below, the owner and operator of an underground storage tank system must maintain financial responsibility to remediate discharges from underground storage tank systems. Similarly, as a condition of certification, a business firm engaged in performing services on underground storage tank systems (whether regulated or unregulated) must maintain financial responsibility to mitigate or remediate the discharge of a hazardous substance discharged as a result of the business firm's services. The Department proposes at new N.J.A.C. 7:14B-13.8(d) and 16.9(d) that the business firm must maintain for the period of certification and six years following the expiration of the certification, records demonstrating the required financial responsibility. The records must be made available to the Department on request.

The Department proposes amendments to correct cross references throughout N.J.A.C. 7:14B-13 and 16, and to update the name and address for the Bureau of Licensing and Registrations, which regulates the UST certifications (see N.J.A.C. 7:14B-13.1(k) and 16.2(j)).

Financial responsibility

In order to ensure that funds are available to remediate discharges from underground storage tanks and to compensate third parties for bodily injury and property damage from such a discharge, owners and operators must maintain financial responsibility assurance (also referred to as "financial assurance"). The requirements for this financial assurance are set forth at existing N.J.A.C. 7:14B-15, Financial Responsibility Requirements. The Federal rules regarding financial responsibility at 40 CFR Part 280, Subpart H, are incorporated into the subchapter by reference. (See N.J.A.C. 7:14B-15.3.) As discussed above in the summary of the proposed

amendments related to registration of UST systems, most financial responsibility is in the form of an insurance policy. Existing N.J.A.C. 7:14B-15.2 identifies specific "per-occurrence" requirements for financial responsibility, based on the type of UST system. Insurance policies are often written with limits on a "per incident" basis, as well as the per occurrence basis recited in the existing rules. The proposed amended rule allows financial responsibility to be expressed in a per-incident amount, as well as in a per-occurrence amount.

The EPA final regulations at 40 CFR 280.94 place conditions on the types of financial responsibility mechanism that an owner or operator may obtain. The requirements for liability coverage are identified at 40 CFR 280.97. The Underground Storage Tank Finance Act at N.J.S.A. 58:10A-37.11 provides that if an owner or operator maintains environmental liability or other insurance coverage for the remediation of a discharge, that insurance shall be the primary coverage for the cost of a remediation. The Department proposes at new N.J.A.C. 7:14B-15.2(e) to include the Underground Storage Tank Finance Act's mandate in the rules. Therefore, if an owner and operator demonstrate financial responsibility through an insurance policy allowed under the Federal rules, that policy shall be primary coverage for the cost of remediating a discharge from the UST system, even if other remediation assistance is available, such as from State funds provided for the purpose. Upon reviewing policies that owners and operators have obtained for financial responsibility, the Department has found that some policies stipulate that the limits of those policies will be paid only after the insured has exhausted money available from State or local funds, such as the New Jersey Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund. This is contrary to the Underground Storage Tank Finance Act, N.J.S.A. 58:10A-37.1 et seq. As a matter of public policy, State funds will not be used to remediate a discharge when the proceeds of an insurance policy are available.

Other proposed amendments to the subchapter correct references to the Federal rules and the proposed amended rules, and update Department contact information.

Social Impact

The proposed repeals, new rules, and amendments are anticipated to have a positive social impact. Discharges from UST systems have the potential to cause severe harm to public health and safety and the environment. The discharges of hazardous substances can threaten ground water and potable water sources, and create vapor hazards that can have immediate dangers of explosion and long-term health risks. Contamination caused by these discharges can also lower property values, cause difficulties in transfers of real estate, and can render land unfit for development and use. The Department's experience has shown that UST systems that have secondary containment and interstitial monitoring, along with regular system maintenance and testing, appropriately trained operators, certified installers, and appropriate closure, decrease the incidence of discharges, or result in early detection of releases.

The proposed amendments to the registration requirements, reducing the certification period from three years to one year, and requiring owners and operators to demonstrate that they have the necessary financial assurance in place to pay for remediation or to compensate third parties has the benefit of ensuring that UST system owners and operators have the means to meet their financial responsibilities related to a discharge.

The proposed new rules and amendments relating to civil administrative penalties will continue to encourage compliance and discourage noncompliance with the State Act. To the extent that violations are designated as minor and eligible for a grace period, thereby removing the threat of penalties for certain types of violations where compliance is achieved within the time

specified, the proposed amended rules encourage the regulated community to take positive and timely action toward achieving compliance.

Economic Impact

In analyzing the economic impact of this proposed rulemaking, it must first be noted that the secondary containment and operator training amendments apply only to "regulated tanks." Regulated tanks are those that contain any quantity of any substance deemed hazardous on a list developed by the Department, any quantity of motor fuel stored for commercial use, and all heating oil tanks of 2,001 gallons or more for on-site consumption at businesses or commercial operations. Thus, the rules do not apply to, and, therefore, have no impact on, homeowners, and businesses that store heating oil for onsite consumption in USTs with a capacity of 2,000 gallons or less.

Also noteworthy is the fact that the requirement to have secondary containment and interstitial monitoring for tanks and piping applies only when an owner and operator are installing a new tank or piping, replacing an old tank or piping, or engaging in substantial modification or repair of the UST system. UST systems in good working order that do not have secondary containment do not need to install new secondary containment until an UST system is replaced or substantially repaired or modified. The economic impact of the proposed secondary containment requirements is most evident in the difference in cost between single wall tank/piping and double wall tank/piping. While the cost of installation is approximately the same, the cost of the secondary containment components is more expensive by approximately 20 to 50 percent, depending on the design specifications of the UST system. The capital and operating costs of complying with the UST system upgrading, operating, monitoring, and testing

requirements vary from approximately $3,000, if the owner or operator has already installed state-of-the-art equipment, to as much as $100,000, if existing equipment needs to be replaced. These higher costs are generally offset by the higher cost to insure single wall tanks. Otherwise, various equipment sizes, materials, and designs are available to meet the prescribed standards and operating requirements. Therefore, an owner and operator of an UST system has flexibility to choose the most cost effective manner by which to achieve compliance.

Even though the existing rules do not require secondary containment, approximately 68 percent of the nearly 4,500 regulated UST systems in New Jersey already have secondary containment, and almost all new installations include secondary containment. Department records show that only one new UST system installed in the five years preceding 2015, is a single-walled system. Independent of the proposed rules, liability insurance carriers are moving toward requiring secondary containment as a condition of the policy because of potentially significant remediation costs and environmental damage associated with a discharge. On average, it costs approximately $150,000 to remediate a release from an UST system. Secondary containment has reduced and will continue to reduce the number of releases, thereby avoiding the expense to remediate UST sites Statewide. Secondary containment minimizes discharges to the environment. The Department anticipates that the cost of complying with the proposed secondary containment requirements will outweigh the cost of remediating the releases that could otherwise occur.

In addition to requiring secondary containment, the proposed rules require regular inspection of spill prevention equipment, containment devices/sumps, and dispenser cabinets, and require facilities to document that the visual inspections have been completed. The costs

associated with these requirements are negligible, since they require only a visual inspection and documentation of the results of the inspection in a record book.

The proposed rules also require the designation and training of Class A, Class B, and Class C operators. The proposed operator training requirements will result in a cost of approximately $250.00 to $500.00 per Class A and Class B operator, representing the cost of the required training course and testing. It is likely that UST facility owners and operators will pay for the training and testing. To alleviate these costs, the proposed rules provide for reciprocity for Class A and Class B operators, if the training and evaluation program in another state are comparable to the Department's training and examination method for the relevant class of operator. Training of a Class C operator is according to a method that the owner and operator determines to be appropriate, provided the training covers the subjects that the rules require; accordingly, there should be no cost other than the time to develop the training protocol, and the time to train the Class C operator. Although the UST facility owners and operators will bear the cost of the training, they will benefit from having trained personnel operating UST systems. The personnel will be trained in maintenance requirements and emergency protocols, which the Department expects will reduce the potential for discharges. There is minimal economic impact to the Department in administering this training program.

The proposed repeals, new rules, and amendments also include recordkeeping requirements. The Department does not anticipate that these requirements will result in a cost to the regulated community. Most regulated entities will already keep most of the required records in the ordinary course of their businesses. To the extent that the proposed rules require new records, such as records associated with the training of the Class A, Class B, and Class C operators, the Department does not anticipate that there will be a cost associated with creating or

keeping the records. The records may be kept electronically, if the facility has that capability, or in hard copy, provided they are available for on-site inspection.

The Department proposes to require an UST facility to be registered every year, rather than every three years under the existing rules. This registration period will coincide with the majority of the liability insurance policy periods, which are also one year. The proposed amendment will allow the Department to ensure UST systems are maintaining liability coverage, but should result in no increased cost to owners and operators. The annual fee, which is proposed to be $50.00 per year, is effectively the same as the existing $150.00 for three years. Although the owner or operator should be maintaining insurance coverage or other financial responsibility for the entire term of the registration under the existing rule, some owners or operators may be taking advantage of the three-year period between registrations by allowing their liability insurance to lapse until the next registration. The proposed amendment is intended to reduce the number of facilities that do not maintain the necessary financial responsibility. Further, the existing rule requires amending the facility's registration when information included in the questionnaire changes, such as yearly financial assurance policies. Thus, the proposed amendment is instituting an existing requirement in order to improve compliance. The Department anticipates that the annual registration of an existing facility with no new UST systems will take a half hour or less to complete, either online or in hard copy. If a facility has new UST systems, the existing rules require a facility to complete a new or revised facility registration before the systems are operational. This provision is not affected by the proposed amendments.

Underground storage tank systems used to store motor fuel solely for use by emergency power generators are no longer exempt from release detection requirements, pursuant to the

EPA's final regulations. There are currently 327 tanks in the State registered for use by emergency power generators, of which an estimated 50 percent already maintain release detection monitoring. Release detection monitoring for existing tanks must begin no later than October 13, 2018; the technology is readily available, and as of October 13, 2015, required for new installations. The cost of release detection monitoring for tanks that do not already have it could cost between $5,000 to $15,000, and varies depending on the system or equipment being installed. However, the cost is low when compared with the average, approximate cost to remediate a release from an underground storage tank.

Environmental Impact

The Department anticipates that the proposed repeals, new rules, and amendments will have a positive environmental impact. Discharges from underground storage tanks can seriously impact both ground and surface waters and can cause the release of hazardous vapors into the environment. The far-reaching impacts can affect human health and safety and the environment. Environmental impacts from property damage and remediation costs can range far beyond an owner and operator's ability to pay, if they do not have financial assurance in place. The proposed rules requiring owners and operators of underground storage tank systems to install only UST systems with secondary containment and interstitial monitoring, and requiring regular system maintenance and testing, appropriately trained operators, and certified installers, are anticipated to result in fewer discharges. Those discharges that do occur should be detected early, when remediation may be less costly.

The proposed amendments requiring facilities to be registered annually will, as discussed in the Social Impact and Economic Impact above, result in fewer facilities being without

appropriate financial assurance. This will reduce the burden on the public, which may otherwise be called upon to pay for remediation of discharges. Owners and operators who maintain financial assurance are more likely to complete a cleanup in accordance with the Department's rules.

With regard to the assessment of civil administrative penalties, the proposed amendments are an integral part of the Department's Underground Storage Tank Program and encourage compliance. The penalty provisions will continue to deter those who would violate the regulatory requirements. The proposed grace periods will continue to provide a violator with an opportunity to correct certain violations within the time provided and thereby avoid a penalty. The Department anticipates that these rules will encourage the regulated community to correct certain types of violations in a timely manner. Prompt correction will reduce any potential risk these minor violations may create and will, therefore, result in an additional positive environmental impact.

Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. As set forth in the Summary above, the Department proposes the repeals, new rules, and amendments related to secondary containment and operator training in order to comply with the Federal Energy Policy Act of 2005 and the EPA's final regulations published July 15, 2015. The Department has determined that the proposed new rules and amendments are consistent with, and do not exceed Federal requirements, except as set forth below. The proposed rules and amendments are consistent with

the mandate of the State Act at N.J.S.A. 58:10A-25, which requires the State's rules governing Federally regulated UST systems be substantially identical to the Federal requirements. For those tanks that are only State regulated, the proposed rules and amendments are consistent with the State Act's requirement to be no more stringent than the Federal requirements for Federally regulated USTs.

The Federal rules do not apply to tanks used for the storage of heating oil for consumptive use on the premises where stored. The proposed rules apply to UST systems with a capacity of 2,001 gallons or more used to store heating oil for on-site consumption in a non-residential building. Therefore, the proposed rules apply to some UST systems to which the Federal rules do not apply. These provisions are not promulgated under the authority of or in order to implement, comply with, or participate in any program established under Federal law to comply with a Federal program. Nevertheless, the proposed rules applicable to heating oil tanks are consistent with the State Act's requirement that the rules be no more stringent than Federal requirements for Federally regulated USTs.

For states that receive Federal Subtitle I money, the EP Act requires secondary containment and under-dispenser containment for tanks, piping, and dispensers only if they are installed or replaced within 1,000 feet of an existing community water system or potable drinking water well. The proposed rules and amendments, consistent with the EPA's final regulations, require that all new and replaced tanks and piping have secondary containment, and all UST systems have under-dispenser containment beneath new dispenser systems. Therefore, the proposed rules and amendments are broader in scope than the EP Act; nevertheless, the proposed rules and amendments are consistent with the EPA's final regulations.

The proposed rules include amendments to UST registration, permitting requirements, and certifications of individuals and business firms performing UST system services, which are unrelated to the EPA's final regulations or secondary containment and operator training provisions of the EP Act. These provisions are not promulgated under the authority of or in order to implement, comply with, or participate in any program established under Federal law to comply with a Federal program. Accordingly, as to these provisions no further analysis is required.

The proposed new rules and amendments to the Water Pollution Control Act Rules, N.J.A.C. 7:14, are assessed pursuant to the Water Pollution Control Act. Proposed amended N.J.A.C. 7:14-8.18 and new N.J.A.C. 7:14-8.14 contain enforcement provisions applicable to the proposed rules and amendments implementing not only the Secondary Containment Guidelines and the Operator Training Guidelines, but also the other requirements of the Underground Storage Tanks rules. Additionally, the Department may assess penalties pursuant to the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-9 for failure to comply with the State Act or specific subchapters of the UST rule and has proposed amendments applicable to proposed new requirements of the Underground Storage Tanks rules. The purpose of penalties is to encourage compliance and discourage noncompliance with the State Act. In some cases, the Department's penalties may be regarded as more stringent than the Federal program, in that the maximum penalty that may be assessed under the Department's rules is $50,000 per day per violation. The Federal government assesses civil administrative penalties in accordance with the Federal enforcement provisions of the statute regulating underground storage tanks, 42 U.S.C. §§ 6991 et seq. The Federal law at 42 U.S.C. § 6991e(d) provides that penalties for violations of the Federal law or regulation may not exceed $10,000

per day per violation. If a violator fails to comply with a compliance order, the Federal law allows a penalty of up to $25,000 per day. Therefore, to the extent that the proposed rules allow a penalty to be as much as $50,000, the proposed rules exceed the Federal standards. The proposed penalty provisions will have no economic or other impact on the regulated community, unless there is a violation of the rules governing Underground Storage Tanks, N.J.A.C. 7:14B. The Department believes that exceeding the Federal standards is justified, since more than half of New Jersey's population depends on ground water sources of drinking water.

The proposed new and amended penalty provisions at N.J.A.C. 7:14-8 include a designation of violations as either minor or non-minor, in order to comply with the State's Grace Period Law, as well as other amendments unrelated to the secondary containment and the operator training requirements. These proposed amendments are not promulgated in accordance with, or to implement or comply with any standard or requirement imposed by Federal law. Accordingly, no analysis is required.

Jobs Impact

The proposed repeals, new rules, and amendments are not anticipated to have an impact on the creation or retention of jobs in the State. Although the proposed amendments to N.J.A.C. 7:14B do require new and modified UST systems to have secondary containment, the Department has observed that most new and modified UST systems are already being installed with the requisite protection as a result of insurance requirements. Therefore, it is unlikely that additional personnel will be needed to install UST systems that meet the proposed standards.

The proposed amendments to N.J.A.C. 7:14B require each facility to provide appropriately trained Class A, Class B, and Class C operators. Training is already available to

existing operators, although it is not required. To the extent that additional trainers are needed in order to meet the demand for training as a result of the proposed mandatory training requirements, there may be some increase in employment.

The Department does not anticipate that the proposed amendments to the penalty provisions of the Water Pollution Control Act rules at N.J.A.C. 7:14-8 or Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-9 will have an impact on job creation or retention in the State. The proposed amendments relate to enforcement of the new and existing provisions of N.J.A.C. 7:14B.

Agriculture Industry Impact

The Department has determined that the proposed repeals, new rules, and amended rules will have no impact on the agricultural industry. In general, farmers are exempt from the requirements of the Underground Storage Tank Rules, inasmuch as the Underground Storage Tank rules at N.J.A.C. 7:14B-1.4(b) exempt from the rules farm tanks of 1,100 gallons or less used for storing motor fuel for noncommercial purposes.

Regulatory Flexibility Analysis

The New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., defines small businesses as those that are independently owned and operated, not dominant in their field, and that employ fewer than 100 full-time employees. The proposed repeals, new rules, and amendments will apply to all owners and operators of regulated underground storage tank systems that store hazardous substances. The Department estimates that more than 3,500 underground storage tank system owners and operators subject to the proposed rules are small

businesses as defined in the New Jersey Regulatory Flexibility Act. The types of small businesses to which the rules apply include independent gasoline service stations, fleet services, and heating oil companies.

The various reporting, recordkeeping, and compliance requirements and their associated costs are discussed in the Summary and Economic Impact above. The rules do not exempt small businesses from the reporting, recordkeeping, or other compliance requirements. A discharge of hazardous substances endangers public health, safety, and welfare, and cannot be correlated to the size of the business. Small businesses will incur the penalties established under these rules only if they are determined to be in violation of the State Act.

Housing Affordability Impact Analysis

Pursuant to N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed repeals, new rules, and amendments to determine their impact, if any, on the affordability of housing. The proposed repeals, new rules, and amendments govern underground storage tank registration, construction, operation, maintenance, and testing, and do not apply to residential heating oil tanks, residential tanks of 1,100 gallons or less for storage of motor fuel for non-commercial purposes, or to septic tanks. Because few, if any, residences have underground storage tanks that are greater than 1,100 gallons, the Department has determined that it is extremely unlikely that the proposed repeals, new rules, and amendments will evoke a change in the average costs associated with housing or on the affordability of housing.

Smart Growth Development Impact Analysis

Pursuant to N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed repeals, new rules, and amendments to determine their impact, if any, on housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed repeals, new rules, and amendments govern underground storage tank registration, construction, operation, maintenance, and testing, and do not apply to residential heating oil tanks, residential tanks of 1,100 gallons or less for storage of motor fuel for non-commercial purposes, or to septic tanks. It is unlikely that a residence will have a tank regulated under the proposed repeals, new rules, and amendments. Therefore, there is an extreme unlikelihood that the proposed repeals, new rules, and amendments will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:14B-2.3, 2.4, and 12.2.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 14

WATER POLLUTION CONTROL ACT

SUBCHAPTER 8. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:14-8.4A Grace period applicability; procedures

(a) – (b) (No change.)

(c) [The] **Notwithstanding (a) above, and the designation of a violation as minor in Table 2 below, the** Department or a local government agency shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:

1.-5. (No change.)

(d) (No change.)

7:14-8.18 Tables of minor and non-minor violations; **base penalties;** grace periods

(a) Tables 1 and 2 below identify particular violations of the Pollutant Discharge Elimination System rules, N.J.A.C. 7:14A, and the Underground Storage Tanks rules, N.J.A.C. 7:14B, as minor or non-minor for purposes of a grace period, and identify the duration of the grace period for minor violations. **In addition, Table 2 includes the base penalty for violations of N.J.A.C. 7:14B.** The descriptions of the violations set forth in the tables in this section are provided for informational purposes only. In the event that there is a conflict between a violation description in the tables and the rule to which the violation description corresponds, the rule shall govern.

(b) (No change.)

(c) Comparability of a violation under (b) above with a violation listed in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17 is based upon the nature of the violation (for example, a violation of recordkeeping, permit limitation, or monitoring).

TABLE 1

(No change.)

TABLE 2

Subchapter 2. Registration Requirements and Procedures

Rule Citation	Description of Violation	**Base Penalty**	Type of Violation	Grace Period
7:14B-2.1(a)	Failure to register a regulated underground storage tank **facility with the Department pursuant to N.J.A.C. 7:14B-2.2**.	**$5,000**	NM	
[7:14B-2.1(c)	Using a regulated underground storage tank without a valid Registration Certificate.		NM]	
7:14B-2.1[(d)]**(a)1**	Failure to register **a** regulated underground storage tank[s] system[s] 30 days prior to use.	**$5,000**	NM	
[7:14B-2.1(e)	Failure to register a regulated underground storage tank removed on or after September		NM]	

	3, 1986, for the period between September 3, 1986, and the date of removal.			
7:14B-2.1[(f)]**(a)2**	Failure to register a regulated underground storage tank system [before] **prior to beginning any** closure activities [are begun].	**$5,000**	NM	
7:14B-2.1(b)1 through 6	**Failure to amend the underground storage tank facility registration, pursuant to N.J.A.C. 7:14B-2.2, within 30 days after a change.**	**$1,750**	**M**	**30 days**
7:14B-2.1(b)7	**Failure to amend the underground storage tank facility registration, pursuant to N.J.A.C. 7:14B-2.2, within seven days after taking an UST system out of service or**	**$1,750**	**M**	**30 days**

	closure of an UST system.			
7:14B-2.1(b)8	**Failure to amend the underground storage tank facility registration, pursuant to N.J.A.C. 7:14B-2.2, at least 30 days prior to putting an out-of-service UST system back into service.**	**$1,750**	**M**	**30 days**
7:14B-2.1(c)	**Failure to only use a regulated underground storage tank having a valid UST registration certificate.**	**$5,000**	**NM**	
[7:14B-2.2(a)	Failure to file the required registration and certification information on the New Jersey Underground Storage Tank Facility Certification Questionnaire.		NM	

7:14B-2.2(b)	Failure to complete and submit the required registration and certification forms to the Department.		NM]	
7:14B-[2.2(c)]**2.1(d)**	Failure to [complete the New Jersey Underground Storage Tank Facility Certification Questionnaire] **renew the UST registration in accordance with N.J.A.C. 7:14B-2.2, at least 60 days** prior to expiration of the facility's **UST** Registration Certificate.	**$1,750**	[NM] **M**	**30 days**
[7:14B-2.2(d)	Failure to supply the information required in N.J.A.C. 7:14B-2.2(d) during initial registration.		NM	
7:14B-2.2(e)	Failure to supply registration information during the		NM	

	Certificate renewal.		
7:14B-2.2(f)	Failure supply information in accordance with N.J.A.C. 7:14B-2.2(f) if any change in status to the underground storage tank system has been made since the initial registration.	NM	
7:14B-2.4(a)	Failure to submit a Facility Certification Questionnaire reflecting changes to a facility or its ownership as per N.J.A.C. 7:14B-2.4(b), within 30 days after a modification.	M	30 days
7:14B-2.4(c)	Failure to submit a Facility Certification Questionnaire within seven calendar days following closure of a tank system.	M	30 days]

7:14B-[2.6]**2.5**(a)	Failure to display or make available during the inspection the UST Registration Certificate.	**$1,750**	[NM] **M**	**30 days**
7:14B-[2.7(e)]**2.6(d)**	Failure to cease use of a regulated tank [system] upon receipt of a Notice from the Department denying or revoking [a] **an UST** registration **certificate**.	**$15,000**	NM	

Subchapter 4. Underground Storage Tank Systems: Design, Construction and Installation

Rule Citation	**Description of Violation**	**Base Penalty**	**Type of Violation**	**Grace Period**
7:14B-4.1(a)1**i through iv**	Failure of [a tank] **an** installed [on or after September 4, 1990] **tank** to be properly designed and constructed and [have] **protected from** corrosion	**$5,000**	NM	

	[protection].			
7:14B-4.1(a)1v	**Failure of a tank to have secondary containment and interstitial monitoring.**	**$5,000**	**NM**	
7:14B-4.1(a)1vi	**Failure to maintain interstitial monitoring of a tank with secondary containment and performing interstitial monitoring.**	**$1,750**	**M**	**30 days**
7:14B-4.1(a)2**i through iii**	Failure to properly [install] **design**, construct**,** and/or [operate the] **provide** corrosion protection [system] for piping.	**$5,000**	NM	
7:14B-4.1(a)2iv	**Failure to have secondary containment and interstitial monitoring for piping.**	**$5,000**	**NM**	
7:14B-4.1(a)2v	**Failure to maintain interstitial**	**$1,750**	**M**	**30 days**

	monitoring of piping with secondary containment and performing interstitial monitoring.		
7:14B-4.1(a)3i	Failure to have spill prevention equipment when the transfer hose is detached from the fill pipe.	**$5,000**	NM
7:14B-4.1(a)3ii	Failure to have [an] overfill [device on the tank] **prevention equipment compatible with the method used to fill the tank**.	**$5,000**	NM
7:14B-4.1(a)3ii(1) through (3)	**Failure to have overfill prevention equipment that shall shut off flow, alert the transfer operator, or restrict flow prior to overfilling the tank.**	**$5,000**	**NM**

7:14B-4.1(a)4	**Failure to properly install the UST system in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.**	**$5,000**	**NM**
7:14B-4.1(a)5	**Failure of owners and operators to ensure that the appropriate methods of certification or inspection are used to demonstrate compliance with N.J.A.C. 7:14B-4.1(a)4.**	**$5,000**	**NM**
7:14B-4.1(b)	Failure to provide secondary containment [to new] **and monitoring for** underground	**$5,000**	NM

	storage tank systems installed **on or after September 4, 1990,** within a wellhead protection area.		
7:14B-4.1(l)	**Failure to comply with community supply well distance requirements.**	**$15,000**	**NM**
7:14B-4.1A(a)	**Failure to equip an UST system with under-dispenser containment for any new dispenser system installed on or after April 11, 2016.**	**$5,000**	**NM**
7:14B-4.1A(a)2	**Failure of under-dispenser containment to be liquid-tight, compatible with the substance conveyed by the piping, and allow for visual inspections or be monitored for leaks from the dispenser system.**	**$5,000**	**NM**

7:14B-4.2	**Failure to comply with requirements for substantial modification or upgrade of an underground storage tank system.**	**$5,000**	**NM**
[7:14B-4.2(b)	Failure of a steel tank to have corrosion protection.		NM
7:17B-4.2(c)	Failure of steel piping to have cathodic protection.		NM
7:14B-4.2(d)	Failure to have spill prevention equipment on the tank system.		NM
7:14B-4.2(d)	Failure to have an overfill device on the tank		NM]
7:14B-4.3	**Failure to comply with installation requirements for partially regulated underground storage tank systems.**	**$5,000**	**NM**

Subchapter 4A. Field-Constructed Tanks and Airport Hydrant Systems

Rule Citation	Description of Violation	Base Penalty	Type of Violation	Grace Period
7:14B-4A.2(a)	**Failure to comply with the requirements for secondary containment when piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons that are not part of an airport hydrant system is installed or replaced.**	**$5,000**	**NM**	
7:14B-4A.2(b)	**Failure to conduct inspections of the additional areas for airport hydrant systems as required.**	**$1,750**	**M**	**30 days**
7:14B-4A.2(c)	**Failure to meet release detection requirements for UST systems with field constructed tanks and airport hydrant fuel systems.**	**$5,000**	**NM**	

Subchapter 5. General Operating Requirements

Rule Citation	Description of Violation	Base Penalty	Type of Violation	Grace Period
7:14B-5.1(a)	Failure to ensure no [spillage or overflow] **release of hazardous substance** occurs [or] **and/or** failure to constantly monitor the transfer operation.	**$5,000**	NM	
[7:14B-5.1(b)	Failure to use the specified transfer procedures.		NM	
7:14B-5.1(c)	Failure of the owner and/or operator to report, investigate and remediate any spills and overfills in accordance with N.J.A.C. 7:14B-8.		NM	
7:14B-5.1(d)	Failure to ensure proper operation of spill containment equipment.		NM]	

7:14B-5.2(a)1	Failure to [have] **operate and maintain** a cathodic protection system **to** continuously [operational] **provide corrosion protection**.	**$5,000**	NM	
7:14B-5.2(a)2	Failure to test the cathodic protection system [within six months of installation and/or every three years thereafter] **in accordance with the requirements for proper operation**.	**$5,000**	NM	
7:14B-5.2(a)3	Failure to inspect the impressed current cathodic protection system every 60 days to ensure the system is [on and operating] **running** properly.	**$1,750**	[NM] **M**	**30 days**
7:14B-5.2(a)4	Failure to maintain records of the operation of the corrosion	**$1,750**	[NM] **M**	**30 days**

	protection system, including all required inspections and tests.			
7:14B-5.3(a)	**Failure to use an underground storage tank system that is compatible with the substance stored.**	**$5,000**	**NM**	
7:14B-5.3(c)	**Failure to maintain the records of compatibility for as long as the regulated substance is being stored.**	**$1,750**	**M**	**30 days**
7:14B-5.3(d)	**Failure to hold in each compartment, of a compartmented tank, hazardous substances that are compatible with one another.**	**$5,000**	**NM**	
7:14B-5.4**(a)**	Failure to obtain a permit from the Department and/or make repairs in accordance with	**$5,000**	NM	

N.J.A.C. 7:14B-5.4.

7:14B-5.4(a)3	**Failure to replace the entire piping run when 50 percent or more of a piping run is replaced.**	**$5,000**	**NM**
7:14B-5.4(a)4	**Failure to perform tightness testing of repaired tanks and/or piping within 30 calendar days following the date of the completion of the repair.**	**$5,000**	**NM**
7:14B-5.4(a)5	**Failure to perform testing of repaired secondary containment areas, where interstitial monitoring release detection is performed, within 30 calendar days following the date of completion of the repair.**	**$5,000**	**NM**

7:14B-5.4(a)[5]**6**	Failure to test [a] **the cathodic protection system** within six months following [the] **a** repair [of a cathodic protection system].	**$5,000**	NM	
7:14B-5.4(a)7	**Failure to test or inspect, as appropriate, within 30 calendar days following any repair to spill or overfill prevention equipment.**	**$5,000**	**NM**	
7:14B-5.5(a)	Failure to prepare **and update** a [complete] Release Response Plan.	**$1,750**	M	30 days
7:14B-5.5(b)	Failure to make [the Release Response Plan] available for [on site] inspection **a Release Response Plan**.	**$1,750**	M	30 days

7:14B-5.6(a) and [5.6](b)	Failure to maintain [records of installation (installation checklist), site and remedial investigations, release detection results, tank system repairs, operation of corrosion protection and design of the corrosion protection] **all required UST system records**.	**$5,000**	NM	
[7:14B-5.7(a)1	Failed to allow the Department to enter upon any property or place of business where an underground storage tank is or might be located or in which monitoring equipment or records required by N.J.A.C. 7:14B are kept, for purposes of inspection, sampling, copying or photographing.		NM]	
7:14B-5.8	Failure [of owner and/or	**$1,750**	M	30 days

	operator] to properly mark the fill ports.		
7:14B-5.9(a)	Introduction of a hazardous substance into an underground storage tank **system** that is known or suspected to be leaking or discharging.	**$15,000**	NM
7:14B-5.9(b)	Introduction of a hazardous substance into an underground storage tank that [is not properly registered] **does not have a proper UST registration, or registration is revoked or denied**.	**$5,000**	NM
7:14B-5.10(a)1	**Failure to comply with the spill prevention equipment requirements.**	**$5,000**	**NM**
7:14B-5.10(a)2	**Failure to inspect and clean**	**$5,000**	**NM**

	spill prevention equipment of liquid and debris prior to introduction of hazardous substances into the tank.			
7:14B-5.10(a)3	**Failure to inspect overfill prevention equipment at installation and at least once every three years.**	**$5,000**	**NM**	
7:14B-5.10(e)	**Failure to maintain records related to spill and overfill prevention equipment.**	**$1,750**	**M**	**30 days**
7:14B-5.11(a)	**Failure to ensure the integrity of each containment device when performing interstitial monitoring of UST system piping.**	**$5,000**	**NM**	
7:14B-5.11(c)	**Failure to maintain records for each containment device when**	**$1,750**	**M**	**30 days**

	performing interstitial monitoring of UST system piping.			
7:14B-5.12(a)	**Failure to conduct walkthrough inspections of each UST system at the required frequency and as appropriate to the facility.**	**$1,750**	**M**	**30 days**
7:14B-5.12(c)	**Failure to maintain records of operation and maintenance walkthrough inspections.**	**$1,750**	**M**	**30 days**
7:14B-5.13	**Failure to have clearly visible weather resistant signs providing emergency procedures and notification requirements at an unmanned facility.**	**$1,750**	**M**	**30 days**
7:14B-5.14(a)	**Failure to designate a Class A,**	**$1,750**	**M**	**30 days**

	Class B, and Class C operator.			
7:14B-5.14(b)	**Failure to have a Class A, Class B, and Class C operator designated for a facility at all times after October 13, 2018.**	**$1,750**	**M**	**30 days**
7:14B-5.14(d)	**Failure to ensure that at least one designated operator (Class A, Class B, or Class C) is present at the facility at all times the facility is operating.**	**$1,750**	**M**	**30 days**

Subchapter 5A. Class A, Class B, and Class C Operator Training

Rule Citation	**Description of Violation**	**Base Penalty**	**Type of Violation**	**Grace Period**
7:14B-5A.1	**Failure to ensure that Class A, Class B, and Class C operators are properly trained and pass any applicable examination.**	**$1,750**	**M**	**30 days**

7:14B-5A.4(a)	**Failure to ensure the Class A and/or Class B operator is retrained and retested (as applicable) within the required timeframe.**	**$5,000**	**NM**	
7:14B-5A.5	**Failure to maintain required operator training records and documentation.**	**$1,750**	**M**	**30 days**

Subchapter 6. Release Detection

Rule Citation	Description of Violation	Base Penalty	Type of Violation	Grace Period
7:14B-6.1(a)**1**	Failure to provide **acceptable** release detection methods that are able to detect a release from any portion of the [tank] **UST** system (tank and piping).	**$5,000**	NM	
7:14B-6.1(a)2	**Failure to ensure release detection equipment is installed, calibrated, operated,**	**$5,000**	**NM**	

	and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.		
7:14B-6.1(b)	**Failure to comply with release detection requirements for an underground storage tank system used to store motor fuel solely for use by emergency power generators.**	**$5,000**	**NM**
7:14B-6.1(h)	**Failure to test electronic and mechanical components annually for proper operation.**	**$5,000**	**NM**
7:14B-6.2(a)1	Failure to perform appropriate release detection monitoring [of the] **for** tank**s**.	**$5,000**	NM

7:14B-6.2(a)2	Failure to **perform** **[**appropriately monitor the] **appropriate release detection monitoring for** piping.	**$5,000**	NM
7:14B-6.2(b)1 [and] **or** 2	[Failed] **Failure** to provide release detection for **underground storage** tank[s] [and piping as required pursuant to N.J.A.C. 7:14B-16.2] **systems that utilize separate product bearing supply and return lines**.	**$5,000**	NM
7:14B-6.3(a)	Failure to [provide] **comply with** release detection [that meets the] requirements [of N.J.A.C. 7:14B-6.3(a)2 at new or existing non-petroleum hazardous substance] **for underground storage** tank	**$5,000**	NM

	systems **containing hazardous substances other than petroleum products and waste oil**.			
[7:14B-6.4	Failure to properly monitor a tank located within a well head protection area. (Existing tanks installed before 9-4-90 must monitor monthly; new tanks installed on or after 9-4-90 must be secondarily contained with interstitial monitoring.		NM]	
7:14B-6.4(a)	**Failure to comply with release detection requirements for underground storage tank systems located within wellhead protection areas.**	**$5,000**	**NM**	
7:14B-6.5(a)1[ii]	Failure to [take] **conduct** and record daily inventory readings**, including bottom water levels**	**$5,000**	[M] **NM**	[30 days]

	to the nearest 1/8th inch**, and reconcile at least once a month**.			
[7:14B-6.5(a)1vi	Failure to conduct measurement of any water level in the bottom of the tank to the nearest 1/8th of an inch at least once per month.		M	30 days]
7:14B-6.5(a)2	**Failure to comply with manual tank gauging requirements.**	**$1,750**	**M**	**30 days**
7:14B-6.6(a)1	Failure to annually test line leak detectors.	**$5,000**	[M] **NM**	[30 days]
7:14B-6.7(a)	Failure to maintain written monitoring [instructions] **procedures**.	**$1,750**	M	30 days
7:14B-6.7(b)	Failure to keep the written monitoring procedure at the	**$1,750**	M	30 days

	underground storage tank facility and make it available for inspection.			
7:14B-6.7(c)	Failure to maintain **records of** written [documentation of the] performance claims of the [Release Detection Monitoring System] **release detection system used**.	**$1,750**	M	30 days
7:14B-6.7(d)	Failure to maintain records of all calibration, maintenance**,** and repair of all Release Detection equipment.	**$1,750**	M	30 days
7:14B-6.7(e)	Failure to maintain a summary of the results of monitoring of the underground storage tank system and maintenance checks of the release detection equipment.	**$5,000**	NM	

7:14B-6.7(f)	Failure to maintain records of [all environmental] **the results of any** sampling, [tank] **UST** system testing and monitoring[, and monthly inventory reconciliations].	**$5,000**	NM	
7:14B-6.7(i)	Failure to maintain on site**,** a certification from a Subsurface Evaluator and/or required documentation from the manufacturer.	**$1,750**	M	30 days
7:14B-6.7(k)	**Failure to maintain results of annual operation tests conducted in accordance with N.J.A.C. 7:14B-6.1(g) and (h).**	**$1,750**	**M**	**30 days**

Subchapter 15. Financial Responsibility Requirements

Rule Citation	Description of Violation	Base Penalty	Type of Violation	Grace Period

7:14B-15.1(b)	Failure to maintain financial assurance for [federally] **Federally** regulated underground storage tank systems [per] **in accordance with** 40 CFR Part **280 Subpart** H.	**$5,000**	NM	
7:14B-15.1(c)	Failure to maintain financial assurance[, per] **for the amounts listed at N.J.A.C. 7:14B-15.2, pursuant to** 40 CFR Part **280 Subpart** H**,** [with the exclusions noted at N.J.A.C. 7:14B-15.3(c),] for underground storage tank systems not covered by N.J.A.C. 7:14B-15.1(b), [in the amounts listed at] **unless excluded by** N.J.A.C. 7:14B-[15.2]**15.3(c)**.	**$5,000**	NM	
7:14B-15.1(h)	Failure to identify the financial	**$1,750**	M	30 days

	assurance mechanism used on the Facility Certification Questionnaire[; failure to maintain evidence of financial assurance on site and at the owner/operator's place of business; failure to] **and** submit evidence of financial assurance **with any supporting documentation** [to the Department upon request].		
7:14B-15.1(i)	Failure of the financial institution to notify the Department in writing within 30 days of the cancellation or expiration of any form of financial assurance.	**$5,000**	NM
7:14B-15.2(a)	Failure to maintain financial responsibility assurance in the required per-occurrence **or per-**	**$5,000**	NM

	incident amounts.			
7:14B-15.2(b)	Failure to maintain financial responsibility assurance in the required annual aggregate amounts.	**$5,000**	NM	
7:14B-15.2(c)	Failure to maintain financial responsibility assurance in the required annual aggregate or per-occurrence **or per-incident** amounts when acquiring or installing additional underground storage tanks.	**$5,000**	NM	
7:14B-15.2(d)	Failure to submit an amended Facility Certification Questionnaire to the Department to demonstrate any adjusted amount of financial responsibility assurance due to acquiring or installing	**$1,750**	M	30 days

	additional underground storage tanks.	
[7:14B-15.3(b)	Failure to maintain financial assurance for federally regulated underground storage tank systems per 40 CFR Part H.	NM
7:14B-15.3(c)	Failure to maintain financial assurance, per 40 CFR Part H with the exclusions of surety bond, State required mechanisms, State fund or local government guarantee, for State regulated underground storage tank systems not covered by N.J.A.C. 7:14B-15.3(b), in the amounts listed at N.J.A.C. 7:14B-15.2.	NM]

7:14-8.19 Civil administrative penalties for violations of the Underground Storage of Hazardous Substances Act

(a) The Department may assess a civil administrative penalty pursuant to this section of not more than $50,000 for each violation of N.J.A.C. 7:14B, Underground Storage Tanks.

(b) Each violation constitutes an additional, separate, and distinct violation.

(c) Each day during which a violation continues constitutes an additional, separate, and distinct violation.

(d) Where any requirement of N.J.A.C. 7:14B may pertain to more than one act, condition, occurrence, item, unit, waste, or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste, or parameter constitutes an additional, separate, and distinct violation.

(e) For a violation of a requirement or condition of an administrative order, permit, or license, the Department may in its sole discretion identify a comparable requirement of any violation description listed in N.J.A.C. 7:14-8.18(c) Table 2 and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

(f) The Department shall determine the amount of a civil administrative penalty for each violation of N.J.A.C. 7:14B on the basis of the provision violated, according to the following procedure:

1. Identify the rule violated;

2. Identify the corresponding base penalty dollar amount in N.J.A.C. 7:14-8.18(c) Table 2;

3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

Severity factor	**Multiplier**

i. Violator violated the same rule less than 12 months prior to the violation	**1.00**
ii. Violator violated a different rule less than 12 months prior to the violation	**0.50**
iii. Violator violated the same rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	**0.50**
iv. Violator violated a different rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	**0.25**

4. To obtain the civil administrative penalty for a particular violation, add all of the severity penalty components pursuant to (f)3 above to the base penalty. If the sum total exceeds $50,000, then the civil administrative penalty for that violation shall be $50,000.

EXAMPLE:

Base penalty (for violation of N.J.A.C. 7:14B-2.1(a)) = $5,000

N.J.A.C. 7:14-8.19(f)3iii applies:

0.50 x $5,000	**= $2,500**
Civil administrative penalty	**$7,500**

(g) Notwithstanding (a), (b), and (c) above, the Department may, in its sole discretion, assess a penalty in accordance with N.J.A.C. 7:14-8.5(e) through (i), rather than N.J.A.C. 7:14-8.18(c) Table 2, when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:14-8.18(c) Table 2 would be too low to

account for the type, seriousness (including extent, toxicity, and frequency of a violation) based upon the harm to public health or the environment resulting from the violation or the lack of cooperation or recalcitrance of the violator in remedying the violation, the specific facts of the violation, or conduct of the violator, or any other pertinent factors consistent with the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq.;

2. The violation is not identified at N.J.A.C. 7:14-8.18(c) Table 2; or

3. There is no comparable violation identified at N.J.A.C. 7:14-8.18(c) Table 2 such that the Department can apply (e) above.

7:14-[8.19]**8.20** (No change in text.)

CHAPTER 14B

UNDERGROUND STORAGE TANKS

SUBCHAPTER 1. GENERAL INFORMATION

7:14B-1.3 Purpose

(a) This chapter is promulgated for the following purposes:

1.– 2. (No change.)

3. To establish [Initial Registration and Annual Certification] **initial registration and annual renewal certification** fees;

4. – 9. (No change.)

10. To protect human health and the environment of the State by ensuring sound underground storage tank management **and compliance with release detection monitoring**, thereby preventing, controlling, remediating**,** and/or abating actual or potential [groundwater] **ground water** contamination; [and]

11. To establish a certification program for individuals and business firms who provide certain services on regulated underground storage tank systems and unregulated heating oil tank systems pursuant to N.J.S.A. 58:10A-24 and this chapter[.]**; and**

12. To establish classes of operators and training requirements for all Class A, B, and C operators of underground storage tank systems.

7:14B-1.4 Applicability

(a) (No change.)

(b) The following types of underground storage tank systems are exempt from the requirements of this chapter:

1. – 7. (No change.)

8. Tanks situated in an underground area including, but not limited to, basements, cellars, **vaults,** mines, drift shafts, or tunnels, if the storage tank is situated upon or above the surface of the floor;

9. Tanks situated in an underground area including, but not limited to, basements, cellars, **vaults,** mines, drift shafts, or tunnels if the storage tank is equipped with secondary containment, and is uncovered so as to allow visual inspection of the exterior of the tank;

10. Any pipes, lines, fixtures**,** or other related equipment connected to any tank exempted from the provisions of this chapter as set forth in (b)1 [to] **through** 9 above, and 11 [to 14] **through 15** below;

11. – 12. (No change.)

13. Electrical equipment; [and]

14. Hydraulic lift tanks[.]**; and**

15. Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.

(c) The following types of underground storage tank systems are **partially regulated,** subject only to N.J.A.C. 7:14B-2, 3, **4.3,** 7**,** [and] 8**, and 15**.

1. Tanks used to contain radioactive materials that are regulated under the Atomic Energy Act of 1954; [and]

2. Tanks that are part of an emergency generator system at nuclear power generator facilities [regulated] **licensed** by the Nuclear Regulatory Commission [under] **pursuant to** 10 CFR **Part** 50 Appendix A[.]**; and**

3. Wastewater treatment tanks not exempted under (b)6 and (b)12 above.

[(d) Underground storage tank systems used to store motor fuel solely for use by emergency power generators are exempt from the requirements N.J.A.C. 7:14B-6.]

(d) Airport hydrant systems and underground storage tank systems with field constructed tanks shall comply with N.J.A.C. 7:14B-4A.

(e) Underground storage tank systems identified as sumps are subject only to N.J.A.C. 7:14B-2, 3, 4.1(a), 4.1(e) through (l), 4.2, 5.2 through 5.7, 7**,** and 8.

(f) – (g) (No change.)

7:14B-1.6 Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"Abandon in place" or "abandonment in place" means a tank [rendered] permanently [nonoperational] **eliminated from service** by following the procedures in American Petroleum Institute Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks," **as supplemented or amended,** and left in the ground.

…

"Airport hydrant system" means an underground storage tank system that distributes fuel to aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source, such as a pipeline, barge, rail car, or other motor fuel carrier.

…

"Ancillary equipment" means any device including, but not limited to, piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

…

"Annular space" means the space created between the primary and secondary container of a secondarily contained underground storage tank system**, including ancillary piping and containment systems**.

…

"Class A operator" means the individual designated by the owner and operator to have primary responsibility to operate and maintain the UST system in accordance with applicable requirements of this chapter. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. An individual does not, solely by virtue of being designated a Class A operator, become an "operator" as defined in this section.

"Class B operator" means the individual designated by the owner and operator to have day-to-day responsibility for implementing applicable regulatory requirements established by the Department. The Class B operator typically implements in-field aspects of operation, maintenance, and associated recordkeeping for the UST system. An individual does not, solely by virtue of being designated a Class B operator, become an "operator" as defined in this section.

"Class C operator" means an individual designated by the owner and operator to be responsible for initially responding to emergencies presented by a spill or release from an UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances. An individual does not, solely by virtue of being designated a Class C operator, become an "operator" as defined in this section.

…

"Compartmented tank" means any underground storage tank that is divided by one or more walls or bulkheads to create individual and separate compartments within the underground storage tank. Each compartment is a separate regulated tank, requiring

separate tank identification on the New Jersey Underground Storage Tank Facility Certification Questionnaire.

…

"Containment device" or "containment sump" or "containment system" means a liquid-tight structure or system of structures that provide containment of any regulated substance release. Containment devices are typically used underneath product dispensers, enclosing submersible turbine pumps or below piping connections/transitions, and may be single walled or secondarily contained.

…

["Dispenser sump" means a liquid tight container designed to contain leaks from dispensers, pumps and associated fittings.]

"Dispenser" means equipment located aboveground that dispenses regulated substances to a point of use outside the UST system, such as a motor vehicle.

"Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the UST system.

…

"Entire piping run" means the total length of **product** piping from the tank to the dispenser.

…

[**"**Existing underground storage tank system" means an underground storage tank system which was installed before September 4, 1990.]

…

"Facility certification" means the [periodic renewal of the] **annual** registration of a facility with the Department pursuant to this chapter.

...

"Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is field-constructed.

…

"Heating oil" means any grade of petroleum product including, but not limited to, No. 1, 2, 4 (light and heavy), 5 (light and heavy)**,** and 6 fuel oils, **other residual fuel oils (including Navy Special Fuel Oil and Bunker C),** diesel**,** and kerosene of any grade or type used [to heat residential, industrial or commercial premises] **in the operation of heating equipment, boilers, or furnaces**.

…

"Interstitial monitor" means a device used to check the space between the primary and secondary container of an underground storage tank system with secondary containment, including ancillary piping and containment systems, for leaks and alert the operator if a leak is suspected or detected.

"Interstitial space" or "interstice" means annular space.

…

"Line leak detector" or "LLD" means a mechanical or electro-mechanical device that is fitted to the submersible turbine pump (STP) or associated pressurized product piping that is employed to detect a piping leak of three gallons per hour (gph) or greater at 10 psi.

…

["Liquid sensor" means a monitoring system which detects the liquid phase of a hazardous substance.]

"Liquid sensor" means an electro-mechanical device, typically used in conjunction with a monitoring system, which detects either the presence of water and/or the liquid phase of a hazardous substance.

…

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

…

"Motor fuel" means any petroleum [product that includes, but is not limited to, all grades of gasoline, diesel fuel and kerosene] **or petroleum-based substance, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, kerosene, or any grade of gasohol and is typically** used in the operation of any type of engine. **This definition applies to blended petroleum motor fuels such as biodiesel and ethanol blends that contain petroleum or petroleum-based substances.**

["New underground storage tank system" means an underground storage tank system that was installed on or after September 4, 1990.]

…

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under N.J.A.C. 7:14B-9.

…

"Operator" means [any] **each** person who leases, operates, controls, supervises**,** or has responsibility for, the daily operation of a facility, [or any] **and each** person who has the authority to operate, control**,** or supervise the daily operation of a facility. **There may be more than one operator of an UST facility.**

…

[“Periodic” means the time period for renewal of a facility certification; the period may be one, two, or three years.]

…

“Person” means any individual or entity, including without limitation, a public or private corporation, company, **estate,** association, society, business firm, partnership, joint stock company, foreign individual or entity, interstate agency or authority, the United States and any of its political subdivisions, the State of New Jersey, or any of [the] **its** political subdivisions [of or found within the State of New Jersey], or any of the other meanings [which] **that** apply to the common understanding of the term. **“Person” shall, for the purpose of enforcement, also include a responsible corporate official, which includes a managing member of a limited liability company or a general partner of a partnership.**

…

["Piping sump" means a liquid tight container designed to contain leaks from tank top fittings, pumps and associated equipment.]

…

[“Registration Certificate” means a control document issued by the department to implement the registration requirements of this Chapter.]

“Regulated heating oil tank system” means any one or combination of tanks, including appurtenant pipes, lines, fixtures, and other related equipment, with a tank capacity of 2,001 gallons or more used to store heating oil for on-site consumption in a nonresidential building, the volume of which, including the volume of the appurtenant pipes, lines, fixtures, and other related equipment, is 10 percent or more below the ground.

"Regulated substance" means "hazardous substance."

…

"Release detection" means determining whether a release of a hazardous substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

…

"Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other UST system component that has caused a release or a suspected release of product from the UST system or has failed to function properly.

…

"Secondary containment" **or "secondarily contained**" means an additional layer of impervious material creating a space wherein a leak of hazardous substances from an underground storage tank system may be detected before it enters the environment. **This containment provides an interstitial space to be monitored for leaks. The term includes containment sumps when performing interstitial monitoring of piping.**

…

"Swing joint" means a flexible connector device made of steel elbows and pipe nipples that allow movement in the piping run.

…

"Under-dispenser containment" or "UDC" means containment device underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching soil or ground water.

…

"Underground storage tank" **or "UST"** means any one or combination of tanks as set forth in N.J.A.C. 7:14B-1.4, including appurtenant pipes, lines, fixtures, and other related equipment, used to contain an accumulation of hazardous substances, the volume of which, including the volume of the appurtenant pipes, lines, fixtures**,** and other related equipment, is 10 percent or more beneath the surface of the ground.

…

"Underground storage tank registration certificate" or "UST registration certificate" means a certificate the Department issues authorizing an owner and operator to operate an UST facility pursuant to this chapter.

…

"**Unmanned facility" means a facility that does not have an attendant present during all hours of operation to respond to alarms or emergencies related to the UST system. Examples of unmanned facilities include, but are not limited to, card lock or card access fueling stations, telecommunication towers or utility transfer stations serviced by emergency generator USTs, and unattended UST systems located at industrial or governmental facilities.**

…

"Upgrade" means the addition or retrofit of one or more systems, such as cathodic protection, lining, spill and overfill controls, or secondary containment, to improve the ability of an underground storage tank system to prevent the release of product.

…

"Wastewater treatment tank" means a tank that is part of a wastewater treatment facility regulated under either section 402 or 307(b) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and **designed to** receive[s] and treat[s] or stores an influent wastewater which contains a hazardous substance, or is regulated as a treatment works pursuant to N.J.A.C. 7:14A-1 et seq.

["Wellhead protection area" means:

1. The area within a 2,000 foot radius surrounding a public community or public noncommunity water system well when there is an underground storage tank containing gasoline or nonpetroleum hazardous substances located within that area; or

2. The area within a 750 foot radius surrounding a public community or public noncommunity water system well when there is an underground storage tank containing petroleum products other than gasoline located within that area.]

"Wellhead protection area" means an aquifer area described in a plan view around a well, from within which ground water flows to the well and through which ground water pollution, if it occurs, may pose a significant threat to the water quality of the well. The wellhead protection area is delimited by the use of time-of-travel and hydrologic boundaries.

7:14B-1.7 [Certifications] **Application certifications**

(a) Any person making a submission to the Department pursuant to this chapter shall include the signatures and certification pursuant to (b) **through (e)** below.

[(b) The person designated in (b)2 and (d) below shall sign and date the following certification or report:

1. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attached documents, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties."

2. The certification in (b)1 above shall be signed as follows:

i. For a corporation, by a person authorized by a resolution of the board of directors to sign the document. A copy of the resolution, certified as a true copy by the secretary of the corporation, shall be submitted along with the certification;

ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; and

iii. For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official.]

[(c)] **(b)** (No change in text.)

[(d)] **(c)** The owner [or] **and** operator shall include in each document submitted in accordance with N.J.A.C. 7:14B-10.3(b)9 the following certification signed by the licensed site remediation professional:

"I certify under penalty of law that I have reviewed the plans for the proposed release detection monitoring system and this system is appropriate for the underground storage tank system design and hazardous substance stored and fulfills the monitoring requirements of N.J.A.C. 7:14B-6. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment."

[(e)] **(d)** (No change in text.)

[(f)] **(e)** Any individual certified as a [subsurface evaluator] **cathodic protection specialist or cathodic protection tester** pursuant to N.J.A.C. 7:14B-13.2(a)4, who submits a cathodic protection permit application in accordance with N.J.A.C. 7:14B-10.3(b)5, shall sign, date**,** and submit to the Department the following certification:

"I certify under penalty of law that I have reviewed the plans for the proposed cathodic protection system and this system is appropriate for the underground storage tank system and fulfills the corrosion protection requirements of N.J.A.C. 7:14B-4. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment."

SUBCHAPTER 2. REGISTRATION REQUIREMENTS AND PROCEDURES

7:14B-2.1 General registration requirements

(a) The owner [or] **and each** operator shall register each underground storage tank **facility** with the Department[.] **pursuant to N.J.A.C. 7:14B-2.2, as follows:**

1. At least 30 days prior to the use of an underground storage tank system installed after December 21, 1987; and

2. Prior to beginning any closure activities on an underground storage tank system if the tank is not identified on the facility's underground storage tank registration certificate.

[(b) The owner or operator who notified the Department pursuant to Section 9002 of the "Hazardous Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act", 42 U.S.C. §§ 6901 et seq., shall comply with this chapter.]

(b) The owner and each operator shall amend the underground storage tank facility registration pursuant to N.J.A.C. 7:14B-2.2:

1. Within 30 days after a substantial modification to a facility or the underground storage tank system;

2. Within 30 days after a change in the hazardous substance stored in an underground storage tank, except for any regulated substance that contains greater than 10 percent ethanol, greater than 20 percent biodiesel, or as identified by the Department which requires notification 30 days prior to introducing the substance into the system pursuant to N.J.A.C. 7:14B-5.3;

3. Within 30 days after any change in the ownership of the facility, including, but not limited to, the sale or transfer of all or a portion of the ownership;

4. Within 30 days after the addition, removal, replacement, or other change to an operator of the facility;

5. Within 30 days after the addition, removal, or replacement of the facility's designated Class A or Class B operator;

6. Within 30 days after termination, modification, addition, or other change to the financial responsibility for the UST system, as set forth in N.J.A.C. 7:14B-15;

7. Within seven days after taking an underground storage tank system out of service or closure of an underground storage tank system; and

8. At least 30 days prior to putting an out-of-service underground storage tank system back into service.

(c) The owner [or] **and** operator shall only use an underground storage tank upon receipt **from the Department** of a valid [Registration Certificate issued by the Department] **UST registration certificate**. **The UST registration certificate shall reflect an expiration date, which shall not exceed one year from the date of issuance.**

[(d) The owner or operator that began use of an underground storage tank on or before December 21, 1987 shall register the tank system with the Department no later than 60 days following this date. The owner or operator of an underground storage tank system that was installed after December 21, 1987 shall register the tank system with the Department 30 days prior to the use of that tank system.

(e) The owner or operator of an underground storage tank system that was removed from the ground on or after September 3, 1986 shall register that tank system for the period between September 3, 1986 and the date that the tank system was removed.

(f) The owner or operator intending to close an underground storage tank system shall register the underground storage tank system with the Department before beginning any closure activities.]

(d) An owner and each operator shall, at least 60 days prior to the expiration date of the facility's UST registration certificate, renew the underground storage tank registration in accordance with N.J.A.C. 7:14B-2.2.

7:14B-2.2 [Registration and certification procedures] **Procedure to apply for, renew, or amend an UST registration**

[(a) The owner or operator shall file registration and certification information on the New Jersey Underground Storage Tank Facility Certification Questionnaire.

(b) The owner or operator shall obtain all registration and certification forms from and accurately complete, sign, date, and return all such documents to the address below:]

(a) To apply for, renew, or amend an UST registration in accordance with N.J.A.C. 7:14B-2.1, the owner and each operator shall fully and accurately complete a single New Jersey Underground Storage Tank Facility Certification Questionnaire, using the most recent version available from the Department at www.nj.gov/dep/srp/forms/ust.

(b) The owner and each operator shall submit the completed New Jersey Underground Storage Tank Facility Certification Questionnaire with required certification forms or attachments, as applicable, to the Department at the following address:

New Jersey Department of Environmental Protection

Site Remediation Program and Waste Management

Bureau of Case Assignment and Initial Notice

Mail Code 401-05H

401 East State Street, 5th floor

[P.O.] **PO** Box 420

Trenton, New Jersey 08625-0420

[Telephone: (609) 292-2943]

http://www.nj.gov/dep/srp/bust/bust.htm

[(c) The owner or operator shall complete the New Jersey Underground Storage Tank Facility Certification Questionnaire prior to the expiration of the facility's Registration Certificate. The Department may issue a Registration Certificate to the registrant following submission of the complete New Jersey Underground Storage Tank Facility Certification Questionnaire. The Department will issue the Registration Certificate for a maximum period of three years. The expiration date of the Facility Certification will be specified on the Registration Certificate.]

[(d)] **(c)** The owner [or] **and each** operator shall[, during initial registration,] supply the following information on the New Jersey Underground Storage Tank Facility Certification Questionnaire:

1. The **UST** facility name [and]**, the facility ID number,** location**, and municipal tax block(s) and lot(s)**;

2. The name[, location, and contact person for the facility;] **and contact information of the owner of the real property on which the facility is located;**

3. The name and [address of] **contact information of** the facility owner[;]**. If the owner is a corporation, a limited liability company, a partnership, a limited partnership, or other form of business, the New Jersey Business Entity ID number, the date of the original business formation and/or registration filed with the State, the type of business entity, and the name and contact information of the corporate officer, partner, or other person with primary decision making authority regarding the facility;**

4. The name and contact information for each operator of the facility. If an operator is a corporation, a limited liability company, a partnership, a limited partnership, or other form of business, the New Jersey Business Entity ID number, include the date of the original business formation and/or registration filed with the State, the type of business entity, and the name and contact information of the corporate officer, partner, or other person with primary decision making authority regarding the facility;

[4.] **5.** The number and type of underground storage tank systems at the facility, including, but not limited to, contents, size, age, type of construction**,** and other characteristics of [the] **each** tank system;

[5.] **6.** [A] **For initial registration, a** site plan of the facility, including the location of the tanks, lines, pumps, dispensers, fill pipes, and other features of the tank system, including the distance from existing buildings and property boundaries; [and]

7. The name and contact information of each designated Class A and Class B operator at the facility;

8. The name and address of the person authorized to accept billing information from the Department;

[6.] **9.** [Provide the following information for] **For** all general liability insurance or other financial responsibility **assurance** mechanisms**, the following**:

i.– iii. (No change.)

iv. Policy number (if applicable); [and]

[v. Policy amount (if applicable).]

v. Name of insured;

vi. Limit of liability for each occurrence or incident (exclusive of legal defense costs);

vii. Limit of liability for annual aggregate (exclusive of legal defense costs); and

viii. The entire financial responsibility assurance mechanism document;

10. The installer certification, if required in accordance with (h) below; and

11. Certifications of the facility owner and each operator, as set forth in (e) through (g) below.

[(e) The owner or operator shall, during Certificate renewal, supply the following information on the New Jersey Underground Storage Tank Facility Certification Questionnaire:

1. Certification that the facility is in compliance with this chapter;

2. Notification of any changes to the status of the facility; and

3. Provide the following information for all general liability insurance or other financial responsibility mechanisms:

i. Type of mechanism;

ii. Carrier or issuing institution;

iii. Date of coverage;

iv. Policy number (if applicable); and

v. Policy amount (if applicable).

(f) The owner or operator who made any change in status of the underground storage tank system since the initial registration shall supply the following information on the New Jersey Underground Storage Tank Facility Certification Questionnaire:

1. Identify whether the underground storage tank located at the owner or operator's facility is being installed, abandoned, removed, sold or transferred, or substantially modified;

2. The name and address of the owner or operator;

3. The facility name and location;

4. The identification number of the affected tank as it appears on the New Jersey Underground Storage Tank Facility Questionnaire;

5. The underground storage tank registration number (if known);

6. Specific information concerning transfer of ownership, abandonment or removal, substantial modifications and new or replacement installations, depending on which activity is applicable;

7. Certification that the facility is in compliance with this chapter; and

8. Provide the following information for all general liability insurance or other financial responsibility mechanisms:

i. Type of mechanism;

ii. Carrier or issuing institution;

iii. Date of coverage;

iv. Policy number (if applicable); and

v. Policy amount (if applicable).]

(d) If an amendment to the UST facility registration is required pursuant to N.J.A.C. 7:14B-2.1(b), the owner and each operator shall provide to the Department a revised New Jersey Underground Storage Tank Facility Certification Questionnaire, except that the section titled "Specific Tank Information" on the New Jersey Underground Storage Tank Facility Certification Questionnaire is not required unless the information in that section of the most recently submitted Questionnaire is not correct.

(e) The owner and each operator shall sign the New Jersey Underground Storage Tank Facility Certification Questionnaire as follows:

1. For a corporation, a responsible corporate official shall sign. For the purpose of this section, a responsible corporate official means:

i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs for the corporation similar policy or decision-making functions which have the potential to affect a facility's compliance, or the individual to whom the manager in (e)1ii below reports directly or indirectly for the corporation; or

ii. The manager of one or more manufacturing, production, or operating facilities, provided:

(1) The manager is authorized to make management decisions that govern the operation of the facility, including having the explicit or implicit duty of recommending major capital investment, initiating and directing comprehensive measures to ensure long-term compliance with environmental laws and regulations, and ensuring that the necessary systems are established or actions taken to gather complete and accurate monitoring; or

(2) The authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. For a limited liability company, a responsible company official shall sign. For the purpose of this section, a responsible company official means an individual who has the authority to bind the limited liability company to the provisions of this chapter,

including without limitation, an officer, member, or manager of the limited liability company;

3. For a partnership or sole proprietorship, a general partner or the proprietor, respectively, shall sign;

4. For a municipality, county, State, Federal, or other public agency, either a principal executive officer or ranking elected official shall sign. For purposes of this section, a principal executive officer of a Federal agency includes:

i. The chief executive officer of the agency; or

ii. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (for example, Regional Administrator); or

5. A duly authorized representative shall sign if:

i. The authorization is made in writing by a person described in (e)1 through 4 above;

ii. The authorization specifies either an individual or a position whose occupant has responsibility for the overall operation of the facility, or an individual or position whose occupant has overall responsibility for environmental matters for the owner or operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

iii. The owner or operator submits the written authorization to the Department along with the New Jersey Underground Storage Tank Facility Certification Questionnaire.

(f) Each individual signing a New Jersey Underground Storage Tank Facility Certification Questionnaire as, or on behalf of, the owner shall make the following certification:

"I certify under penalty of law that:

1. I have read, understand, and have followed the applicable rules and instructions for this New Jersey Underground Storage Tank Facility Certification Questionnaire;

2. I have personally examined and am familiar with the information submitted in this New Jersey Underground Storage Tank Facility Certification Questionnaire and all attached documents;

3. I believe, based on my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete;

4. This facility is in compliance with N.J.A.C. 7:14B; and

5. I am the person required, pursuant to N.J.A.C. 7:14B-2.2, to sign this New Jersey Underground Storage Tank Facility Certification Questionnaire for the owner of this facility.

6. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute or regulation, I am personally liable for penalties."

(g) Each person signing a New Jersey Underground Storage Tank Facility Certification Questionnaire as, or on behalf of, a facility operator shall make the following certification:

"I certify under penalty of law that:

1. I have read, understand, and have followed the applicable rules and instructions for this New Jersey Underground Storage Tank Facility Certification Questionnaire;

2. I have personally examined and am familiar with the information submitted in this New Jersey Underground Storage Tank Facility Certification Questionnaire and all attached documents;

3. I believe, based on my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete;

4. This facility is in compliance with N.J.A.C. 7:14B; and

5. I am the person required, pursuant to N.J.A.C. 7:14B-2.2, to sign this New Jersey Underground Storage Tank Facility Certification Questionnaire for an operator of this facility.

6. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute or regulation, I am personally liable for penalties."

(h) For an initial facility UST registration or an amendment to an UST registration to include an UST system installed after (the operative date of this amendment), or an amendment to an UST registration to identify an out-of-service UST system being returned to service after (the operative date of this amendment), the owner and each operator shall include on the New Jersey Underground Storage Tank Facility Certification Questionnaire the certification of an installer certified in accordance with N.J.A.C. 7:14B-13 that the UST

system and/or out-of-service UST system is/are properly designed and capable of being put into service.

7:14B-2.3 Change in ownership of a facility

(a) An underground storage tank registration certificate is not transferable. Upon acquiring ownership, the owner and operator shall amend the facility registration by notifying the Department pursuant to N.J.A.C. 7:14B-2.2.

(b) The facility owner shall notify the Department, in writing, at least 30 days prior to the sale or transfer of all or any portion of the facility, and shall provide the following:

1. Contact information of the current facility owner;

2. Contact information of the prospective facility owner;

3. The underground storage tank facility ID number;

4. The address of the facility;

5. The extent of the ownership to be sold or transferred; and

6. A date of sale or transfer, if available.

7:14B-[2.5]**2.4** (No change in text.)

7:14B-[2.6]**2.5** [Registration Certificate] **UST registration certificate**

(a) The owner [or] **and** operator shall prominently display a valid [Registration Certificate] **UST registration certificate** at the facility or shall make the [Registration Certificate] **UST**

registration certificate available for inspection by any authorized local, State**,** or Federal representative.

(b) The owner [or] **and** operator of more than 25 separate facilities may request, in writing to the Director at the address set forth at N.J.A.C. 7:14B-2.2(b), that the Department mail the **UST** Registration Certificates of the multiple facilities to a single address. The owner [or] **and** operator shall be responsible for ensuring that the [Registration Certificates] **UST registration certificates** are then sent to the proper facilities.

7:14B-[2.7]**2.6** Denial or revocation of **an UST** registration **certificate**

(a) The Department may, in its discretion, deny the issuance of [a Registration Certificate] **or revoke an UST registration certificate** upon [a] **its** determination that the owner or **an** operator:

1. Submitted a New Jersey Underground Storage Tank Facility Certification Questionnaire that is incomplete, contains **false or** inaccurate information and/or is illegible;

2. Failed to enclose the [accurate Registration Fee] **applicable UST registration fee, pursuant to N.J.A.C. 7:14B-3.1,** with the New Jersey Underground Storage Tank Facility Certification Questionnaire [pursuant to N.J.A.C. 7:14B-3.1];

3. Failed to comply with any requirement of the State Act or this chapter[;]**,** or **an order issued pursuant to the State Act or this chapter;**

4. Failed to [hire a licensed site remediation professional to conduct the remediation of a discharge from the underground storage tank system.] **comply with N.J.A.C. 7:26C-2.2(a)2; or**

[(b) The Department may revoke the registration of a facility upon a determination that the owner or operator:

1. Submitted a New Jersey Underground Storage Tank Facility Certification Questionnaire that contains false or inaccurate information;

2. Failed to submit a New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2.2;

3. Failed to pay the Facility Certification fee pursuant to N.J.A.C. 7:14B-3.2;]

[4.] **5.** Denied the Department or its authorized representative access to the system during any reasonable hour[;]**.**

[5. Failed to comply with any requirement of the State Act or this chapter; or

6. Failed to hire a licensed site remediation professional to conduct the remediation of a discharge from the underground storage tank system.]

[(c)] **(b)** The Department shall inform [an] **the** owner [or] **and** operator of the denial or revocation of **an UST** registration **certificate** by [Notice of Intent to Deny Registration or Notice of Intent to Revoke Registration. This Notice shall include] **providing written notice that includes**:

1. The specific grounds for denial [of issuance] **or revocation** as set forth in (a) above; [or] **and**

[2. The specific grounds for revocation as set forth in (b) above.]

2. Notice that the owner and operator may each request a hearing, pursuant to N.J.A.C. 7:14B-12.2, on the denial or revocation.

[(d)] **(c)** The Department shall serve this Notice to an owner [or] **and** operator by certified mail (return receipt requested) or by personal service.

[(e)] **(d)** An owner [or] **and** operator that receives a Notice from the Department denying or revoking a **UST** registration **certificate** shall not use the tank**(s)** as required by N.J.A.C. 7:14B-2.1(c).

[(f) Any person whose registration has been denied or revoked may request a hearing pursuant to N.J.A.C. 7:14B-12.2(a).]

(e) If the Department denies or revokes an UST registration certificate, an owner and operator may, collectively or independently, request a hearing pursuant to N.J.A.C. 7:14B-12.2.

7:14B-2.7 (Reserved)

SUBCHAPTER 3. FEES

7:14B-3.1 **Initial** [Registration] **registration** fee

The owner [or]**and** operator **of a facility that has not been previously registered with the Department** shall submit a [$150.00 Registration Fee] **$200.00 initial registration fee** for each facility upon **the initial** registration of the facility with the Department. **This fee does not apply for any tanks added to a facility with an existing UST registration certificate.** The Department shall [only] issue [a Registration Certificate following the submission] **an UST registration certificate only after receipt** of the **Initial** Registration Fee **and completed New Jersey Underground Storage Tank Facility Certification Questionnaire**.

7:14B-3.2 [Facility Certification] **Annual renewal certification** fee

[(a) The owner or operator shall submit a Facility Certification fee for each facility upon the periodic renewal of the Facility Certification with the Department.]

[(b)] **(a)** The owner [or] **and** operator shall pay [the Facility Certification] **an annual renewal certification** fee of [$150.00] **$50.00** per **UST** facility for the [three-year facility] **one-year** certification cycle [and after receiving an invoice from the Department]**,** within the time frame **the Department** set**s** forth in [the] **an** invoice. [The Department may renew the Registration Certificate following the submission of the Facility Certification Fee.]

[(c)] **(b)** The owner [or] **and** operator who failed to register the **UST** system and pay the necessary fees when initially required in 1988 or when the tank system was installed, whichever is later, shall be responsible for paying all [Facility Certification] **applicable renewal** fees for the years the tank system was not closed in accordance with API Recommended Practice 1604, titled "Closure of Underground Petroleum Storage Tanks." Payment of these fees by the owner [or] **and** operator does not restrict the Department from taking enforcement action against the owner**,** or operator**, or both,** pursuant to N.J.A.C. 7:14B-12.

7:14B-3.5 Program fees and oversight costs

(a) The owner [or] **and** operator of an existing, former**,** or proposed underground storage tank system shall pay all required fees and costs pursuant to this chapter and shall:

1. Submit a separate fee for each activity at a facility which requires a permit or approval at the time the application is submitted. The owner [or] **and** operator shall pay a separate fee for resubmissions of the same application when the application is disapproved due to technical deficiencies in the initial submittal;

2. - 3. (No change.)

(b) (No change.)

(c) When an owner [or] **and** operator applies for a permit pursuant to N.J.A.C. 7:14B-4.1(a), and in accordance with N.J.A.C. 7:14B-10, the owner [or] **and** operator shall pay a permit fee of $450.00 for the installation or substantial modification of an underground storage tank system.

(d) (No change.)

(e) The owner [or] **and** operator shall pay fees and oversight costs related to investigation, closure and remediation of an underground storage tank system pursuant to the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-4.

(f) The owner [or] **and** operator shall make all payments of fees required by this chapter as follows:

1. – 2. (No change.)

SUBCHAPTER 4. UNDERGROUND STORAGE TANK SYSTEMS: DESIGN, CONSTRUCTION**,** AND INSTALLATION

7:14B-4.1 Performance standards for [new] underground storage tank systems

(a) Owners and operators of underground storage tank systems which are installed on or after September 4, 1990**,** shall obtain a permit in accordance with N.J.A.C. 7:14B-10 before installation and ensure that the systems meet the following [requirements] **performance standards**:

1. Each tank shall be properly designed and constructed, and any portion underground that routinely contains product shall be protected from corrosion, in accordance with a code

of practice developed by a nationally recognized association or independent testing laboratory as specified below:

i. – iii. (No change.)

iv. The tank shall be constructed of metal without additional corrosion protection measures provided that:

(1) (No change.)

(2) Owners and operators maintain records that demonstrate compliance with the requirements **of** (a)1iv(1) above for the remaining life of the tank; [or]

[v. The Department shall issue a permit for the installation of the tank system pursuant to N.J.A.C 7:14B-10. The owner or operator of the underground storage tank shall submit a permit application in accordance with N.J.A.C. 7:14B-10 and demonstrate that the tank construction and corrosion protection are designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than (a)1i through iv above.]

v. Except as set forth in (a)1v(1) below, each tank for which installation begins on or after April 11, 2016, shall be designed and constructed with secondary containment and interstitial monitoring in accordance with N.J.A.C. 7:14B-6.5(a)7, such that in the event of a primary containment breach the secondary containment shall contain regulated substances until they are detected and removed. Secondary containment shall prevent the release of regulated substances to the environment at all times during the operational life of the tank.

(1) The provisions of (a)1v above shall apply to a regulated heating oil tank system for which installation begins on or after (180 days after the operative date of this amendment).

vi. For each tank installed prior to (the operative date of the amendments), that has secondary containment and is performing interstitial monitoring as of (the operative date of the amendments), shall maintain interstitial monitoring at all times during the operational life of the tank.

2. The piping**, including metallic swing joints and metallic flex connectors,** that routinely contains regulated substances and is in contact with the ground shall be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

i. – ii. (No change.)

iii. The piping shall be constructed of metal without additional corrosion protection measures provided that:

(1) (No change.)

(2) Owners and operators maintain records that demonstrate compliance with the requirements of [(a)2iii] **(a)2iii(1)** above for the remaining life of the piping; [or] **and**

[iv. The Department shall issue a permit for the installation of the piping pursuant to N.J.A.C. 7:14B-10. The owner or operator of the underground storage tank system shall submit a permit application in accordance with N.J.A.C. 7:14B-10 and demonstrate that the piping construction and corrosion protection are designed to prevent the release or

threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than (a)2i through iii above.]

iv. Except as set forth in (a)2iv(1) below, all new or replaced piping for which installation begins on or after April 11, 2016, except suction piping that meets the requirements of N.J.A.C. 7:14B-6.2(a)2ii(1) through (5) and piping associated with field-constructed tanks greater than 50,000 gallons or airport hydrant systems, shall be designed, constructed, and installed with secondary containment and interstitial monitoring in accordance with N.J.A.C. 7:14B-6.5(a)7, such that in the event of a primary containment breach, the secondary containment shall contain the regulated substances until they are detected and removed. Secondary containment shall prevent the release of regulated substances to the environment at all times during the operational life of the UST system.

(1) For a regulated heating oil tank system, the provisions of (a)2iv above shall apply to new or replaced piping for which installation begins on or after (180 days after the operative date of this amendment).

v. For piping installed prior to (the operative date of the amendment), that has secondary containment and performing interstitial monitoring as of (the operative date of the amendments), shall maintain interstitial monitoring at all times during the operational life of the piping.

3. Except as provided in [(a)3iii] **(a)3iv and v** below, to prevent spilling and overfilling associated with product transfer to the underground storage tank system, owners and operators shall use the following [spill and overfill prevention equipment]:

i. Spill prevention equipment that shall prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); [and]

ii. Overfill prevention equipment**, compatible with the delivery method used to fill the tank,** that shall:

(1) – (2) (No change.)

(3) Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling[.]**; and**

iii. **Spill and overfill prevention equipment tested or inspected in accordance with N.J.A.C. 7:14B-5.10.**

iv. Flow restrictors in vent lines shall not be used to comply with (a)3ii above when overfill prevention equipment is installed or replaced after October 13, 2015.

[iii.] **v.** Owners and operators are not required to use the spill and overfill prevention equipment specified in (a)3i [and]**,** ii**, and iii** above if[:

(1) A permit is issued in accordance with N.J.A.C. 7:14B-10 for the use of alternative equipment that is determined by the Department to be no less protective of human health and the environment than the equipment specified in (a)3i or ii above; or

(2) The] **the** underground storage tank system is filled by transfers of no more than 25 gallons at one time.

4. [All tanks and piping] **The UST system** shall be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

5. All owners and operators shall ensure that the following methods of certification or inspection are used to demonstrate compliance with N.J.A.C. 7:14B-4.1(a)4 by maintaining documents in accordance with the recordkeeping requirements of N.J.A.C. 7:14B-5.6.

i. (No change.)

ii. The installer has been certified by the Department in the category of Entire System Installation in accordance with N.J.A.C. 7:14B-13; [and]

iii. All work listed in the manufacturer's installation checklists has been completed in accordance with N.J.A.C. 7:14B-5.6[.]**; and**

iv. Owners and operators of an UST system installed after (the operative date of this amendment), shall obtain a certification by the UST system installer on the New Jersey Underground Storage Tank Facility Certification Questionnaire, pursuant to N.J.A.C. 7:14B-2.2(h).

(b) All [new] underground storage tank systems installed **on or after September 4, 1990,** within wellhead protection areas as defined in N.J.A.C. 7:14B-1.6 shall be secondarily contained and monitored in accordance with the requirements of N.J.A.C. 7:14B-6.4(a)2.

(c) (No change.)

(d) The owner [or] **and** operator of a proposed monitoring system which uses screen and casing and is not in conformance with [N.J.A.C. 7:14B-4.1(c)] **(c) above** shall comply with N.J.S.A. 58:4A-4.1 et seq., the Subsurface and Percolating Water Act.

(e) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)1i above:

1. Underwriters Laboratories Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures" [(obtained from: 333 Pfingsten Road, Northbrook, IL 60062)] **(available at www.UL.com)**; **or**

2. Underwriters Laboratories of Canada [CAN4 S615-1998, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products" (obtained from: 7 Crouse Road, Toronto, Ontario M1R 3A9, Canada); or] **ULC-S615, "Standard for Fibre Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids" (available at canada.UL.com).**

[3. American Society of Testing and Materials Standard D4021-, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks" (obtained from: 100 Barr Harbor Drive, W. Conshohocken, PA 19428-2959).]

(f) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)1ii:

1. Steel Tank Institute "[Specification for STI-P3 System of] **sti-P3® Specification and Manual for** External Corrosion Protection of Underground Steel Storage Tanks" [(obtained from: 570 Oakwood Road, Lake Zurich, IL 60047)] **(available at www.steeltank.com)**;

2. Underwriters Laboratories of Canada [CAN/UCL-S603-1992, "Underground Steel Tanks"; CAN/UCL-G603.1 1992, "Galvanic Corrosion Protection Systems for Underground Tanks";] **ULC-S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids"; ULC-S603.1, "External Corrosion Protection Systems for Steel**

Underground Tanks for Flammable and Combustible Liquids"; and [CAN4-S631-M1984,] **ULC-S631,** ["]**"Standard for** Isolating Bushings for Steel Underground Tanks Protected with [Coatings and Galvanic System"; or] **External Corrosion Protection Systems";**

3. NACE International Standard [RP-02-95, RP0285-2002,] **Practice SP 0285,** "**External** Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," **(available at www.NACE.org)** and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids" [(obtained from: 1440 South Creek Drive, Houston, TX 77084-4906).] **(available at www.UL.com);**

4. Underwriters Laboratories Standard 1746, "Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks" (available at www.UL.com); or

5. Steel Tank Institute Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"(available at www.steeltank.com).

(g) The following codes and standards, as applicable, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)1iii above:

[(g)] **1.** Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks" [or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks," incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)1iii above.] **(available at www.UL.com);**

2. Steel Tank Institute ACT–100R Specification F894, ‘‘Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks’’ (available at www.steeltank.com);

3. Steel Tank Institute ACT–100–UR Specification F961, ‘‘Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks’’ (available at www.steeltank.com); or

4. Steel Tank Institute Specification F922, “Steel Tank Institute Specification for Permatank®” (available at www.steeltank.com).

(h) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)2i above:

1. Underwriters Laboratories [Subject] **Standard** 971, "Non-Metallic Underground Piping for Flammable Liquids" **(available at www.UL.com)**;

2. Underwriters Laboratories Standard 567, "Pipe Connectors for Petroleum Products and LP Gas" **(available at www.UL.com)**; **or**

[3. Underwriters Laboratories of Canada Guide ORD-107.7 "Glass-fibre Reinforced Plastic Pipes and Fittings"; or

4. NACE International Standard RP-01-95 RP0169-96, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."]

3. Underwriters Laboratories of Canada Standard S660, ‘‘Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids’’ (available at canada.UL.com).

(i) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)2ii above:

1. (No change.)

2. American Petroleum Institute Publication 1615, "Installation of Underground Storage Petroleum Systems" (obtained from Global Engineering Documents at 15 Inverness Way East, Englewood, Colorado 80122[.])**;**

3. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems" **(available at www.api.org)**; [or]

4. NACE International Standard [RP-01-69] **Practice SP 0169**, "Control of External Corrosion on **Underground or** Submerged Metallic Piping Systems[.]" **(available at www.NACE.org);**

5. Underwriters Laboratories Subject 971A, ''Outline of Investigation for Metallic Underground Fuel Pipe'' (available at www.UL.com);

6. Steel Tank Institute Recommended Practice R892, ''Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems'' (available at www.steeltank.com); or

7. NACE International Standard Practice SP 0285, ''External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection'' (available at www.NACE.org).

(j) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)2iii above:

1. (No change.)

2. NACE International Standard [RP-01-95, RP0169-96] **Practice SP 0169**, "Control of External Corrosion on **Underground or** Submerged Metallic Piping Systems[.]" **(available at www.NACE.org).**

(k) The [tank and piping] **UST system** installation practices and procedures described in the following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)4 above:

1. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems" **(available at www.api.org)**;

2. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" [(obtained from P.O. Box 2380, Tulsa, OK 74101-2380)] **(available at www.pei.org)**; [or]

3. American National Standards Institute Standard B31.3, "[Petroleum] Process Piping," and American National Standards Institute Standard B31.4, "Liquid Transportation Systems for Hydrocarbons, [Liquid Petroleum,] Liquid Petroleum Gas, [and] Anhydrous Ammonia and Alcohols" [(obtained from Global Engineering Documents at 15 Inverness Way East, Englewood, Colorado 80122).] **(available at global.ihs.com); or**

4. National Fire Protection Association Standard 30, ‘‘Flammable and Combustible Liquids Code’’ and Standard 30A, ‘‘Code for Motor Fuel Dispensing Facilities and Repair Garages’’ (available at www.nfpa.org).

(l) (No change.)

7:14B-4.1A Performance standards for dispenser systems

(a) Each UST system shall be equipped with under-dispenser containment (UDC) for any new dispenser system installed on or after April 11, 2016.

1. A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at

an UST facility. The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are beneath the dispenser and connect the dispenser to the underground piping.

2. Under-dispenser containment shall:

i. Be liquid-tight on its sides, bottom, and at any penetrations;

ii. Be compatible with the substance conveyed by the piping; and

iii. Allow for visual inspection and access to the components in the containment system, or be monitored for leaks from the dispenser system, in accordance with N.J.A.C. 7:14B-5.12(a)1ii.

7:14B-4.2 [Upgrading of existing] **Requirements for substantial modification or upgrade of an** underground storage tank system[s]

(a) [All existing] **Any substantial modification or upgrade to an** underground storage tank system[s]**, excluding field constructed tanks and airport hydrant systems regulated pursuant to N.J.A.C. 7:14B-4A,** shall [comply with one of] **meet** the following requirements:

1. The permit requirements at N.J.A.C. 7:14B-10, prior to initiating a substantial modification or upgrade to an underground storage tank system;

[1.] **2.** The [new] underground storage tank system performance standards under N.J.A.C. 7:14B-4.1; **and**

[2.] **3.** The [upgrading] requirements in sections (b) through [(d)] **(g)** below[; or]**.**

[3. Closure requirements under N.J.A.C. 7:14B-9, including applicable requirements pursuant to N.J.A.C. 7:14B-8 and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C.]

(b) [If an owner or operator chooses to upgrade an underground storage tank, a steel tank] **Any substantial modification or upgrade to a steel or fiberglass tank system** shall [be upgraded to] meet [one of] the following requirements**, as applicable,** in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

1. A tank may be upgraded by internal lining if the lining is installed in accordance with the requirements of N.J.A.C. 7:14B-5.4[.]**, and provided the internal inspection determines the tank is structurally sound. A steel tank shall have sufficient wall thickness (minimum 1/8 inch or 0.32 centimeter), and cathodic protection in accordance with N.J.A.C. 7:14B-4.1(a)1ii(2), (3), and (4).**

i. (No change.)

ii. If the internal inspection reveals that the tank is not structurally sound, or the internal lining is not performing in accordance with original design specifications and cannot be repaired according to a code of practice developed by a nationally recognized association or independent testing laboratory, the lined tank shall be closed in accordance with N.J.A.C. 7:14B-9.2.

iii. For a steel tank upgraded by both internal lining and cathodic protection for corrosion protection, where the internal lining is failing and cannot be repaired, the tank shall not require closure pursuant to (b)1ii above, provided the owner and operator demonstrate that the UST system construction continues to prevent the release or threatened release of any stored regulated substance and the cathodic

protection is maintained and operated according to N.J.A.C. 7:14B-5.2. Demonstration shall be made by providing the Department a permit application in accordance with N.J.A.C. 7:14B-10, and records indicating, at a minimum:

(1) The tank installation date;

(2) The installation date and purpose for the internal lining upgrade, and records of the internal inspection(s) required pursuant to (b)1i above;

(3) The installation date of the cathodic protection system upgrade, documentation of operation of the cathodic protection system maintained pursuant to N.J.A.C. 7:14B-5.6(a)1ii and documentation of the method used to ensure tank integrity required pursuant to (b)2 below; and

(4) Evidence of tank integrity, such as precision tank test results.

2. [A tank may be upgraded by] **Any substantial modification or upgrade involving** cathodic protection [if the cathodic protection system] **shall** meet[s] the requirements of N.J.A.C. 7:14B-4.1(a)1ii(2), (3)**,** and (4) and the integrity of the tank is ensured using one of the following methods:

i. The tank is internally inspected and assessed to ensure that the tank is structurally sound**, has sufficient wall thickness (minimum 1/8 inch or 0.32 centimeter) for steel tanks),** and **is** free of corrosion holes prior to installing the cathodic protection system;

ii. – iv. (No change.)

[3. A tank may be upgraded by both internal lining and cathodic protection if:

i. The lining is installed in accordance with the requirements of N.J.A.C. 7:14B-5.4; and

ii. The cathodic protection system meets the requirements of N.J.A.C. 7:14B-4.1(a)1ii(2), (3) and (4).]

[4.] **3.** (No change in text.)

(c) [Metal] **Any substantial modification or upgrade to** piping that routinely contains regulated substances [and is in contact with the ground shall be cathodically protected]**, shall meet the requirements of N.J.A.C. 7:14B-4.1(a)2ii(2), (3), and (4) and 5.4, as applicable, and be conducted** in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory [and shall meet the requirements of N.J.A.C. 7:14B-4.1(a)2ii(2), (3) and (4)].

(d) [To] **Any substantial modification or upgrade to equipment designed to** prevent spilling and overfilling associated with product transfer to the underground storage tank system[, all existing underground storage tank systems] shall [be upgraded to comply with new underground storage tank system spill and overfill prevention equipment] **meet the** requirements specified in N.J.A.C. 7:14B-4.1(a)3**, 5.4, and 5.10**.

(e) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with the requirements of (b) above:

1. American Petroleum Institute Publication 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks" **(available at www.api.org)**;

2. National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection" (obtained from: United States Environmental Protection Agency, Office of Underground Storage Tanks, Washington, D.C. 20460**, or www.nlpa-online.org**);

3. NACE International Standard [RP-02-95 RP0285-2002] **Practice SP0285**, "**External** Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," **(available at www.NACE.org)** and Underwriters Laboratories Standard 58, "Standard for Steel underground storage tanks for Flammable and Combustible Liquids" [(obtained from: 144 South Creek Drive, Houston, TX 77084-4906)] **(available at www.UL.com)**; or

4. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems[.]" **(available at www.api.org).**

(f) The following codes of practice and standards, incorporated herein by reference, as amended and supplemented, and as applicable, shall be used to comply with the periodic lining inspection requirement of (b)1 above:

1. American Petroleum Institute Publication 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks" (available at www.api.org);

2. National Leak Prevention Association Standard 631, Chapter B ‘‘Future Internal Inspection Requirements for Lined Tanks’’; or

3. Ken Wilcox Associates Recommended Practice, ‘‘Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera’’ (available at www.kwaleak.com/protocols).

[(f)] **(g)** The following codes and standards, incorporated herein by reference, as amended and supplemented, **and as applicable,** shall be used to comply with the requirements of (c) above:

[1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";

2. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";]

[3.] **1.** American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Storage Tanks and Piping Systems" **(available at www.api.org)**; [or]

[4.] **2.** NACE International Standard [RP-01-95 RP0169-96] **Practice SP 0169** "Control of External Corrosion on Underground or Submerged Metallic Piping Systems[.]" **(available at www.NACE.org);**

3. Steel Tank Institute Recommended Practice R892, ‘‘Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems’’ (available at www.steeltank.com);

4. NACE International Standard Practice SP 0285, ‘‘External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection’’ (available at www.NACE.org); or

5. Underwriters Laboratories Subject 971A, ‘‘Outline of Investigation for Metallic Underground Fuel Pipe’’ (available at www.UL.com).

7:14B-4.3 Installation requirements for partially regulated underground storage tank systems

(a) For purposes of this section, “partially regulated underground storage tank systems” means those underground storage tank systems identified at N.J.A.C. 7:14B-1.4(c).

(b) An owner and operator shall install a partially regulated underground storage tank system storing regulated substances (whether of single or double wall construction) that meets the following requirements:

1. Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

2. Is cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance in accordance with N.J.A.C. 7:14B-4.1(a)1i through iv and (a)2i through iii; and

3. Is constructed or lined with material that is compatible with the stored substance in accordance with N.J.A.C. 7:14B-5.3.

(c) Notwithstanding (b) above, an UST system without corrosion protection may be installed at a site that is determined by a Department-certified Cathodic Protection Specialist not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this subsection for the remaining life of the tank.

(d) The following codes of practice, as amended and supplemented, may be used as guidance to comply with the requirements of (b) and (c) above:

1. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Storage Tanks and Piping Systems" (available at www.api.org);

2. NACE International Standard Practice SP 0169 "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (available at www.NACE.org);

3. Steel Tank Institute Recommended Practice R892, ''Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems'' (available at www.steeltank.com); or

4. NACE International Standard Practice SP 0285, ''External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection'' (available at www.NACE.org).

SUBCHAPTER 4A. FIELD-CONSTRUCTED TANKS AND AIRPORT HYDRANT SYSTEMS

7:14B-4A.1 Applicability

The provisions of this subchapter shall apply to field-constructed tanks and airport hydrant systems, except as provided in N.J.A.C. 7:14B-4A.2 and 16, Certification of Individuals and Business Firms for Unregulated Underground Storage Tank Systems.

7:14B-4A.2 Installation, inspection, and release detection requirements specific to underground storage tank systems with field-constructed tanks and airport hydrant systems

(a) The owner and operator may use single-walled piping when installing or replacing piping associated with underground storage tank systems with field-constructed tanks greater than 50,000 gallons and piping associated with airport hydrant systems. Piping associated with underground storage tank systems with field-constructed tanks less than or equal to 50,000 gallons that are not part of an airport hydrant system shall comply with the

requirements for secondary containment in accordance with N.J.A.C. 7:14B-4.1(a)2iv, when installed or replaced.

(b) In addition to conducting walkthrough inspections in accordance with N.J.A.C. 7:14B-5.12, the owner and operator shall include, at least once every 30 days, the following additional areas for airport hydrant systems inspections, if confined space entry according to the Occupational Safety and Health Administration (see 29 CFR Part 1910) is not required, or at least annually if confined space entry is required; and maintain records documenting the inspection according to N.J.A.C. 7:14B-5.12(c):

1. Visually check hydrant pits for any damage, remove any liquid or debris, and check for any leaks; and

2. Check hydrant piping vaults for any hydrant piping leaks.

(c) The owner and operator of an underground storage tank system with field-constructed tanks and airport hydrant systems shall comply with the release detection requirements described below:

1. Field-constructed tanks with a capacity less than or equal to 50,000 gallons, and underground piping associated with field-constructed tanks less than or equal to 50,000 gallons shall meet the release detection requirements in accordance with N.J.A.C. 7:14B-6.

2. Field-constructed tanks with a capacity greater than 50,000 gallons shall meet either the requirements in N.J.A.C. 7:14B-6 (except N.J.A.C. 7:14B-6.5(a)5 or 6 shall be combined with inventory control as stated below) or use one or a combination of the following alternative methods of release detection:

i. Conduct an annual tank tightness test that can detect a 0.5 gallon per hour leak rate;

ii. Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to one gallon per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every three years;

iii. Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to two gallons per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every two years;

iv. Perform vapor monitoring (conducted in accordance with N.J.A.C. 7:14B-6.5(a)5 for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;

v. Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(1) Perform a tank tightness test that can detect a 0.5 gallon per hour leak rate at least every two years; or

(2) Perform vapor monitoring or ground water monitoring (conducted in accordance with N.J.A.C. 7:14B-6.5(a)5 or 6, respectively, for the stored regulated substance) at least every 30 days; or

vi. Another method of release detection may be used if the owner and operator comply with the requirements below. In evaluating a method, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected.

(1) Demonstrate to the Department that the alternate method(s) can detect a release as effectively as any of the methods allowed in (c)2i through v above.

(2) Obtain approval from the Department, through the issuance of a permit pursuant to N.J.A.C. 7:14B-10, and comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

3. Underground piping associated with airport hydrant systems and field-constructed tanks greater than 50,000 gallons shall meet either the requirements in N.J.A.C. 7:14B-6 (except N.J.A.C. 7:14B-6.5(a)5 or 6 shall be combined with inventory control as stated below) or use one or a combination of the following alternative methods of release detection:

i. Perform a semiannual or annual line tightness test at or above the piping operating pressure in accordance with the table below.

Maximum Leak Detection Rate per Test Section Volume

Gallons per Hour (gph)

Test Section Volume	Semiannual Test-Leak Detection Rate	Annual Test-Leak Detection Rate
<50,000 gallons	1.0 gph	0.5 gph

≥50,000 to <75,000 gallons	**1.5 gph**	**0.75 gph**
≥75,000 to <100,000 gallons	**2.0 gph**	**1.0 gph**
≥100,000 gallons	**3.0 gph**	**1.5 gph**

ii. Perform vapor monitoring (conducted in accordance with N.J.A.C. 7:14B-6.5(a)5 for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;

iii. Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(1) Perform a line tightness test (conducted in accordance with paragraph (i) of this section using the leak rates for the semiannual test) at least every two years; or

(2) Perform vapor monitoring or ground water monitoring (conducted in accordance with N.J.A.C. 7:14B-6.5(a)5 or 6, respectively, for the stored regulated substance) at least every 30 days; or

iv. Another method of release detection may be used if the owner and operator comply with the requirements below. In evaluating a method, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected.

(1) Demonstrate to the Department that the alternate method(s) can detect a release as effectively as any of the methods allowed in (c)2i through iii above.

(2) Obtain approval from the Department, through the issuance of a permit pursuant to N.J.A.C. 7:14B-10, and comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

4. The owner and operator shall maintain release detection records according to the recordkeeping requirements in N.J.A.C. 7:14B-6.7.

(d) The Department can direct the owner and operator of an underground storage tank system with field-constructed tanks or airport hydrant system permanently closed before October 13, 2015, to assess the excavation zone and close the underground storage tank system in accordance with N.J.A.C. 7:14B-9, if releases from the underground storage tank may, as judged by the Department, pose a current or potential threat to human health and the environment.

(e) An owner and operator may use military construction criteria, such as Unified Facilities Criteria (UFC) 3–460–01, "Petroleum Fuel Facilities," in addition to the codes of practice listed in N.J.A.C. 7:14B-4.1, when designing, constructing, and installing airport hydrant systems and underground storage tank systems with field-constructed tanks.

SUBCHAPTER 5. GENERAL OPERATING REQUIREMENTS

7:14B-5.1 Spill and overfill control

(a) The owner [or] **and** operator shall ensure the following:

1. – 3. (No change.)

(b) The transfer procedures described in National Fire Protection Association [Publication] **Standard** 385, **"Standard for Tank Vehicles for Flammable and Combustible Liquids"**

(available at www.nfpa.org), and **American Petroleum Institute Recommended Practice 1007, "Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles" (available at www.api.org), incorporated herein by reference, as amended and supplemented, shall be used to comply with (a) above. Further guidance on spill and overfill prevention appears in** American Petroleum Institute [Publication] **Recommended Practice** 1621, "[Recommended Practice for] Bulk Liquid Stock Control at Retail Outlets[,]" [and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code," incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)1 and 2 above].

(c) The owner [or] **and** operator shall report, investigate, and remediate any discharge from the underground storage tank system in accordance with the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

[(d) In order to ensure proper operation of spill containment equipment, the owner and operator shall:

1. Keep spill catchment basins, dispenser sumps and piping sumps clean of product, water and debris;

2. Visually inspect spill catchment basins before every delivery and visually inspect spill catchment basins, dispenser sumps and piping sumps once every 30 days, and properly dispose of any accumulation of debris and liquid collected. The visual inspection shall include a check for evidence of cracks, holes, loose fittings or any other deficiency which may compromise the integrity of the spill containment equipment;

3. Ensure deficient equipment is repaired or replaced. Repairs and installation of new equipment shall be in compliance with N.J.A.C. 7:14B-4.1(a)3i, 4.1(n), 4.2(d) and 5.4; and

4. Not accept product delivery to any tank if the spill catchment basin contains product, water or debris.]

7:14B-5.2 Operation and maintenance of corrosion protection

(a) All owners and operators of metallic underground storage tank systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store regulated substances:

1. (No change.)

2. All underground storage tank systems equipped with cathodic protection systems shall be inspected for proper operation by a Cathodic Protection Tester or Cathodic Protection Specialist certified pursuant to N.J.A.C. 7:14B-13 in accordance with the following requirements:

i. (No change.)

ii. The criteria that are used to determine that cathodic protection is adequate as required by this section shall be in accordance with [a code of practice developed by a nationally recognized association. For example, NACE International Standard RP-02-95 RP0285-2002, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection" may be used to comply with this requirement.] **the following codes of practice, as applicable, incorporated herein by reference, as amended and supplemented:**

(1) NACE International Test Method TM 0101, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Tank Systems" (available at www.nace.org);

(2) NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems" (available at www.nace.org);

(3) Steel Tank Institute Recommended Practice R051, "Cathodic Protection Testing Procedures for sti-P3 USTs" (available at www.steeltank.com);

(4) NACE International Recommended Practice RP-02-85, "Control of Underground Storage Tank Systems by Cathodic Protection" (available at www.nace.org); or

(5) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (available at www.nace.org).

3. – 4. (No change.)

7:14B-5.3 Compatibility

(a) (No change.)

[(b) Owners and operators storing alcohol blends shall use the following codes, incorporated herein by reference, as amended and supplemented, to comply with the requirements of (a) above:

1. American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and

2. American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."]

(b) Owners and operators shall notify the Department in accordance with N.J.A.C. 7:14B-2.1, at least 30 days prior to introducing into the UST system any regulated substance that contains greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the Department. Owners and operators must demonstrate compatibility of all UST system equipment and components with these regulated substances using one or more of the following methods:

1. A certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored;

2. The written statement of compatibility from the equipment or component manufacturer, indicating the range of biofuel blends with which the equipment or component is compatible; or

3. Another method that the owner and operator demonstrates is no less protective of human health and the environment than the methods listed in (b)1 or 2 above.

(c) Owners and operators shall maintain documents showing compliance with (b) above, as applicable, in accordance with N.J.A.C. 7:14B-5.6(b) for as long as the underground storage tank system is used to store the regulated substance.

[(c)] **(d)** All [compartmentalized] **compartmented** tanks shall hold, in each compartment, hazardous substances compatible with one another to prevent safety hazards such as a fire or explosion or corrosion of the underground storage tank system in case of breaches in the compartment walls.

(e) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations," incorporated herein by reference, as amended and supplemented, may be used to comply with the requirements of (a) and (b) above.

7:14B-5.4 Repairs

(a) Owners and operators shall obtain a permit from the Department in accordance with N.J.A.C. 7:14B-10 and meet the following requirements to ensure that repairs shall prevent releases due to structural failure or corrosion as long as the underground storage tank system is used to store hazardous substances:

1. – 2. (No change.)

3. Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. [Fiberglass] **Non-corrodible** pipes and fittings shall be repaired or replaced**,** in accordance with the manufacturer's specifications. **The entire piping run shall be replaced when 50 percent or more of the piping run is replaced. The following new or replaced piping shall have secondary containment and interstitial monitoring, in accordance with N.J.A.C. 7:14B-4.1(a)2iv:**

i. Except as set forth in (a)3ii below, all new or replaced piping for which installation begins on or after April 11, 2016.

ii. For a regulated heating oil tank system, all new or replaced piping for which installation begins on or after (180 days after the operative date of this amendment).

4. Repaired tanks and piping shall be tightness tested in accordance with N.J.A.C. 7:14B-6.5(a)3 and 6.6(a)2 within 30 calendar days following the date of the completion of the repair except when:

i. - ii. (No change.)

5. Repaired secondary containment areas, where interstitial monitoring release detection is performed, shall be tested in accordance with the manufacturer's instructions, or a code of practice developed by a nationally recognized association or independent testing laboratory within 30 days following the date of completion of the repair.

[5.] **6.** (No change in text.)

7. Repaired spill or overfill prevention equipment shall be tested or inspected, as appropriate, within 30 calendar days following the date of the completion of the repair, to ensure it is operating in accordance with N.J.A.C. 7:14B-5.10(a).

[6.] **8.** Owners and operators shall maintain records of each repair and associated [tightness] test **or inspection** for the remaining operating life of the underground[s] storage tank system that demonstrate**s** compliance with the requirements of this section. [When an underground storage tank system is closed, an owner or operator may make a written request to the Department to discard any such documents. Such a request shall be accompanied by a description of the documents involved. Upon written approval by the Department, the owner or operator may discard only those documents that are not required to be preserved for a longer time period.]

(b) (No change.)

(c) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with the requirements of (a) above:

1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" **(available at www.nfpa.org)**;

2. American Petroleum Institute [Publication] **Recommended Practice RP** 2200, "Repairing Crude Oil, [Liquified] **Liquefied** Petroleum Gas, and Product Pipelines" **(available at www.api.org)**;

3. American Petroleum Institute [Publication] **Recommended Practice RP** 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks" **(available at www.api.org)**; [or]

4. National Leak Prevention Association Standard 631, ["Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection."] **Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks" (available at www.nlpa-online.org);**

5. National Fire Protections Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair" (available at www.nfpa.org);

6. Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to sti-P3® Tanks" (available at www.steeltank.com);

7. NACE International Standard Practice SP 0285, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection" (available at NACE.org); or

8. Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks" (available at www.fiberglasstankandpipe.com).

(d) The following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with the requirements of (a)5 above:

1. Petroleum Equipment Institute Recommended Practice RP1200 "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST Facilities" (available at www.pei.org);

2. Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks" (available at www.steeltank.com); or

3. Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space" (available at www.fiberglasstankandpipe.com).

7:14B-5.5 Release response plan

(a) The owner [or] **and** operator shall prepare, and update as necessary to reflect changes to the facility and to regulations governing response plans, a release response plan which includes the following information:

1. (No change.)

2. The name and telephone number(s) of the person **or call center** responsible for the operation of the facility during an emergency**, including the Class A, B, or C operators, as applicable**;

[3. The name and telephone number of any retained licensed site remediation professional; and]

[4.] **3**. The procedures to be followed in the event of a leak or discharge of a hazardous substance, pursuant to N.J.A.C. 7:14B-7.3 and 8, [and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, and N.J.A.C. 7:14B-9 if the underground storage tank system must be closed.] **including the procedures to address alarms associated with release detection equipment; and**

4. The name and telephone number of any retained licensed site remediation professional.

(b) The owner [or] **and** operator shall ensure that the release response plan is available for on-site inspection.

(c) (No change.)

7:14B-5.6 Recordkeeping

(a) Owners and operators shall maintain the following information until the owner [or] **and** operator receives the Department's written permission to discard the records pursuant to (c) below:

1. For underground storage tank systems susceptible to corrosion:

i. A [corrosion expert's] **Department certified Cathodic Protection Specialist's** analysis of site corrosion potential if corrosion protection equipment is not used in accordance with N.J.A.C. 7:14B-[4.1(a) 1iv]**4.1(a)1iv** and 2iii; and

ii. (No change.)

2. - 5. (No change.)

6. Documentation of compliance with N.J.A.C. 7:14B-[5.1(d).]**5.4;**

(b) (No change.)

(c) After a site is no longer operational, an owner [or] **and** operator may make a written request to discard any such documents. Such a request shall be accompanied by a description of the documents involved. Upon written approval by the Department, the owner [or] **and** operator may discard only those documents that are not required to be preserved for a longer time period.

(d) (No change.)

(e) The recordkeeping requirements of this section are in addition to recordkeeping requirements elsewhere in this chapter.

7:14B-5.7 Right of entry

(a) The owner [or] **and** operator of any property or place of business where an underground storage tank system is or might be located shall allow the Department, or an authorized representative, upon the presentation of credentials, to:

1. – 5. (No change.)

7:14B-5.8 Fill port markings

The owner [or] **and** operator shall permanently mark all fill ports to identify product inside the underground storage tank system. The markings shall be consistent with the colors and symbol codes established by the American Petroleum Institute Publication #1637, “Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Service Station and Distribution Terminals,” and the American Petroleum Institute Publication #1542,

"Airport Equipment Marking for Fuel Identification," incorporated herein by reference, as amended and supplemented.

7:14B-5.10 Spill and overfill prevention equipment

(a) The owner and operator of an UST system with spill and overfill prevention equipment shall ensure that the equipment meets the following requirements:

1. Spill prevention (such as a catchment basin, spill bucket, or other spill containment device) equipment shall prevent releases to the environment by either:

i. Being constructed with two walls and the space between the walls interstitially monitored to ensure that the integrity of the walls is maintained. Interstitial monitoring shall be performed not less often than the walkthrough inspections required pursuant to N.J.A.C. 7:14B-5.12(a)1i. Within 30 days after discontinuing interstitial monitoring, the owner and operator shall begin meeting the testing requirements of (a)1ii below; or

ii. Being tested at installation and at least once every three years by using vacuum, pressure, or liquid testing to ensure that the spill prevention equipment is liquid tight, in accordance with one of the following:

(1) Requirements developed by the manufacturer, if any;

(2) A code of practice developed by a nationally recognized association or independent testing laboratory, such as Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST facilities" (available at www.pei.org); or

(3) A method that the owner and operator demonstrate is no less protective of human health and the environment than the requirements of (a)1ii(1) and (2) above.

2. Spill prevention equipment shall be visually inspected and cleaned of liquid and debris prior to any introduction of hazardous substances into the tank.

3. Overfill prevention equipment shall be inspected at installation and at least once every three years. At a minimum, the inspection shall ensure that overfill prevention equipment satisfies the requirements of N.J.A.C. 7:14B-4.1(a)3ii or iii, as applicable. Inspections shall be conducted in accordance with:

i. Requirements developed by the manufacturer, if any;

ii. A code of practice developed by a nationally recognized association or independent testing laboratory, such as Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST facilities" (available at www.pei.org); or

iii. A method that the owner and operator demonstrate is no less protective of human health and the environment than the requirements of (a)3i and ii above.

(b) The owner and operator of an UST system installed prior to October 13, 2015, shall comply with (a) above beginning no later than October 13, 2018.

(c) Except as set forth at (c)1 below, the owner and operator of an UST system installed on or after October 13, 2015, shall comply with (a) above upon installation.

1. The owner and operator of a regulated heating oil tank system installed on or after October 13, 2015, and prior to (the operative date of this rule) shall comply with (a) above no later than October 13, 2018.

(d) The owner and operator shall ensure spill and overfill prevention equipment that is found to be deficient is repaired or replaced.

(e) The owner and operator shall maintain the following records related to spill and overfill prevention equipment, in accordance with N.J.A.C. 7:14B-5.6(b):

1. All records of spill prevention equipment testing and overfill prevention equipment inspections shall be maintained for five years; and

2. For spill prevention equipment not tested in accordance with (a)1ii above, documentation showing that the spill prevention equipment has two walls and is interstitially monitored according to (a)1i shall be maintained for the period during which the spill prevention equipment is monitored, and for five years after monitoring ends.

7:14B-5.11 Integrity testing of containment devices where interstitial monitoring of piping is performed

(a) The owner and operator performing interstitial monitoring of UST system piping shall prevent releases to the environment by ensuring the integrity of each containment device as follows:

1. Each containment device shall be tested at least once every three years, or within 30 days of discontinuing monitoring described in (a)2 below, to ensure the equipment is

liquid tight by using a vacuum, pressure, or liquid testing method, in accordance with one of the following:

i. Requirements developed by the manufacturer, if any;

ii. A code of practice developed by a nationally recognized association or independent testing laboratory, such as Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST Facilities" (available at www.pei.org); or

iii. A method that the owner and operator demonstrates is no less protective of human health and the environment than the requirements at (a)1i and ii above.

2. Each double walled containment device shall be monitored by a method capable of detecting a breach in both the inner and outer walls of the structure. The integrity of both walls shall be monitored at a frequency not less than the walkthrough inspection described in N.J.A.C. 7:14B-5.12(a)1ii, or be tested in accordance with (a)1 above, to ensure the containment device is functioning properly.

(b) The owner and operator performing interstitial monitoring of UST system piping shall initiate testing of each containment device in accordance with (a) above as follows:

1. For an UST system installed prior to October 13, 2015, initial testing shall be performed no later than October 13, 2018;

2. Except as set forth in 3 below, for an UST system installed on or after October 13, 2015, initial testing shall be performed upon installation of the UST system;

3. For a regulated heating oil tank system installed on or after October 13, 2015, and prior to (the operative date of this rule), initial testing shall be performed no later than October 13, 2018.

(c) The owner and operator shall maintain records in accordance with N.J.A.C. 7:14B-5.6(b), as follows:

1. Records of testing in accordance with (a)1 above shall be maintained for five years; and

2. Records demonstrating the containment device is double walled and monitored in accordance with (a)2 above shall be maintained for as long as that method of monitoring is performed and for five years after monitoring ends.

7:14B-5.12 Operation and maintenance walkthrough inspections

(a) Beginning no later than October 13, 2018, each UST system inspection shall include:

1. Conducting a walkthrough inspection, at a minimum and as appropriate to the facility, as follows:

i. At least once every 30 calendar days:

(1) Open and visually inspect spill prevention equipment for damage that may compromise the integrity of the containment. Remove any liquid or debris and properly dispose of any substances collected. Check for and remove obstructions in the fill pipe, check each fill cap to make sure it is securely on the fill pipe, and check spill prevention equipment with interstitial monitoring for leaks in the interstitial area. Spill prevention equipment associated with an UST

system that receives a delivery more than every 30 days shall be checked at minimum prior to each delivery;

(2) Open and visually inspect the UST system equipment and areas without a containment system at the submersible turbine pumps or below piping connections/transitions for damage or releases to the environment;

(3) Open and visually inspect the dispenser system equipment without a containment device for malfunctions, damage, or releases to the environment; and

(4) Check the release detection system to make sure the system is on and operating with no alarms or other unusual operating conditions present. Ensure records of release detection are reviewed and current.

ii. Annually:

(1) Open and visually check each containment device/sump for damage, leaks to the containment area, or releases to the environment; remove any liquid or debris from each containment device, and properly dispose of any substances collected; check each double walled containment device with interstitial monitoring for leaks in the interstitial area;

(2) Open and visually check each dispenser cabinet for damage, leaks to the containment area or releases to the environment, remove any liquid or debris from each containment device, and properly dispose of any substances collected; check each under-dispenser containment device with interstitial monitoring for leaks in the interstitial area; and

(3) Check devices such as tank gauge sticks or ground water bailers for operability and serviceability; or

2. Perform an inspection according to a standard code of practice, developed by a nationally recognized association or independent testing laboratory, that checks equipment comparable to (a)1 above, such as Petroleum Equipment Institute Recommended Practice RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems" (available at www.pei.org).

(b) If the walkthrough inspection identifies a release to the environment, the owner and operator shall immediately remove the deficient equipment from use and comply with N.J.A.C. 7:14B-7 for release reporting and investigation. Corrective action shall be taken to address other equipment malfunctions or deficient areas identified during a walkthrough inspection, to ensure proper operation of the UST system and prevent a release to the environment.

(c) In accordance with N.J.A.C. 7:14B-5.6(b), the owner and operator shall maintain records of operation and maintenance walkthrough inspections for five years. The record shall identify the areas checked, whether each area checked was acceptable or required corrective action, a description of any corrective action taken, and delivery records if spill prevention equipment is checked less than every 30 days due to infrequent deliveries.

7:14B-5.13 Specific operating requirements for unmanned facilities

(a) The owner and operator of an unmanned facility shall ensure that the facility has clearly visible, weather resistant signs providing emergency procedures and notification requirements to be followed in the event of an incident. "Clearly visible" means that the

sign shall be immediately apparent to an individual in the vicinity of the UST system, at any time of day. The sign shall be illuminated if necessary in order to be clearly visible. The sign shall include the following information:

1. The emergency telephone numbers of the local fire department, local health department, Department of Environmental Protection Hotline 1-877 WARN DEP or 1-877-927-6337, and any other appropriate local or State agencies;

2. The name and telephone number(s) of the person responsible for the operation of the facility during an emergency, including the Class A, B, or C operator, as applicable;

3. The procedures to be followed in the event of a leak or discharge of a hazardous substance, pursuant to N.J.A.C. 7:14B-7.3 and 8, including the procedures to address alarms associated with release detection equipment; and

4. The name and telephone number of any retained licensed site remediation professional.

(b) A sign displaying emergency information other than as set forth in (a) above may be used, upon written approval by the Department, provided the procedures and notification that result from the emergency information are equivalent to (a) above.

(c) The owner and operator of an unmanned facility shall comply with (a) or (b) above as follows:

1. The owner and operator of an unmanned facility at which one or more UST systems were installed prior to (the operative date of this rule), shall comply on or before (one year after the operative date of this rule).

2. The owner and operator of an unmanned facility at which no UST systems were installed prior to (the operative date of this rule), and at which one or more UST

systems are installed on or after (the operative date of this rule), shall comply before installation of the UST system commences.

7:14B-5.14 Designation of Class A, Class B, and Class C operators

(a) The owner and operator of an UST system shall designate Class A, Class B, and Class C operators, trained pursuant to N.J.A.C. 7:14B-5A and notify the Department of each designated Class A and Class B operator in accordance with N.J.A.C. 7:14B-2. An individual may be designated under more than one operator class, provided the individual is trained in accordance with N.J.A.C. 7:14B-5A for each class for which he or she is designated.

(b) Beginning no later than October 13, 2018, at least one of each class of operator shall be designated for a facility at all times.

(c) The owner and operator of a facility shall designate a Class A, Class B, and Class C operator in accordance with the following:

1. The owner and operator shall designate at least one Class A and Class B operator in its New Jersey Underground Storage Tank Facility Certification Questionnaire, and shall designate at least one Class C operator on records maintained by the owner and operator at the facility.

2. After at least one of each class of operator is designated for a facility, an owner and operator shall designate Class A, Class B, or Class C operators as follows:

i. A Class A or Class B operator trained pursuant to N.J.A.C. 7:14B-5A or eligible for reciprocity in accordance with N.J.A.C. 7:14B-5A.3 may be designated at any time;

ii. If the designated Class A or Class B operator is no longer available to the facility, notification shall be provided to the Department within 30 days of a change in designation; and

iii. A Class C operator shall successfully complete training in accordance with N.J.A.C. 7:14B-5A prior to being designated.

(d) Except as set forth in (d)1ii below and N.J.A.C. 7:14B-5.13, the owner and operator shall ensure that at least one designated operator (Class A, Class B, or Class C) is present at the facility at all times that the facility is operating, including when hazardous substances are introduced into or removed from an UST system.

1. The owner and operator of a facility at which deliveries of hazardous substances into, or removal of hazardous substances from, the UST system occur before or after normally staffed business hours may comply with (d) above as to those before or after hours deliveries or removals by:

i. Entering into a contract with a hazardous substance supplier or transporter in which the supplier or transporter agrees to ensure that an individual who has completed Class C operator training pursuant to N.J.A.C. 7:14B-5A.2(c) is present when a hazardous substance is introduced into or removed from the UST system. The contract shall authorize the individual, supplier, or transporter to initiate appropriate response actions and notifications, as included on the facility release response plan, in the event of a spill or release resulting from the introduction of hazardous substances into or removal of hazardous substances from the UST system. The owner and operator, and supplier or transporter shall maintain a copy

of the contract and the facility specific response procedures, and the owner and operator shall make them available to the Department on request; or

ii. Posting one or more signs that meet the unmanned facility sign requirements at N.J.A.C. 7:14B-5.13(a).

(e) Designation of a Class A, Class B, or Class C operator does not relieve an owner and operator of responsibility for compliance with the State Act, and this chapter.

SUBCHAPTER 5A. CLASS A, CLASS B, AND CLASS C OPERATOR TRAINING

7:14B-5A.1 General Class A, Class B, and Class C operator training requirements

(a) Each owner and operator shall ensure that each designated Class A, Class B, and Class C operator at a facility is trained in accordance with this subchapter.

(b) Training of Class A and Class B operators shall be through a program developed and administered by the Department, or the Department's designee, unless N.J.A.C. 7:14B-5A.3, Reciprocity, applies.

(c) The owner and operator shall determine the appropriate method of training each Class C operator at a facility, provided that the training meets the requirements at N.J.A.C. 7:14B-5A.2(c).

(d) An individual shall successfully complete operator training applicable to each class for which he or she is designated. Successful completion by a Class A or Class B operator shall mean passing the applicable proficiency examination in accordance with N.J.A.C. 7:14B-5A.2(a)2 and (b)4, or satisfying the requirements of N.J.A.C. 7:14B-5A.3. Successful completion by a Class C operator shall mean demonstrating, as set forth in N.J.A.C. 7:14B-

5A.2(c), the ability to respond to spills or releases resulting from the operation of the UST system.

7:14B-5A.2 Specific Class A, Class B, and Class C operator training requirements

(a) Training of a Class A operator shall include, at minimum:

1. General knowledge of the purpose, methods, and function of:

i. Spill and overfill prevention;

ii. Release detection;

iii. Corrosion protection;

iv. Emergency response;

v. Product and equipment compatibility and demonstration methods;

vi. Financial responsibility;

vii. Notification and storage tank registration;

viii. Temporary and permanent closure;

ix. Reporting, recordkeeping, testing, and inspecting;

x. Environmental and regulatory consequences of releases; and

xi. Training requirements for Class B and Class C operators.

2. Training of a Class A operator shall include a proficiency examination related to the subjects at (a)1 above, which the trainee must pass before he or she may be designated a Class A operator under N.J.A.C. 7:14B-5.14.

(b) Training of a Class B operator shall include, at minimum:

1. Regulatory requirements applicable to UST systems;

2. The purpose and function of equipment generally used in an UST system;

3. The specific purpose, methods, and function of:

i. Operation and maintenance of UST systems;

ii. Spill and overfill prevention;

iii. Release detection and related reporting;

iv. Corrosion protection;

v. Emergency response;

vi. Product and equipment compatibility and demonstration methods;

vii. Reporting, recordkeeping, testing, and inspecting;

viii. Environmental and regulatory consequences of releases; and

ix. Training requirements for a Class C operator.

4. Training of a Class B operator shall include a proficiency examination related to the subjects at (b)1, 2, and 3 above, which the trainee must pass before he or she may be designated a Class B operator under N.J.A.C. 7:14B-5.14.

(c) Training for a Class C operator, may be completed via a training program or by a Class A or Class B operator, and shall include, at minimum:

1. Instruction on how to appropriately respond to emergencies presented by spills or releases resulting from the operation of the UST system, including those that pose an immediate danger or threat to the public or to the environment, and notify the appropriate authorities;

2. The appropriate actions and responses to alarms associated with release detection equipment or the UST system; and

3. An evaluation of the trainee's understanding of his or her role and ability to perform the appropriate response actions for spills or releases and alarms associated

with release detection equipment. A trainee shall satisfactorily demonstrate relevant knowledge and ability to the person conducting the training before he or she may be designated a Class C operator under N.J.A.C. 7:14B-5.14.

7:14B-5A.3 Reciprocity

(a) An owner and operator of an UST system may designate a Class A or Class B operator who has completed training and successfully passed an authorized evaluation in another state, provided:

1. The owner and operator submits to the Department as part of the New Jersey Underground Storage Tank Facility Certification Questionnaire formal documentation, such as an official training or examination certificate, indicating that the Class A or Class B operator has successfully completed training and passed an evaluation in a state other than New Jersey for the class of operator for which he or she is being designated;

2. The training is from a state whose operator training program and evaluation method the Department has determined is comparable to the Department's training program and evaluation method for the relevant class of operator. The Department will post a list on its website, www.nj.gov/dep/enforcement/ust.html, indicating the states whose training and evaluation methods are comparable to the Department's; and

3. The Class A or Class B operator is in good standing in that state(s) in the operator class for which the owner and operator are seeking to designate him or her.

(b) Training and/or certification of a Class A or Class B operator in a state other than New Jersey shall not substitute for retraining in accordance with N.J.A.C. 7:14B-5A.4.

7:14B-5A.4 Retraining

(a) Except as provided in (b) below, if the Department determines that an UST system is out of compliance with a significant requirement (for example, not having operating leak detection or cathodic protection mechanisms, failing to respond to alarms or active discharges, or repeatedly violating the same requirements over multiple inspections), the Department will require retraining and retesting (as applicable) of the designated Class A and/or Class B operators of the UST system in accordance with N.J.A.C. 7:14B-5A.2. The owner and operator shall ensure Class A and Class B operators are retrained no later than 30 days from the date the Department advises the facility of non-compliance, or within an alternate timeframe as agreed to by the Department.

(b) The Department may, at its discretion, provide an exception from the retraining and/or exam under (a) above, if the Department determines the UST system's non-compliance on which the retraining determination is based is the result of unanticipated equipment failure, improper contractor repairs, or other factors beyond the normal control and diligence of the owner and operator.

7:14B-5A.5 Documentation of training

(a) The owner and operator shall maintain records that document the training and retraining, if applicable, received for each designated Class A, Class B, and Class C operator. The records for each operator shall be maintained for as long as the operator is designated for the facility.

(b) The training records shall be maintained on paper or electronically, and shall be made available for on-site inspection by the Department upon request.

(c) The training record shall:

1. Identify each Class A, Class B, and Class C operator for the facility at the time of the Department's request to inspect the records, including the name, the operator training he or she completed, date(s) of initial training and any retraining or refresher training, and the trainer's name and contact information;

2. Include, at a minimum, the name and signature of the trainer for classroom or field training programs (including Class C operator training provided by the Class A or Class B operator);

3. Indicate, at a minimum, the name of the computer-based training program and web address, if internet based; and

4. Include the subjects on which the Class A or Class B operator completed retraining, if applicable.

SUBCHAPTER 6. RELEASE DETECTION

7:14B-6.1 General requirements for all underground storage tank systems

(a) Owners and operators of [new and existing] underground storage tank systems shall provide a method, or combination of methods, of release detection that:

1. - 2. (No change.)

3. Meets the performance requirements in N.J.A.C. 7:14B-**4A,** 6.5**,** or 6.6, **as applicable,** with any performance claims and the manner of determination of the performance claims described in writing by the equipment manufacturer or installer. Permanent methods installed on or after September 4, 1990**,** shall be capable of detecting the leak rate or quantity specified

for that method in the corresponding section of the rule with a probability of detection (Pd) of 0.95 and a probability of false alarm (Pfa) of 0.05.

(b) Owners and operators of underground storage tank systems used to store motor fuel solely for use by an emergency power generator shall comply with the requirements of this subchapter in accordance with the following:

1. Systems for which installation began on or before October 13, 2015, shall comply with N.J.A.C. 7:14B-6 on or before October 13, 2018; and

2. Systems for which installation begins after October 13, 2015, shall comply with all applicable requirements of this chapter at installation.

(c) Underground storage tank systems with field constructed tanks and airport hydrant systems shall meet release detection requirements in accordance with N.J.A.C. 7:14B-4A.

[(b)] **(d)** When a release detection method operated in accordance with the performance standards in N.J.A.C. 7:14B-**4A or** 6.5 and 6.6 indicates a release may have occurred, owners and operators shall notify the Department in accordance with N.J.A.C. 7:14B-7.

Recodify existing (c)-(d) as **(e)-(f)** (No change in text.)

(g) On or before October 13, 2018, owners and operators shall ensure that all underground storage tank systems, including electronic and mechanical components, are operated, maintained, and tested in accordance with the following:

1. Requirements developed by the manufacturer, if any;

2. A code of practice developed by a nationally recognized association or independent testing laboratory, such as Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill,

Overfill, Leak Detection, and Secondary Containment Equipment at UST facilities" (available at www.pei.org); or

3. A method that the owner and operator demonstrates is no less protective of human health and the environment than the requirements of (g)1 and 2 above.

(h) Testing of electronic and mechanical components in accordance with (g) above shall be performed at least annually and shall include, as applicable, the following:

1. For automatic tank gauge and other controllers: testing alarm, verifying system configuration, and testing battery backup;

2. For probes and sensors: inspecting for residual buildup and ensuring floats move freely, ensuring shaft is not damaged, ensuring cables are free of kinks and breaks, and ensuring that the alarm is operable and communicates with the controller;

3. For automatic line leak detectors: ensuring that the detectors meet the criteria at N.J.A.C. 7:14B-6.6(a)1;

4. For vacuum pumps and pressure gauges: ensuring proper communication with sensors and controller; and

5. For handheld electronic sampling equipment associated with ground water and vapor monitoring: ensuring proper operation.

7:14B-6.2 Requirements for underground storage tank systems containing petroleum products and waste oil

(a) Owners and operators of **regulated heating oil tank systems installed before (180 days after the operative date of this amendment), or any other** petroleum underground storage

tank systems **installed before April 11, 2016,** shall provide release detection for tanks and piping by:

1. Monitoring tanks at least every 30 calendar days for releases using one of the methods listed in N.J.A.C. 7:14B-6.5(a)4 through 8**,** except that:

i. Underground storage tank systems that meet the performance standards in N.J.A.C. 7:14B-4.1 or 4.2, and the monthly inventory control requirements in N.J.A.C. 7:14B-6.5(a)1[, (a)2, or (b)] **or 2** may use tank tightness testing (conducted in accordance with N.J.A.C. 7:14B-[6.5(a) 3]**6.5(a)3**) **at least every five years, for up to 10 years following the tank installation date**; and

ii. Tanks with capacity of 550 gallons or less **and tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in N.J.A.C. 7:14B-6.5(a)2,** may use weekly tank gauging conducted in accordance with N.J.A.C. 7:14B-6.5(a)2.

2. (No change.)

(b) Owners and operators of **regulated heating oil tank systems that utilize separate product bearing supply and return lines installed before (180 days after the operative date of this amendment), or any other** petroleum underground storage tank systems that utilize separate product bearing supply and return lines **installed before April 11, 2016,** shall provide release detection for tanks and piping as follows:

1.-2. (No change.)

(c) Except as set forth in (d) below, owners and operators of petroleum underground storage tanks or piping shall provide release detection for tanks and piping by performing interstitial monitoring at least once every 30 calendar days according to the requirements at N.J.A.C. 7:14B-6.5(a)7 as follows:

1. Regulated heating oil tank systems installed on or after (180 days after the operative date of this amendment), shall comply with (c) above upon installation.

2. Underground storage tanks not subject to (c)1 above, installed on or after April 11, 2016, shall comply with (c) above upon installation.

3. Pressurized piping shall also be equipped with an automatic line leak detector pursuant to N.J.A.C. 7:14B-6.6(a)1.

(d) No release detection is required for suction piping that complies with (a)2ii(1) through (5) above.

7:14B-6.3 Requirements for underground storage tank systems containing hazardous substances other than petroleum products and waste oil

(a) Owners and operators of underground storage tank systems containing hazardous substances other than petroleum products and waste oil shall provide release detection that meets the following requirements:

1. Release detection at [existing] underground storage tank systems **installed before September 4, 1990,** shall meet the requirements for petroleum underground storage tank systems in N.J.A.C. 7:14B-6.2. All [existing] **other** underground storage tank systems containing hazardous substances other than petroleum products and waste oil shall meet the release detection requirements for [new] **underground storage tank** systems in (a)2 below.

2. Release detection [at new] **for** underground storage tank systems containing hazardous substances other than petroleum and waste oil shall meet the following requirements:

i. Secondary containment systems shall be designed, constructed**,** and installed to:

(1) Contain regulated substances [released] **leaked** from the [tank] **UST** system until they are detected and removed;

(2)-(3) (No change.)

ii. Double-walled tanks shall be designed, constructed, and installed to:

(1) Contain a [release] **leak** from any portion of the inner tank within the outer wall; and

(2) (No change.)

iii. External liners (including vaults) shall be designed, constructed, and installed to:

(1) (No change.)

(2) Prevent the interference of precipitation or [ground-water] **ground water** intrusion with the ability to contain or detect a release of regulated substances; and

(3) (No change.)

iv. (No change.)

v. Other methods of release detection may be used **for underground storage tank systems, containing hazardous substances other than petroleum and waste oil, installed before October 13, 2015,** if owners and operators:

(1) - (3) (No change.)

3. The provisions of 40 [C.F.R.] **CFR** 265.193, Containment and Detection of Releases, may be used to comply with the requirements of (a)2 above **for tanks installed before April 11, 2016**.

7:14B-6.4 Requirements for underground storage tank systems in wellhead protection areas

(a) Owners and operators of underground storage tank systems located within wellhead protection areas shall provide release detection that meets the following requirements:

1. Release detection at [existing] underground storage tank systems **installed before September 4, 1990,** shall meet the requirements for petroleum underground storage tank systems in N.J.A.C. 7:14B-6.2.

2. Release detection at [new] underground storage tank systems **installed on or after September 4, 1990,** shall have secondary containment which are designed, constructed**,** and installed in accordance with N.J.A.C. 7:14B-6.3(a)2.

7:14B-6.5 Methods of release detection for tanks

(a) The owner [or] **and** operator shall use each method of release detection for tanks according to the requirements of N.J.A.C. 7:14B-6.2, 6.3**,** and 6.4, and in accordance with the following:

1. Product inventory control shall be conducted monthly to detect a release of at least 1.0 percent of throughput plus 130 gallons on a monthly basis in the following manner:

i. – vi. (No change.)

vii. The practices described in American Petroleum Institute [Publication 1621], ["]Recommended Practice [for] **1621 "**Bulk Liquid Stock Control at Retail Outlets,**"** may be used, where applicable, as guidance in meeting the requirements of N.J.A.C. 7:14B-6.5(a)1i through vi above.

2. Manual tank gauging shall meet the following requirements:

i. Tank liquid level measurements shall be taken at the beginning and ending of a period**, as appropriate to the minimum duration of test value given in the table at (a)2v below,** during which no liquid is added to or removed from the tank;

ii. - iii. (No change.)

iv. Only tanks of 550 gallons or less nominal capacity **and tanks with a nominal capacity of 551 to 1,000 gallons that meet the tank diameter criteria in the table in (a)2v below** may use manual tank gauging as the sole method of release detection. Tanks of 551 to 2,000 gallons **nominal capacity** may use the method in place of manual inventory control as set forth in (a)1 above. Tanks of greater than 2,000 gallons nominal capacity may not use manual tank gauging to meet the requirements of this subchapter; and

v. A [leak] **release** shall be suspected and subject to the requirements of N.J.A.C. 7:14B-7 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity	**Minimum Duration of Test**	Weekly Standard (One Test)	Monthly Standard (average of four tests)
550 gallons or less	**36 hours**	10 gallons	5 gallons
551 to 1,000 gallons (when tank diameter is 64 inches)	**44 hours**	**9 gallons**	**4 gallons**

551 to 1,000 gallons (when tank diameter is 48 inches)	**58 hours**	**12 gallons**	**6 gallons**
551 to 1,000 gallons **(also requires periodic tank tightness testing)**	**36 hours**	13 gallons	7 gallons
1,001 to 2,000 gallons **(also requires periodic tank tightness testing)**	**36 hours**	26 gallons	13 gallons

3. (No change.)

4. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:

i. The automatic product level monitor test shall detect a 0.2 gallon per hour leak rate, from any portion of the tank that routinely contains product[; and]**, when performing a test in one of the following modes:**

(1) In-tank static testing conducted with passing results at least once every 30 days; or

(2) Continuous in-tank leak detection operating either on an uninterrupted basis, or with a process that allows the system to gather incremental measurements to ensure an accurate, passing test at least once every 30 days;

and

ii. (No change.)

5. (No change.)

6. Testing or monitoring for liquids floating on the ground water shall meet the following requirements:

i. – iii. (No change.)

iv. All monitoring systems using screen and casing shall be constructed and permitted in accordance with the Subsurface and Percolating Waters Act (N.J.S.A. 58:4A-4.1 et seq.) unless constructed in the manner described in N.J.A.C. 7:14B-4.1(c) **or sealed from the ground surface to the top of the filter pack in accordance with N.J.A.C. 7:14B-4.1(d)**;

v.-viii. (No change.)

7. Interstitial monitoring between the underground storage tank **system** and a secondary barrier immediately around or beneath it may be used, but only if the **monitoring** system is designed, constructed**,** and installed to detect a leak from any portion of the tank **and/or piping** that routinely contains product and also meets one of the following requirements:

i. For [double-walled] **double walled** underground storage tank systems, the sampling or testing method shall detect a [release] **leak** through the inner wall in any portion of the tank that routinely contains product[. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks];

ii. For underground storage tank systems with a secondary barrier within the excavation zone, the sampling or testing method used shall detect a [release] **leak**

between the underground storage tank system and the secondary barrier. The secondary barrier shall meet the following requirements:

(1) The secondary barrier shall consist of artificially constructed material that is sufficiently thick and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a [release] **leak** to the monitoring point and permit its detection;

(2) The secondary barrier shall be compatible with the regulated substance stored so that a [release] **leak** from the underground storage tank system shall not cause a deterioration of the barrier allowing a release to pass through undetected;

(3) For cathodically protected [tanks] **underground storage tank systems**, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;

(4) – (6) (No change.)

iii. For tanks with an internally fitted liner, an automated device shall detect a [release] **leak** between the inner wall of the tank and the liner, and the liner shall be compatible with the substance stored.

8. Any other type of release detection method, or combination of methods, **including statistical inventory reconciliation (SIR),** can be used if [it] **the method** can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05.

i. Statistical inventory reconciliation release detection methods based on the application of statistical principles to inventory data shall, in addition to (a)8 above:

(1) Report a quantitative result with a calculated leak rate;

(2) Use a threshold that does not exceed one-half the minimum detectible leak rate; and

(3) Be conducted at least once every 30 days.

9. (No change.)

7:14B-6.7 Release detection recordkeeping

(a) The owner [or]**and** operator shall develop written routine monitoring procedures which set forth the following:

1. – 5. (No change.)

(b) The written routine monitoring procedure developed in accordance with (a) above shall be kept at the underground storage tank facility and made available for inspection by any authorized local, State [of] **or** Federal representative at any time after installation of the monitoring system. The owner [or] **and** operator of any existing monitoring system shall have the monitoring procedure available for inspection at any time after the monitoring system is installed.

(c) (No change.)

(d) All owners and operators shall maintain records of all written documentation of all calibration, maintenance, and repair [or] **of** release detection equipment permanently located on-site. **Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for five years from the date of installation.**

(e) The owner [or] **and** operator shall, on a monthly basis, complete a summary of the results of all monitoring of the underground storage tank system and maintenance checks of the release

detection equipment. This summary shall be made available for inspection by any authorized local, State**,** or Federal representative.

(f) (No change.)

(g) After a facility is closed pursuant to N.J.A.C. 7:14B-9, an owner [or] **and** operator may make a written request to the Department at the address at N.J.A.C. 7:14B-2.2(b) to discard any such documents. Such a request shall be accompanied by a description of the documents involved. Upon written approval by the Department, the owner [or] **and** operator may discard only those documents that are not required to be preserved for a longer time period.

(h) Upon receipt of a written request by the Department, the owner [or] **and** operator shall submit to the [department] **Department** all records and documents or copies of the same required to be maintained by the Act, this chapter, permits, approvals, administrative orders, or judicial orders.

(i) The owner [or] **and** operator that is equipped with a monitoring system installed prior to September 4, 1990**,** shall maintain on site a certification from a Subsurface Evaluator certified pursuant to N.J.A.C. 7:14B-13, that the site conditions and locations of the monitoring devices comply with N.J.A.C. 7:14B-6.5 and documentation from the manufacturer that the physical properties of the hazardous substance stored are appropriate for the monitoring system utilized.

(j) All [existing] underground storage tanks **installed before September 4, 1990,** that are equipped with a monitoring system in accordance with a valid New Jersey Pollutant Discharge Elimination System/Discharge to Ground Water permit and in compliance with this permit shall be exempt from the monitoring system reporting requirements of (b), (d)**,** and (e) above. Compliance shall be determined by review of the issued permit, discharge monitoring reports**,** and other required submittals.

(k) The results of annual operation tests conducted in accordance with N.J.A.C. 7:14B-6.1(g) and (h) shall be maintained for five years in accordance with N.J.A.C. 7:14B-5.6(b). At a minimum, the results shall list each component tested, indicate whether each component tested meets criteria in N.J.A.C. 7:14B-6.1(g) or needs to have action taken, and describe any action taken to correct an issue.

SUBCHAPTER 7. RELEASE REPORTING AND INVESTIGATION

7:14B-7.1 Suspected releases

(a) The owner [or] **and** operator shall complete an investigation of a suspected release in accordance with the requirements of N.J.A.C. 7:14B-7.2(a) within seven calendar days of the discovery of the suspected release, when any of the following situations have occurred:

1.– 6. (No change.)

7. Monitoring results, including alarms, from a release detection method required under N.J.A.C. 7:14B-6, that indicate a leak into the interstice or a release may have occurred;

Recodify existing 7. and 8. as **8. and 9.** (No change in text.)

(b) (No change.)

7:14B-7.2 Investigating a suspected release

(a) The owner [or] **and** operator shall confirm or disprove a suspected release by conducting an investigation in accordance with all of the applicable following procedures:

1. – 6. (No change.)

7. Conduct testing of tanks, piping, or secondary containment as appropriate, according to N.J.A.C. 7:14B-5.4(a)4 or 5, 6.5(a)3, or 6.6(a)2, in order to determine:

i. The portion of the tank that routinely contains product, or associated product bearing piping has a leak; or

ii. There is a breach of either wall of the secondary containment.

(b) If the investigation conducted in accordance with (a) above is inconclusive in confirming or disproving a suspected release, the owner [or] **and** operator shall, in accordance with the schedule in the Technical Requirements for Site Remediation, at N.J.A.C. 7:26E-3.14, conduct and complete a site investigation designed to confirm or disprove a suspected discharge in accordance with the Technical Requirements for Site Remediation rules, at N.J.A.C. 7:26E-3.3. If a discharge is confirmed, the owner [or] **and** operator shall initiate action pursuant to N.J.A.C. 7:14B-7.3. The owner [or] **and** operator shall keep documentation of an investigation in accordance with this section that disproves a suspected discharge at the facility and make it available for inspection by the Department for the operational life of the underground storage tank system.

7:14B-7.3 Confirmed discharges

(a) Any person, including, but not limited to, the owner [or] **and** operator**,** an individual certified pursuant to N.J.A.C. 7:14B-13 hired to install, remove or test an underground storage tank system, or a licensed site remediation professional performing remediation, shall, upon confirming a discharge, immediately report the discharge to the appropriate local health agency in accordance with local requirements, and to the Department's Environmental Action Hotline 877-927-6337. Discharges may be confirmed on the basis of the following:

1. – 5. (No change.)

(b) (No change.)

(c) The owner [or] **and** operator shall remediate any discharge from the underground storage tank system, in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

(d) The owner [or]**and** operator shall implement the release response plan required by N.J.A.C. 7:14B-5.5 when a discharge is confirmed.

(e) The owner [or] **and** operator of an underground storage tank system containing hazardous substances other than petroleum or waste oil shall report a discharge of the substance, over its reportable quantity, to the National Response Center in accordance with the provisions of 40 CFR Part 302.

(f) (No change.)

7:14B-7.4 Unknown sources

If the owner or **an** operator has information indicating that a facility may be the source of a discharge, the owner [or] **and** operator shall perform an unknown source investigation. The owner [or] **and** operator shall prepare an unknown source investigation report following the format presented in the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-3.13(a)2 through 4 and 6ii, and submit the report and a form available from the Department at www.nj.gov/dep/srp/srra/forms within 90 days after the receipt of information indicating the facility may be the source of a discharge.

SUBCHAPTER 8. REMEDIATION

7:14B-8.1 Responses to leaks and discharges

(a) The owner [or] **and** operator of an underground storage tank system shall, upon confirming a leak of a hazardous substance into the interstitial space created by the secondary containment system:

1. - 4. (No change.)

(b) The owner [or] **and** operator shall, upon confirming a discharge, take immediate action to:

1. (No change.)

2. Cease use of the underground storage tank system**,** provided, however, that:

i. In the event that ceasing use of the underground storage tank system would precipitate an emergency which constitutes an immediate threat to human health and safety, then the owner [or] **and** operator shall cease use of the underground storage tank system immediately subsequent to taking all necessary actions to abate the emergency**;** and

ii. Where a building's sole source of heat is from an oil burner, and there has been a discharge from the underground storage tank system containing heating oil, then the owner [or] **and** operator shall take immediate action to provide an alternate source of heat; then upon providing an alternate source of heat, the owner [or] **and** operator shall immediately cease use of the underground storage tank system which is the source of a discharge.

3. – 7. (No change.)

7:14B-8.3 Reporting requirement

For all confirmed releases from an underground storage tank subject to regulation at 40 CFR Part 280, the owner [or] **and** operator shall report to the Department the source and cause of the confirmed release on a **Confirmed Discharge Notification** form [found on the Department's website] **available from the Department** at http://www.nj.gov/dep/srp/srra/forms/ in accordance with the timeframe applicable for submittal of the site investigation or remedial investigation report.

SUBCHAPTER 9. OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE OF UNDERGROUND STORAGE TANK SYSTEMS

7:14B-9.1 Out-of-service underground storage tank systems

(a) The owner [or] **and** operator of an underground storage tank system [which] **that** is out-of-service shall:

1. [Notify the Department of such in writing, on forms obtained from the Department within five calendar days of the tank becoming out of service.] **Submit an amended New Jersey Underground Storage Tank Facility Certification Questionnaire, pursuant to N.J.A.C. 7:14B-2.1(b)7, within seven calendar days after the underground storage tank system is placed out-of-service.** The information shall include:

i.-iv. (No change.)

2. – 5. (No change.)

(b) The owner [or] **and** operator of an underground storage tank system which is out-of-service for a period greater than **or equal to** three months shall follow the guidelines in the

American Petroleum Institute Publication 1604, "Closure of Underground Petroleum Storage Tanks" titled "Temporarily Out-of-Service," incorporated herein by reference, as amended and supplemented, no later than the end of the third month in which the system is out-of-service.

(c) The owner [or] **and** operator **of an underground storage tank system that has secondary containment** may request that the underground storage tank system remain [out of service] **out-of-service** for a period of more than 12 months without having to close the tank system as required in (d) below by:

1. (No change.)

2. Submitting documentation at least 30 calendar days prior to the expiration of the 12-month period referred to in (c) above **indicating** that the requirements of (a)3 above have been completed and that [the]**:**

i. The system has had a release detection monitoring system operated in accordance with N.J.A.C. 7:14B-6.1 through 6.6 indicating that no discharge of hazardous substances has occurred during the operational life of the system or since the performance of a site investigation or remedial investigation performed in accordance with the provisions of the Technical Requirements for Site Remediation, N.J.A.C. 7:26E[.]**; and**

ii. Corrosion protection is being operated and maintained and shall continue to be operated and maintained in accordance with N.J.A.C. 7:14B-5.2 during the out-of-service period. If the corrosion protection is an impressed current cathodic protection (ICCP) system, the owner and operator must also demonstrate that the ICCP system has been inspected at least every 60 days, and will continue to be inspected at least every 60 days to verify that the system is on and working properly while the tank is out of service.

(d) [Any] **Except as set forth in (c) above, any** underground storage tank system [which] **that** is out of service for [greater] **more** than 12 months [without complying with the requirements of (c) above] shall be closed in accordance with N.J.A.C. 7:14B-9.2 [through 9.3].

(e) The owner and operator intending to put an out-of-service underground storage tank system back into service shall:

1. Submit an amended New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2, at least 30 calendar days prior to introducing product into the underground storage tank system, including documentation that corrosion protection was operated and maintained in accordance with (c)2ii above and N.J.A.C. 7:14B-5.2 during the out-of-service period; and

2. The New Jersey Underground Storage Tank Facility Certification Questionnaire shall include a statement from a certified installer, pursuant to N.J.A.C. 7:14B-13, certifying that the system is properly designed and capable of being put back into service in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory or in accordance with the manufacturer's instructions.

7:14B-9.2 Closure requirements for underground storage tank systems

(a) The owner [or] **and** operator who intends to close the underground storage tank system shall:

1. Ensure that the facility is registered as required by N.J.A.C. 7:14B-2.2. If the facility is not registered as required by N.J.A.C. 7:14B-2.2, the owner [or] **and** operator shall register the facility by submitting a completed New Jersey Underground Storage Tank **Facility**

Certification Questionnaire with the appropriate fee as specified by N.J.A.C. 7:14B-3.2[(c)]**(b)** and 3.5 prior to initiating closure. The owner [or] **and** operator shall not close any tank(s) located at the facility unless the facility is properly registered with the Department.

2. - 5. (No change.)

(b) The owner [or] **and** operator who intends to close an underground storage tank containing hazardous substances which are not hazardous wastes or an underground storage tank containing hazardous waste which is exempt from the requirements of the New Jersey Hazardous Waste Regulations, N.J.A.C. 7:26G, shall implement a closure plan which consists of a site investigation set forth at N.J.A.C. 7:26E-3.3 and a tank decommissioning plan which includes the procedures pursuant to (d) through (f) below, as applicable. The owner [or] **and** operator shall keep the closure plan at the facility and make it available for inspection by the Department, the local construction code enforcement official, or a county or municipal health official.

(c) The owner [or] **and** operator who intends to close an underground storage tank containing hazardous waste regulated pursuant to the Hazardous Waste rules, N.J.A.C. 7:26G, shall follow the closure procedures in the Hazardous Waste rules, at N.J.A.C. 7:26G-8.

(d) The owner [or] **and** operator shall close an underground storage tank pursuant to the American Petroleum Institute Recommended Practice 1604, “Closure of Underground Petroleum Storage Tanks” in publication at the time the tank is to be closed (available from the American Petroleum Institute, 1220 L Street Northwest, Washington, DC 20005), incorporated herein by reference, and shall:

1. - 2. (No change.)

(e) The owner [or] **and** operator may abandon an underground storage tank in place if no contamination is detected above applicable remediation standards or if removal is not feasible by:

1. (No change.)

2. Following the procedures at (d)1 [through 4] above, draining the associated piping, pumping out the tanks, and thoroughly cleaning the system, being sure to ameliorate any health and safety concerns due to any vapors that may be in the tank atmosphere during the tank cleaning and abandonment operation;

3. – 6. (No change.)

(f) If the underground storage tank is located under a permanent structure or is physically inaccessible, or a certification, signed and sealed by a licensed New Jersey professional engineer, is submitted stating that the sampling requirements for site investigations at N.J.A.C. 7:26E-3.3 will cause damage to the structure, the owner [or] **and** operator may use an alternate method for determining the integrity of the tank, provided that it is documented pursuant to N.J.A.C. 7:26E-1.7.

(g) The following cleaning procedures may be used to comply with (d) through (f) above:

1. American Petroleum Institute Standard 2015, ‘‘Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning’’ (available at www.api.org);

2. American Petroleum Institute Recommended Practice 2016, ‘‘Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks’’(available at www.api.org);

3. American Petroleum Institute Recommended Practice RP 1631, ''Interior Lining and Periodic Inspection of Underground Storage Tanks'' (available at www.api.org);

4. National Fire Protection Association Standard 326, ''Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair'' (available at www.nfpa.org); and

5. National Institute for Occupational Safety and Health Publication 80–106, ''Criteria for a Recommended Standard: Working in Confined Space'' (available at http://www.cdc.gov/niosh/docs/80-106/).

7:14B-9.4 Change in service to a nonregulated substance

(a) The owner [or] **and** operator of an underground storage tank system in which the substance being stored is being changed to a substance not regulated by this chapter shall:

1. -2. (No change.)

(b) Should a discharge of hazardous substances be identified during (a) above, the owner [or] **and** operator shall notify the Department's Environmental Action Hotline in accordance with N.J.A.C. 7:14B-7.3(a) and shall conduct remediation in accordance with the requirements of the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C.

(c) The owner [or] **and** operator shall submit a New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-[2.5(c)]**2.4(c)** that documents the change of substance.

(d) The following cleaning procedures may be used to comply with (a) above:

1. American Petroleum Institute Standard 2015, ''Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning'' (available at www.api.org);

2. American Petroleum Institute Recommended Practice 2016, ''Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks'' (available at www.api.org);

3. American Petroleum Institute Recommended Practice RP 1631, ''Interior Lining and Periodic Inspection of Underground Storage Tanks'' (available at www.api.org);

4. National Fire Protection Association Standard 326, ''Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair'' (available at www.nfpa.org); and

5. National Institute for Occupational Safety and Health Publication 80–106, ''Criteria for a Recommended Standard: Working in Confined Space'' (available at http://www.cdc.gov/niosh/docs/80-106/).

7:14B-9.5 Reporting and recordkeeping requirements

(a) The owner [or] **and** operator shall prepare a site investigation report in accordance with the Administrative Requirements for the Remediation of Contaminated Sites, at N.J.A.C. 7:26C-2.3, and the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-3.13, accompanied by the appropriate fees required pursuant to N.J.A.C. 7:14B-3.5 and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-4, as

applicable, and within the timeframes set forth in the Administrative Requirements for the Remediation of Contaminated Sites, at N.J.A.C. 7:26C-3.3.

(b) The owner [or] **and** operator shall submit a site investigation report and a form found on the Department's website at www.nj.gov/dep/srp/srra/forms, pursuant to the Technical Requirements for Site Remediation, at N.J.A.C. 7:26E-3.13, within the mandatory timeframes set forth in the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-3.3, which shall include the name and address for both the owner and the operator, the underground storage tank Facility Identification Number, the specific tank number(s) for the underground storage tanks systems being closed, and all applicable case numbers or tank closure approval numbers. The site investigation report shall be accompanied by the appropriate fee pursuant to the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C-4.

(c) (No change.)

SUBCHAPTER 10. PERMITTING REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS

7:14B-10.1 Permit requirements

(a) Any person who owns or operates, or is proposing to own or operate an underground storage tank system shall, except as specified in (b) and (c) below:

1. Obtain a permit from the Department prior to the repair, installation, substantial modification**,** or upgrade of the underground storage tank system, or performance of an activity specified in N.J.A.C. 7:14B-4, **4A,** 5**,** and 6 requiring Department approval; [and]

2. Obtain a construction permit issued pursuant to the New Jersey Uniform Construction Code, N.J.A.C. 5:23, prior to the repair, installation**,** or upgrade of an underground storage tank system[.]**; and**

3. Comply with the notification requirements at N.J.A.C. 7:14B-10.1A.

(b) An owner [or] **and** operator of an existing or proposed underground storage tank system need not apply for a permit with the Department**, but shall provide notification pursuant to N.J.A.C. 7:14B-10.1A,** when:

1.- 4. (No change.)

5. The only portion of the underground storage tank system being installed is a spill catchment basin used for spill prevention equipment, and the underground storage tank system is already protected from corrosion and overfills in accordance with N.J.A.C. 7:14B-4.1(a) or 4.2 and has release detection in accordance with N.J.A.C. 7:14B-6. Prior to installation of the new spill catchment basins, the owner [or] **and** operator shall investigate the ground beneath and around the fill ports for releases. The owner [or] **and** operator shall report all releases and conduct remediation in accordance with the requirements of N.J.A.C. 7:14B-7 and 8.

(c) (No change.)

(d) The Department shall not issue a permit as required in (a)1 above unless the person who owns or operates or proposes to own or operate the underground storage tank system provides evidence in the permit application that the system shall include spill prevention, overfill prevention**,** and corrosion protection in accordance with N.J.A.C. 7:14B-4.1(a)1 through 3, and appropriate release detection monitoring in accordance with N.J.A.C. 7:14B-[6.1(a), 6.2 and 6.3]**6**. **Installations of underground storage tank systems shall include evidence that the**

system is designed and constructed with secondary containment and interstitial release detection monitoring pursuant to N.J.A.C. 7:14B-4.1(a) as applicable.

(e) (No change.)

(f) The owner [or] **and** operator shall maintain at the underground storage tank facility the site diagrams and specifications required by N.J.A.C. 7:14B-10.3(b).

7:14B-10.1A Fourteen-day notification

(a) The owner and operator shall notify the Department at least 14 days prior to commencing physical on-site work related to the installation, substantial modification, or closure of an underground storage tank system, or performing any activity specified in N.J.A.C. 7:14B-4, 5, or 6 requiring Department approval.

1. Notification of such activities undertaken in response to an emergency shall be provided to the Department by the UST facility owner and operator as soon as practicable, but not to exceed 14 days after the emergency activity.

2. Notification shall be provided to the Department by the UST facility owner and operator by e-mail to 14dayUSTnotice@dep.nj.gov and shall include the following information in each notification:

i. The address, name, and UST facility ID number where the work activities will occur;

ii. The approved activity to be undertaken and the anticipated date(s) of the activity;

iii. The name, phone, and e-mail contact information of the owner and operator submitting the notification; and

iv. The name, phone, and e-mail contact information of the contractor performing the activities, if different from the owner and operator submitting the notification.

3. Department notification performed pursuant to this section is in addition to any permit applications or notifications as required by this chapter.

7:14B-10.2 Permits required in wellhead protection areas

(a) The owner [or] **and** operator of an underground storage tank system in a wellhead protection area shall obtain a permit from the Department in accordance with N.J.A.C. 7:14B-10.1(a) prior to upgrading the tank system.

(b) Prior to submitting a permit application for the upgrade or substantial modification of underground storage tank systems in wellhead protection areas, a site investigation of the underground storage tank system shall be performed in accordance with the requirements of N.J.A.C. 7:26E.

1. If the site investigation report indicates that a discharge has occurred, the Department shall not issue a permit for the upgrade of the underground storage tank system unless owner [or] **and** operator:

i. – iii. (No change.)

7:14B-10.3 Permit applications

(a) All permit applications shall be submitted on forms provided by the Department obtained from the address noted below and containing the information specified in (b) below. The permit

application shall be accurately completed, signed, dated**,** and returned to the address at N.J.A.C. 7:14B-2.2(b).

(b) Any owner [or] **and** operator of an existing or proposed underground storage tank system which requires a Department issued permit shall:

1. Submit with the permit application one copy of the plans and specifications for the proposed installation, modification or upgrade of the underground storage tank system, signed and sealed by a New Jersey professional engineer, drawn to scale and depicting the top, front, and side views of the proposed or existing underground storage tank system. Plans submitted shall show all information and details necessary to indicate compliance with this chapter and shall include a certification in accordance with N.J.A.C. 7:14B-1.7[(c)]**(b)**;

2. – 8. (No change.)

9. Submit a certification in accordance with N.J.A.C. 7:14B-1.7[(d)]**(c)** signed by a licensed site remediation professional, that the number and locations of all vapor or product monitoring points is sufficient to monitor the underground storage tank system should this method of monitoring be chosen; and

10. (No change.)

(c)-(f) (No change.)

7:14B-10.5 Display of permit and availability of approved plans

(a) The owner [or] **and** operator of an underground storage tank system for which a Department permit has been issued shall prominently display the valid permit at the facility site during the course of the permitted activity and shall make the permit available for inspection by an authorized local, State**,** or Federal representative.

(b) The owner [or] **and** operator of an underground storage tank system for which a Department permit has been issued shall maintain one set of approved plans at the facility site during the course of the permitted activity and shall make the approved plans available for inspection by any authorized local, State**,** or Federal representative.

7:14B-10.6 Emergency permits

(a) (No change.)

(b) The owner [or] **and** operator requesting an emergency permit shall contact the Department on the day of the emergency or, when the emergency occurs after business hours, on a weekend**,** or on a holiday, the owner [or] **and** operator shall contact the Department on the next working day thereafter at (609) 633-0708 for issuance of an emergency permit. The owner [or] **and** operator shall, within 14 calendar days of receipt of the emergency permit, submit a permit application pursuant to this subchapter, including the appropriate fee in accordance with N.J.A.C. 7:14B-3.5, to the Department for review of compliance with the requirements of this chapter.

(c) The owner [or] **and** operator shall provide the following information when requesting an emergency permit:

1. - 5. (No change.)

(d) The Department, upon issuance of an emergency permit, shall assign to the owner [or] **and** the operator of the underground storage tank system an emergency permit number. The owner [or] **and** operator shall prominently display the number of the facility and make it available for on-site inspection by any authorized local, State**,** or Federal representative.

7:14B-10.8 Grounds for denial or revocation of permits

(a) The Department may, in its discretion based on the criteria listed in (a)1 and 2 below, deny the issuance of a permit under this subchapter upon a determination of the following:

1. (No change.)

2. The owner**,** [or] operator**, or both** fail[s] to comply with any requirement of the State Act or this chapter.

(b) The Department may revoke a permit upon a determination of the following:

1. – 2. (No change.)

3. The owner**,** [or] operator**, or both** fail[s] to comply with any requirement of the State Act or this chapter; or

4. The owner**,** [or] operator [is]**, or both are** performing or [has] **have** authorized an activity which is not in compliance with this chapter.

(c) The Department shall inform an owner [or] **and** operator of the denial or revocation of a permit by a Notice of Intent to Deny a Permit or a Notice of Intent to Revoke a Permit. The Notice shall include:

1. - 2. (No change.)

(d) The Department shall serve this Notice to an owner [or] **and** operator by certified mail (return receipt requested) or by personal service.

(e) An owner [or] **and** operator that receives a Notice from the Department denying or revoking a permit shall not begin the proposed permitted activities or shall discontinue any ongoing permitted activities.

(f) (No change.)

SUBCHAPTER 12. PENALTIES, REMEDIES, AND [ADMINISTRATIVE]

ADJUDICATORY HEARING PROCEDURES

7:14B-12.1 Penalties

(a) Upon a finding that an owner**,** [or] operator [has]**, or both have** failed to comply with any requirement of the State Act or N.J.A.C. 7:14B-1, 3, or 7 through 11, the Department may:

1. Deny or revoke [an owner's or operator's] **the UST** registration **certificate** or permit for [an] **their** underground **storage** tank system;

2. - 3. (No change.)

(b) Upon a finding that an owner**,** [or] operator [has]**, or both have** failed to comply with any requirement of the State Act or N.J.A.C. 7:14B-2, 4, **4A,** 5, **5A,** 6**,** or 15, the Department may:

1. Deny or revoke [an owner's or operator's] **the UST** registration **certificate** or permit for [an] **their** underground **storage** tank system;

2. – 3. (No change.)

(c) (No change.)

7:14B-12.2 Adjudicatory hearings

(a) A person may request a hearing to contest:

1. A denial or revocation of an UST registration certificate, pursuant to N.J.A.C. 7:14B-2.6;

2. A denial of a permit, pursuant to N.J.A.C. 7:14B-10.8;

3. A denial of an ordinance adoption issued pursuant to N.J.A.C. 7:14B-11; or

4. A denial or revocation of a certification of an individual or business firm, pursuant to N.J.A.C. 7:14B-13 or 16.

(b) Within 20 calendar days after receiving the document for which a hearing is sought, the person requesting a hearing shall send a completed Adjudicatory Hearing Request Checklist and a written request for a hearing to:

1. Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

Department of Environmental Protection

Mail Code 401-042

PO Box 402

401 East State Street, 4th floor

Trenton, New Jersey, 08625-0402; and

2. The Underground Storage Tank program's address set forth on the Adjudicatory Hearing Request Checklist.

(c) The person requesting a hearing shall include with the completed Adjudicatory Hearing Request Checklist the following information:

1. The name, address, telephone number, and e-mail address of:

i. The person the Department named in the document for which the hearing is sought;

ii. A contact person or authorized representative, if the person the Department named in the document is other than an individual; and

iii. The person's attorney, if any;

2. The date the person received the document for which a hearing is sought;

3. A copy of the document for which a hearing is sought, pursuant to (a) above;

4. An admission, a denial, or an averment of insufficient knowledge or information of the findings listed in the document being contested, as follows:

i. If the person is without knowledge or information sufficient to form a belief as to the truth of a specific finding, the person shall so state and this shall have the effect of a denial;

ii. If a person intends to deny any finding or portion of the finding in the document:

(1) The person shall identify the finding or portion of the finding that is denied. A general denial of some or all of the findings shall have the effect of an admission of each finding generally denied;

(2) For each finding or portion of a finding the person denies, the person shall explain the factual and legal basis of the denial. Any failure to provide a factual and legal basis for a denial shall have the effect of an admission of the finding; and

(3) The person shall ensure that each denial fairly meets the substance of the finding or portion of the finding denied. A denial that does not meet the substance of the finding denied shall have the effect of an admission of the finding;

iii. If a person fails to either admit or deny any specific finding or portion of a finding, this shall have the effect of an admission of that finding.

5. A list of all factual and legal issues that the person is contesting, with each defense position stated in short and plain terms;

6. If the person's response to the Department allegation of noncompliance is that the person has complied with some or all of the applicable requirements, a description of all such compliance, including specific citation to each applicable requirement with which the person alleges it has complied, the facts and circumstances of the compliance, including a copy of any submission that is required by that applicable requirement, or otherwise provide evidence of compliance and the date of compliance;

7. Documents or information supporting the request for a hearing, and specific reference to or copies of other written documents relied on to support the request;

8. An estimate of the time required for the hearing (in days and/or hours); and

9. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(d) If the Department does not receive the request for a hearing within the time prescribed at (b) above, or if the request does not include the information required in (c) above, the Department shall deny the request for a hearing.

(e) An adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-12 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(f) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3.

7:14B-12.3 [(Reserved)] **Request for a stay of the effective date of a Departmental determination**

(a) Department decisions are effective according to their terms, unless stayed by the Department in writing.

(b) The Department, in its discretion, may grant a stay of the effective date of a Department decision specified in N.J.A.C. 7:14B-12.2(a) upon application for a stay by the aggrieved party.

(c) To request a stay, an aggrieved party shall submit the following documents, which substantiate, by a preponderance of the evidence, that one of the following circumstances exist:

1. The granting of the stay is required as a constitutional or statutory right; or

2. The potential effect on public health and safety or the environment, which might result from a decision to grant a stay is greatly outweighed by immediate, irreparable injury to the specific party requesting such stay.

(d) The Department's decision to grant a contested case hearing request shall not automatically result in a stay of the Department action appealed from, in the absence of an express decision by the Department to stay such action. The burden shall be upon the party requesting a hearing under N.J.A.C. 7:14B-12.2 to explicitly request a stay of action within the same document, as well as to describe reasons why such stay should be granted.

(e) Written requests for a stay pursuant to (c) and (d) above shall be made to the Department at the address provided at N.J.A.C. 7:14B-12.2 within 20 days of the date upon which the notice of decision was received.

(f) Any stay granted by the Department shall be temporary and shall not extend beyond the date of the Department's final decision in respect to the contested case.

7:14B-12.4 Civil administrative penalties for violations of N.J.A.C. 7:14B-13 and 16

(a) [Any person who] **An individual or business firm that** violates the provisions of N.J.A.C. 7:14B-13 or 16**,** is [liable] **subject** to a civil administrative penalty of not more than $5,000 for the first offense, not more than $10,000 for the second offense, and $25,000 for the third and each subsequent offense. [(b)] If the violation is of a continuing nature, each day of violation constitutes an additional, separate and distinct offense. [No]

(b) The Department shall assess a civil administrative penalty [shall be levied except subsequent to the notification of] **by notifying** the violator by certified mail or personal service. The notice shall include [a]**:**

1. A reference to the section of the statute, regulation, order**,** or permit condition violated; [a]

2. A concise statement of the facts alleged to constitute the violation; [a]

3. A statement of the amount of the civil **administrative** penalty to be [imposed] **assessed**; and [a]

4. A statement of the [violator's] right to **request** a hearing **pursuant to N.J.A.C. 7:14B-12.2**. [The violator shall have 20 calendar days from receipt of notice within which to deliver to the Department a written request for a hearing. The request for a hearing shall be submitted to the Department at both of the addresses specified at N.J.A.C. 7:14B-12.2(a), and shall include all of the information specified at N.J.A.C. 7:14B-12.2(b). Subsequent to the hearing and upon a finding that a violation has occurred, the Department may issue a final order assessing the amount of the penalty. If no hearing is requested, the notice shall become a final order upon the expiration of the 20 day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Agreement to, or payment of a

civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.]

(c) - (e) (No change.)

SUBCHAPTER 13. CERTIFICATION OF INDIVIDUALS AND BUSINESS FIRMS

7:14B-13.1 General requirements for certification and services

(a) – (c) (No change.)

(d) The owner [or] **and** operator shall ensure that all services performed on regulated underground storage tank systems pursuant to N.J.S.A. 58:10A-21 et seq.**,** and this chapter are performed by an individual certified pursuant to this subchapter or under the immediate, on-site supervision of an individual certified pursuant to this subchapter or that remediation is performed by a retained licensed site remediation professional, or representative thereof, for the purpose of complying with N.J.A.C. 7:26C. If a certified individual is not present at the underground storage tank site or a licensed site remediation professional has not been retained to conduct remediation, the owner [or] **and** operator shall suspend all regulated activities in that classification of service or remediation activities, as applicable.

(e) (No change.)

(f) An owner [or] **and** operator or the permanent employee of an owner [or] **and** operator may perform any service**,** listed at N.J.A.C. 7:14B-13.2(a) below**,** on the owner's [or] **and** operator's underground storage tank provided the individual is certified in that classification of service. Certification of the owner [or] **and** operator as a business firm is not required if the

owner [or] **and** operator can provide to the Department proof of financial responsibility assurance in accordance with N.J.A.C. 7:14B-13.8 or 40 [C.F.R.] **CFR** Part 280 for the remediation of a hazardous substance discharge resulting from the performance of such service(s).

(g) An owner [or] **and** operator of an underground storage tank system shall retain a licensed site remediation professional to conduct remediation pursuant to N.J.A.C. 7:26C.

(h) - (j) (No change.)

(k) If a certified individual listed as the business firm's certifying individual pursuant to N.J.A.C. 7:14B-13.3(b) below, either leaves the business firm or loses his or her certification, the certified business firm shall so notify the Department, in writing at the following address:

New Jersey Department of Environmental Protection

[Examination and Licensing Unit] **Bureau of Licensing & Registrations**

Mail Code 401-04E

[P.O.] **PO** Box 420

401 East State Street

Trenton, NJ 08625-0420

Notification shall be made within three working days of the individual leaving the business firm or losing his or her certification. The Department shall withdraw the business firm's certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of notification.

(l) – (n) (No change.)

7:14B-13.2 Classifications of underground storage tank services

(a) (No change.)

(b) The activities [which] **that** comprise the above classifications include the following:

1.-3. (No change.)

4. Tank testing includes all activities required by this chapter relative to testing the physical integrity of an underground storage tank and appurtenant piping from inception of the test until removal of testing apparatus from the tank system. **Tank testing also includes all activities relative to the testing of spill prevention, secondary containment, electronic and mechanical components, and inspection of overfill prevention equipment.** The tank testing classification shall not include the activities of air pressure soap tests of tanks or piping where product is not present, which is the exclusive purview of the individual certified in entire system installation described in (b)1 above.

5. Cathodic protection specialist includes the activities required by this chapter relative to the design, installation, maintenance**,** and testing of cathodic protection systems for underground storage tank systems.

i. Individuals holding the cathodic protection specialist certification are also considered to hold the more limited cathodic protection tester certification described in [(b)7] **(b)6** below.

6. (No change.)

7:14B-13.3 Application procedures

(a) An individual who wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-13.2, or if already certified, who wishes to add a classification of certification, or who wishes to renew the certification, shall apply on forms [obtained] **available** from the

Department at [the address listed in N.J.A.C. 7:14B-2.2(b)]

http://www.nj.gov/dep/exams/ust.htm. The information required to be submitted to the Department shall include the following:

1. - 6. (No change.)

(b) A business firm which wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-13.2, or if already certified, wishes to add a classification of certification, or wishes to renew the certification, shall apply on forms [obtained] **available** from the Department at [the address listed in N.J.A.C. 7:14B-2.2(b)]

http://www.nj.gov/dep/exams/ust.htm. The business firm shall submit with the application:

1. (No change.)

2. [A copy of the] **The individual's** certification [card noting] **number, identified on the Department issued certification card, for** each of the requested classifications by:

i. - iii. (No change.)

(c) The applicant shall sign and certify the application as follows:

1. (No change.)

2. The documents in (c)1 above shall contain an executed certification as set forth in N.J.A.C. 7:14B-1.7[(e)]**(d)**.

(d) (No change.)

7:14B-13.4 Eligibility

(a) Individuals not satisfying the criteria in [(b) or] (c) **or (d)** below may obtain certification **for the classifications identified in (a)1, 2, and 3 below** by passing the proficiency examination described in N.J.A.C. 7:14B-13.5. An applicant shall be eligible to take the proficiency

examination if the applicant meets the following minimum criteria for each classification for which the applicant is seeking certification:

1. (No change.)

[2. Applicants for the release detection monitoring system installation classification examination shall meet the following criteria:

i. Either a minimum of two years experience performing installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. with participation in at least five installations during each year of experience or nine months experience with participation in at least 25 installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. in that nine-month period;

ii. Completion of training approved by the manufacturer of the equipment to be installed; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).]

Recodify existing 3.-4. as **2.-3.** (No change in text.)

(b) Individuals not satisfying the criteria in (c) or (d) below may apply for certification in the classifications identified in (b)1, 2, and 3 below if the applicant meets the following minimum criteria for each classification for which the applicant is seeking certification:

1. Applicants for the release detection monitoring system installation certification shall meet the following criteria:

i. Either a minimum of two years of experience performing installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq., with participation in at least five installations during each year of experience or nine months experience with participation in at least 25 installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq., in that nine-month period;

ii. Completion of training approved by the manufacturer of the equipment to be installed; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

[5.] **2.** Applicants for the cathodic protection specialist [classification examination] **certification** shall possess a certification from NACE International in the category of cathodic protection specialist; and

[6.] **3.** Applicants for the cathodic protection tester [classification examination] **certification** shall meet the following criteria:

i. (No change.)

ii. Fulfill all requirements in accordance with the requirements of NACE International's Certification Committee for the category of cathodic protection tester, corrosion technologist, or senior corrosion technologist**; or Steel Tank Institute's Cathodic Protection Tester Certification Program**; and

iii. (No change.)

Recodify existing (b)-(d) as **(c)-(e)** (No change in text.)

(f) Each individual and business firm certified pursuant to this subchapter shall maintain records demonstrating that the individual or business firm has satisfied the applicable eligibility criteria for each applicable classification of certification.

(g) Each individual or business firm shall maintain the records required at (f) above for six years following the expiration of the certification, and shall make the records available to the Department on request.

7:14B-13.5 Examinations

(a) As a condition of initial certification, an individual is required to pass an examination in each classification of service for which the applicant is seeking certification, unless **the individual is not subject to an examination as set forth in N.J.A.C. 7:14B-13.4(b), or is** exempted by N.J.A.C. 7:14B-13.4[(b) or] (c) **or (d)**.

(b) - (c) (No change.)

[(d) The Department shall issue each applicant who passes the examination and pays the appropriate fee pursuant to N.J.A.C. 7:14B-3.10 a certification in the classification for which the applicant passed the appropriate examination.]

7:14B-13.7 Renewal requirements

(a) (No change.)

(b) [Individual] **An individual** certification[s] may be renewed by submitting [a complete] **records demonstrating compliance with the continuing education requirements at N.J.A.C.**

7:14B-13.6 and the renewal [application and the application] fee **required pursuant to N.J.A.C. 7:14B-3** to the Department at least 60 calendar days prior to expiration of the current certification.

(c) Business firm certifications may be renewed by submitting a [complete] renewal [application, the application] fee, and [a copy of] the certification **number** of those individuals through which the business firm is certified, to the Department at the address listed in N.J.A.C. 7:14B-13.1[(j)]**(k)** at least 60 calendar days prior to expiration of the current certification.

(d) - (g) (No change.)

7:14B-13.8 Financial responsibility assurance

(a) - (c) (No change.)

(d) A business firm engaged in providing underground storage tank services shall maintain for the duration of the term of certification, and for six years following the expiration of the certification, records demonstrating the business firm's compliance with the financial responsibility assurance requirement at (a) above. The business firm shall make the records available to the Department on request.

7:14B-13.10 Denial, suspension, revocation**,** and refusal to renew a certification

(a) The Department may deny, suspend, revoke, or refuse to renew a certification issued pursuant to N.J.A.C. 7:14B-13 for good cause, including:

1. – 3. (No change.)

4. Failure to attend a Department approved course on the regulations as required pursuant to N.J.A.C. 7:14B-13.4[(d)]**(e)**;

5.-6. (No change.)

(b) Within [30] **20** calendar days after receipt of notification of the Department's intent to suspend, revoke, deny**,** or refuse to renew a certification, the applicant or certificate holder may request an adjudicatory hearing pursuant to N.J.A.C. 7:14B-12.2.

(c) - (e) (No change.)

SUBCHAPTER 15. FINANCIAL RESPONSIBILITY REQUIREMENTS

7:14B-15.1 Applicability and general requirements

(a)-(b) (No change.)

(c) By September 16, 2003, the owner [or] **and** operator not covered by (b) above shall comply with this subchapter for the amounts listed in N.J.A.C. 7:14-15.2 by maintaining financial assurance pursuant to USEPA's Financial Responsibility Regulations at 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H**,** incorporated by reference, with the noted exclusions at N.J.A.C. 7:14B-15.3(c).

(d) - (f) (No change.)

(g) The owner [or] **and** operator [is] **are** not required to maintain financial responsibility assurance pursuant to this subchapter for any underground storage tank system when either of the following conditions has been met; the owner [or] **and** operator may be required, however, to maintain financial assurance if the owner [or] **and** operator [is] **are** required to obtain a remedial action permit pursuant to the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C-7.7.

1.-2. (No change.)

(h) The owner and operator shall identify the financial assurance mechanism being used to comply with this subchapter on the New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2.2[(d)5]**(c)9** and [shall maintain evidence of financial assurance at the site and at the owner or operator's place of business. An owner or operator shall] submit to the Department evidence of financial assurance with any supporting documentation[, pursuant to a request by the Department]. **An owner and operator shall maintain evidence of financial assurance at the site or at the owner or operator's place of business.**

(i) (No change.)

7:14B-15.2 Amount and scope of required financial responsibility

(a) Owners and operators shall maintain financial responsibility assurance for regulated underground storage tank systems in the per-occurrence **or per-incident** amounts as follows:

1. – 3. (No change.)

(b) Owners [or] **and** operators shall maintain financial responsibility assurance for regulated underground storage tank systems in the annual aggregate amounts as follows:

1. – 2. (No change.)

(c) Owners and operators shall review the amount of per-occurrence **or per-incident,** and aggregate assurance needed whenever they acquire or install additional underground storage tanks to ensure the amount of financial responsibility assurance required at (a) and (b) above are maintained.

(d) If an adjustment in the amount of financial responsibility assurance is required pursuant to (c) above, the owner and operator shall demonstrate the adjusted amount within 30 calendar days after the tank acquisition or installation by submitting to the Department an amended New

Jersey Underground Storage Tank Facility Certification Questionnaire in accordance with N.J.A.C. 7:14B-[2.4]**2.2**.

(e) If an owner and operator use liability insurance authorized by 40 CFR 280.94 and 40 CFR 280.97 as the financial responsibility assurance required under this subchapter, as provided by the Underground Storage Tank Finance Act at N.J.S.A. 58:10A-37.11, such insurance shall be the primary coverage to pay for the costs associated with remediating a discharge from the UST system, notwithstanding that financial assistance from New Jersey Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund is or may be available.

7:14B-15.3 Incorporation of the Code of Federal Regulations by reference

(a) – (b) (No change.)

(c) Owners and operators of State regulated underground storage tank systems subject to the requirements of N.J.A.C. 7:14B, but not covered by (b) above, shall comply with this chapter for the amounts listed in N.J.A.C. 7:14-15.2 by complying with USEPA's Financial Responsibility Regulations at 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H**,** incorporated by reference into this rule with the following noted exclusions:

1. – 4. (No change.)

(d) (No change.)

(e) Prospective incorporation by reference means the ongoing process, beginning May 19, 2003, whereby all provisions of regulations incorporated into this subchapter from the Federal regulations at 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H**,** are continually automatically updated in order to maintain consistency with the most current Federal rules. Thus, any

supplements, amendments, and any other rule changes including, without limitation, repeals or stays that affect the meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by U.S. Environmental Protection Agency in the Federal Register, shall simultaneously amend this subchapter so this subchapter has the same meaning and status as its Federal counterpart.

(f) – (h) (No change.)

(i) New Federal rules, amendments, supplements**,** and other changes at 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H**,** brought about through administrative or judicial action adopted or otherwise noticed by USEPA in the Federal Register shall be automatically incorporated through the prospective incorporation process in this chapter.

(j) New Federal rules, amendments, supplements**,** and other changes at 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H**,** brought about through administrative or judicial action adopted or otherwise noticed in the Federal Register by USEPA after January 26, 1998**,** but prior to May 19, 2003**,** shall be prospectively incorporated by reference and shall be effective on May 19, 2003**,** and operative on August 17, 2003**,** or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption of the Federal rule in New Jersey in whole or in part, and/or proposes to otherwise amend the affected State rules.

(k) (No change.)

7:14B-15.4 Document availability

(a) Copies of the 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H**,** as adopted and incorporated by reference herein are available for review. Publications incorporated by reference within the

Code of Federal Regulations as listed at 40 [C.F.R.] **CFR Part** 280 [Part] **Subpart** H, or the most currently available version, are also available for review. The Federal rule can be accessed through a hyperlink provided on the Department's internet web page at [www.state.nj.us/dep/srp/regs/ust] **www.nj.gov/dep/srp/regs/**. These publications may also be reviewed by contacting the Department at:

New Jersey Department of Environmental Protection

Site Remediation **and Waste Management** Program

[PO Box 028

Trenton, NJ 08625-0028

Telephone: (609) 633-1408]

Division of Enforcement, Technical & Financial Support

Mail Code 401-06E

PO Box 420

Trenton, NJ 08625-0420

(b)-(d) (No change.)

SUBCHAPTER 16. CERTIFICATION OF INDIVIDUALS AND BUSINESS FIRMS FOR UNREGULATED UNDERGROUND STORAGE TANK SYSTEMS

7:14B-16.2 General requirements for certification

(a) - (c) (No change.)

(d) The owner [or] **and** operator of an unregulated heating oil tank system shall ensure that all services performed on the unregulated heating oil tank system are performed by an individual or under the immediate, on-site supervision of an individual certified under N.J.A.C. 7:14B-13 or

under this subchapter, unless exempt pursuant to (n) below. If a certified individual is not present at the unregulated heating oil tank system site, the owner [or]**and** operator shall suspend all activities in that classification of service.

(e) (No change.)

(f) An individual or firm certified to perform services on unregulated heating oil tank systems shall perform such services pursuant to all applicable:

1. - 4. (No change.)

5. Industry standards, including the following, as incorporated herein by reference, as amended and supplemented, as applicable:

i. American Petroleum Institute Publication 1604, "Closure of Underground Petroleum Storage" **(available at www.api.org)**;

ii. American Petroleum Institute Publication 1615, "Installation of Underground [Storage-Petroleum-Systems] **Petroleum Storage Systems**" [(obtained from Global Engineering Documents at 15 Inverness Way East, Englewood Colorado 80122)] **(available at www.api.org)**;

iii. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" [(obtained from P.O. Box 2380, Tulsa, OK 74101-2380)] **(available at www.pei.org)**;

iv. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems" **(available at www.api.org)**;

v. NACE International Standard [RP-02-95 RP0285-2002,] **Practice SP 0285**, "**External** Corrosion Control of Underground Storage Tank Systems by Cathodic

Protection," **(available at www.NACE.org)** and Underwriters Laboratories Standard 58, "Standard for Steel [underground storage tanks] **Underground Tanks** for Flammable and Combustible Liquids" [(obtained from: 144 South Creek Drive, Houston, TX 77084-4906)] **(available at www.UL.com)**;

vi. National Fire Protection Association (NFPA) 30 "Flammable and Combustible Liquids Code"[, Batterymarch Park, Quincy, MA 02269 -9990] **(available at www.nfpa.org)**; and

vii. (No change.)

(g) - (i) (No change.)

(j) When a certified individual listed as the business firm's certifying individual on the [certification card] **certificate** issued pursuant to (c) above leaves the business firm, the certified business firm shall so notify the Department, in writing at the address below. Notification shall be made by the business firm within three working days of the individual leaving the business firm. The Department shall withdraw the business firm's certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of the individual leaving the business firm.

New Jersey Department of Environmental Protection

[Examination and Licensing Unit] **Bureau of Licensing & Registrations**

Mail Code 401-04E

401 E. State Street

[P.O.] **PO** Box 420

Trenton, NJ 08625-0420

(k)-(n) (No change.)

7:14B-16.3 Classifications of unregulated heating oil tank services

(a) (No change.)

(b) The activities [which] **that** comprise the classifications in (a) above include the following:

1.-3. (No change.)

4. Tank testing of unregulated heating oil tank systems includes all activities relative to testing the physical integrity of an unregulated heating oil tank and appurtenant piping from inception of the test until removal of testing apparatus from the tank system. **Tank testing also includes all activities relative to the testing of spill prevention, secondary containment, electronic and mechanical components, and inspection of overfill prevention equipment.** The tank testing classification shall not include the activities of air pressure soap tests of tanks or piping where product is not present, which is the exclusive purview of the individual certified in entire unregulated heating oil tank system installation described in (b)1 above. Tank testing of an unregulated heating oil tank system shall be performed pursuant to N.J.A.C. 7:14B-16.2(f) as applicable. All volumetric and non-volumetric tank system testing methods used to test unregulated heating oil tank systems shall be evaluated by an independent testing laboratory to meet the accuracy described by N.J.A.C. 7:14B-6.5(a)3 for the size and type of tank system being tested in the most current version of the “List of Leak Detection Evaluations for Underground Storage Tanks Systems” available at the time the individual submits the application for certification. The “List of Leak Detection Evaluations for Underground Storage Tanks Systems” is published by the National Work

Group on Leak Detection Evaluations (NWGLDE), www.epa.gov/swerust1/pubs/ldlist.htm and is incorporated herein by reference as amended and supplemented.

5. – 7. (No change.)

7:14B-16.4 Application procedures

(a) An individual who wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-16.3, or if already certified, who wishes to add a classification of certification, or who wishes to renew the certification, shall apply on forms [obtained] **available** from the Department at [the address listed in N.J.A.C. 7:14B-2.2(b)] **http://www.nj.gov/dep/exams/ust.htm**. The information required to be submitted to the Department shall include the following:

1. - 6. (No change.)

(b) A business firm that wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-16.3, or if already certified, wishes to add a classification of certification, or wishes to renew the certification, shall apply on forms [obtained] **available** from the Department at [the address listed in N.J.A.C. 7:14B-16.2(j)] **http://www.nj.gov/dep/exams/ust.htm**. The business firm shall submit with the application:

1. (No change.)

2. [A copy of the certifying] **The** individual's certification [card(s) noting] **number, identified on the Department issued certification card, for** each of the requested classifications by:

i. - iii. (No change.)

(c) - (d) (No change.)

7:14B-16.5 Eligibility

(a) Individuals not satisfying the criteria in (b) **or (c)** below may obtain certification **for the classifications identified in (a)1 through 4 below** by passing the proficiency examination described in N.J.A.C. 7:14B-16.6. An applicant shall be eligible to take the proficiency examination if the applicant meets the following minimum criteria for each classification for which the applicant is seeking certification:

1. (No change.)

[2. An applicant for the unregulated heating oil tank system release detection monitoring installation classification examination shall meet the following criteria:

i. Either a minimum of two years experience performing release detection monitoring installations with participation in at least five installations during each year of experience, or nine months experience with participation in at least 25 installations in that nine-month period or five years experience with participation in at least 12 installations with no less than two installations during each year of experience;

ii. Completion of training approved by the manufacturer of the equipment to be installed; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).]

Recodify existing 3.-4. **as 2.-3.** (No change in text.)

4. An applicant for the subsurface evaluation of unregulated heating oil tank systems classification examination shall meet the following criteria:

i. A bachelor's degree from an accredited institution in a natural (earth, biological, or environmental), physical, or chemical science or appropriate engineering discipline;

ii. Either a minimum of two years of experience performing subsurface evaluation services with participation in at least five subsurface evaluation services performed during each year of experience or nine months experience with participation in at least 25 subsurface evaluations in that nine-month period; and

iii. Completion of appropriate health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

(b) Individuals not satisfying the criteria in (c) below may apply for certification in the classifications identified in (b)1, 2, and/or 3 below if the applicant meets the following minimum criteria for each classification for which the applicant is seeking certification:

1. An applicant for the unregulated heating oil tank system release detection monitoring installation certification shall meet the following criteria:

i. Either a minimum of two years of experience performing release detection monitoring installations with participation in at least five installations during each year of experience, or nine months experience with participation in at least 25

installations in that nine-month period or five years of experience with participation in at least 12 installations with no less than two installations during each year of experience;

ii. Completion of training approved by the manufacturer of the equipment to be installed; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

[5.] **2.** An applicant for the unregulated heating oil tank system cathodic protection specialist [classification examination] **certification** shall possess a certification from NACE International in the category of cathodic protection specialist.

[6.] **3.** An applicant for the unregulated heating oil tank system cathodic protection tester [classification examination] **certification** shall meet the following criteria:

i. (No change.)

ii. Fulfillment of all requirements in accordance with the requirements of NACE International's Certification Committee for the category of cathodic protection tester, corrosion technologist, or senior corrosion technologist**; or Steel Tank Institute's Cathodic Protection Tester Certification Program**; and

iii. (No change.)

[7. An applicant for the subsurface evaluation of unregulated heating oil tank systems classification examination shall meet the following criteria:

i. A bachelor's degree from an accredited institution in a natural (earth, biological, or environmental), physical, or chemical science or appropriate engineering discipline;

ii. Either a minimum of two years experience performing subsurface evaluation services with participation in at least five subsurface evaluation services performed during each year of experience or nine months experience with participation in at least 25 subsurface evaluations in that nine-month period; and

iii. Completion of appropriate health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).]

Recodify existing (b)-(c) as **(c)-(d)** (No change in text.)

(e) Each individual and business firm certified pursuant to this subchapter shall maintain records demonstrating that the individual or business firm has satisfied the applicable eligibility criteria for each classification of certification.

(f) The individual or business firm shall maintain the records required under (e) above for six years following the expiration of the certification and shall make the records available to the Department on request.

7:14B-16.6 Examinations

(a) As a condition of initial certification under this subchapter, an individual is required to pass an examination in each classification of service for which the applicant is seeking

certification, unless the individual is **not subject to an examination as set forth in N.J.A.C. 7:14B-16.5(b), is** exempt under N.J.A.C. 7:14B-16.5[(b)]**(c),** or meets the requirements of N.J.A.C. 7:14B-16.1(b) or (c).

(b) - (c) (No change.)

[(d) The Department shall issue each applicant who passes the examination and pays the appropriate fee pursuant to N.J.A.C. 7:14B-3.10 a certification in the classification for which the applicant passed the appropriate examination.]

7:14B-16.8 Renewal requirements

(a) (No change.)

(b) An individual certification may be renewed by submitting [a complete] **records demonstrating compliance with the continuing education requirements at N.J.A.C. 7:14B-16.7 and the** renewal [application and the application] fee required pursuant to N.J.A.C. 7:14B-3 to the Department at least 60 calendar days prior to expiration of the current certification.

(c) A business firm certification may be renewed by submitting a [complete] renewal [application, the application] fee required pursuant to N.J.A.C. 7:14B-3, and [a copy of] the certification **number** of those individuals through which the business firm is certified, to the Department at the address listed in N.J.A.C. 7:14B-16.2(j) at least 60 calendar days prior to expiration of the current certification.

(d) - (g) (No change.)

7:14B-16.9 Financial responsibility assurance

(a) -(c) (No change.)

(d) A business firm engaged in providing underground storage tank services shall maintain for the duration of the term of certification, and for six years following the expiration of the certification, records demonstrating the business firm's compliance with the financial responsibility assurance requirement under (a) above. The business firm shall make the records available to the Department on request.

7:14B-16.11 Denial, suspension, revocation**,** and refusal to renew a certification

(a) (No change.)

(b) Within [30] **20** calendar days after receipt of notification of the Department's intent to suspend, revoke, deny**,** or refuse to renew a certification, the applicant or certificate holder may request an adjudicatory hearing pursuant to N.J.A.C. 7:14B-12.2.

(c) – (e) (No change.)

CHAPTER 26C

ADMINISTRATIVE REQUIREMENTS FOR THE REMEDIATION OF CONTAMINATED SITES

SUBCHAPTER 9. ENFORCEMENT

7:26C-9.5 Civil administrative penalty determination

(a) (No change.)

(b) The following summary of rules contained in the "Subchapter and Violation" column of the following tables is provided for informational purposes only. In the event that there is a conflict between the rule summary in the following tables and the corresponding rule provision, then the corresponding rule provision shall prevail. The "Citation" column lists the citation and

shall be used to determine the specific rule to which the violation applies. In the "Type of Violation" column, "M" identifies a violation as minor and "NM" identifies a violation as non-minor. The length of the applicable grace period for a minor violation is indicated in the "Grace Period" column. The "Base Penalty" column indicates the applicable base penalty for each violation.

Subchapter and Violation	Citation	Type of Violation	Grace Period Days	Base Penalty
...				
Underground Storage Tanks N.J.A.C. 7:14B				
…				
10 Permitting requirements for underground storage tank systems				
Failure to maintain the required site diagrams and specification at the underground storage tank facility.	7:14B-10.1(f)	M	30	$10,000
Failure to notify the Department at least 14 days prior to the commencement of any work activities related to installation, substantial modification, or closure of an	**7:14B-10.1A**	**M**	**30**	**$1,750**

underground storage tank system.			
Failure to obtain a permit from the Department prior to upgrading an underground storage tank system in a wellhead protection area.	7:14B-10.2(a)	NM	$15,000

…