

CHAPTER 14B

CHAPTER TABLE OF CONTENTS

UNDERGROUND STORAGE TANKS

Authority

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

Source and Effective Date

R.1997 d.487, effective October 22, 1997.
 See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 14B, Underground Storage Tanks, expires on April 20, 2003. See: 34 N.J.R. 4024(a).

Chapter Historical Note

Chapter 14B, Underground Storage Tanks, was adopted as R.1987 d.531, effective December 21, 1987. See: 19 N.J.R. 1477(a), 19 N.J.R. 2417(a). Subchapter 4, Underground Storage Tank System Performance Standards and Engineering Requirements; Subchapter 5, Underground Storage Tank System General Operating Requirements; Subchapter 6, Monitoring Requirements for Underground Storage Tank Systems; Subchapter 7, Release Reporting and Investigation; Subchapter 8, Corrective Action; Subchapter 9, Out-of-Service Underground Storage Tank Systems and Closure of Underground Storage Tank Systems; Subchapter 10, Permitting Requirements for Underground Storage Tank Systems; Subchapter 11, Municipal Ordinances; Subchapter 12, Penalties, Remedies, and Administrative Hearing Procedures; Subchapter 13, Underground Storage Tank Loan Program; and Subchapter 15, Confidentiality, were adopted as R.1990 d.443, effective September 4, 1990. See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Pursuant to Executive Order No. 66(1978), Chapter 14B was re-adopted as R.1992 d.498, effective November 18, 1992. See: 24 N.J.R. 2975(a), 24 N.J.R. 4523(a).

Pursuant to Executive Order No. 66(1978), Chapter 14B was re-adopted as R.1997 d.487, effective October 22, 1992. See: Source and Effective Date. As part of R.1997 d.487, effective November 17, 1997, Subchapter 4, Underground Storage Tank System Performance Standards and Engineering Requirements; Subchapter 5, Underground Storage Tank System General Operating Requirements; Subchapter 6, Monitoring Requirements for Underground Storage Tank Systems; Subchapter 10, Permitting Requirements for Underground Storage Tank Systems; and Subchapter 13, Underground Storage Tank Loan Program, were repealed; and Subchapter 4, Underground Storage Tank Systems Design, Construction and Installation; Subchapter 5, General Operating Requirements; Subchapter 6, Release Detection; Subchapter 10, Permitting Requirements for Underground Storage Tank Systems; and Subchapter 13, Certification of Individuals and Business Firms, were adopted as new rules; Subchapter 8, Corrective Action, was renamed Remediation Activities; and Subchapter 15, Confidentiality, was recodified as Subchapter 14. See, also, section annotations.

Law Review and Journal Commentaries

Reporting Releases from Clients' Underground Storage Tank Systems. Harriett Jane Olson, Kathleen T. Kneis, 21 Seton Hall L.Rev. 1041 (1991).

Tanks for Nothing: Oil Company Liability for Discharges of Gasoline From Underground Storage Tanks Divested to Station Owners. Mark D. Oshinskie, 18 V.E.L.J. 1 (1999).

Who is "In Any Way Responsible" Under the Spill Act? Matthew S. Slowinski, 150 N.J.L.J. 301 (1997).

SUBCHAPTER 1. GENERAL INFORMATION

- 7:14B-1.1 Scope
- 7:14B-1.2 Construction
- 7:14B-1.3 Purpose
- 7:14B-1.4 Applicability
- 7:14B-1.5 Severability
- 7:14B-1.6 Definitions
- 7:14B-1.7 Certifications
- 7:14B-1.8 Use of regulated underground storage tank systems

SUBCHAPTER 2. REGISTRATION REQUIREMENTS AND PROCEDURES

- 7:14B-2.1 General registration requirements
- 7:14B-2.2 Registration and certification procedures
- 7:14B-2.3 Transfer of registration
- 7:14B-2.4 Changes to registration
- 7:14B-2.5 Public access to registration information
- 7:14B-2.6 Registration Certificate
- 7:14B-2.7 Denial or revocation of registration
- 7:14B-2.8 (Reserved)

SUBCHAPTER 3. FEES

- 7:14B-3.1 Registration fee
- 7:14B-3.2 Facility Certification fee
- 7:14B-3.3 Duplicate Registration Certificate charges
- 7:14B-3.4 Exemption from fees
- 7:14B-3.5 Program oversight cost fees
- 7:14B-3.6 Payment for Department services
- 7:14B-3.7 Confidentiality claims
- 7:14B-3.8 Oversight cost review
- 7:14B-3.9 Payment of fees in installments
- 7:14B-3.10 Fees for individual and business firm certification in underground storage tank management services

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

- 7:14B-4.1 Performance standards for new underground storage tank systems
- 7:14B-4.2 Upgrading of existing underground storage tank systems

SUBCHAPTER 5. GENERAL OPERATING REQUIREMENTS

- 7:14B-5.1 Spill and overflow control
- 7:14B-5.2 Operation and maintenance of corrosion protection
- 7:14B-5.3 Compatibility
- 7:14B-5.4 Repairs
- 7:14B-5.5 Release response plan
- 7:14B-5.6 Recordkeeping
- 7:14B-5.7 Right of entry
- 7:14B-5.8 Fill port markings

SUBCHAPTER 6. RELEASE DETECTION

- 7:14B-6.1 General requirements for all underground storage tank systems
- 7:14B-6.2 Requirements for underground storage tank systems containing petroleum products and waste oil
- 7:14B-6.3 Requirements for underground storage tank systems containing hazardous substances other than petroleum products and waste oil
- 7:14B-6.4 Requirements for underground storage tank systems in wellhead protection areas
- 7:14B-6.5 Methods of release detection for tanks
- 7:14B-6.6 Methods of release detection for piping
- 7:14B-6.7 Release detection recordkeeping

SUBCHAPTER 7. RELEASE REPORTING AND INVESTIGATION

- 7:14B-7.1 Suspected releases
- 7:14B-7.2 Investigating a suspected release
- 7:14B-7.3 Confirmed discharges
- 7:14B-7.4 Unknown sources

SUBCHAPTER 8. REMEDIATION ACTIVITIES

- 7:14B-8.1 Immediate corrective action requirements and procedures
- 7:14B-8.2 Discharge remediation requirements
- 7:14B-8.3 Reporting requirements
- 7:14B-8.4 Implementation of the remedial action requirements
- 7:14B-8.5 Remedial action reports
- 7:14B-8.6 Applicable remediation standards
- 7:14B-8.7 Health and safety requirements
- 7:14B-8.8 Leak mitigation requirements

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
- 7:14B-9.2 Closure requirements for underground storage tank systems containing hazardous substances which are not hazardous wastes
- 7:14B-9.3 Closure requirements for underground storage tank systems containing hazardous wastes
- 7:14B-9.4 Change in service to a nonregulated substance
- 7:14B-9.5 Reporting and recordkeeping requirements

SUBCHAPTER 10. PERMITTING REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS

- 7:14B-10.1 Permit requirements
- 7:14B-10.2 Permits required in wellhead protection areas
- 7:14B-10.3 Permit applications
- 7:14B-10.4 Public access to permit information
- 7:14B-10.5 Display of permit and availability of approved plans
- 7:14B-10.6 Emergency permits
- 7:14B-10.7 Permit expiration
- 7:14B-10.8 Grounds for denial or revocation of permits

SUBCHAPTER 11. MUNICIPAL ORDINANCES

- 7:14B-11.1 Local ordinance exemption
- 7:14B-11.2 Local ordinance enactment
- 7:14B-11.3 Department determination

SUBCHAPTER 12. PENALTIES, REMEDIES, AND ADMINISTRATIVE HEARING PROCEDURES

- 7:14B-12.1 General penalty
- 7:14B-12.2 Procedures for requesting hearings after denial or revocation of registration, permits, certifications for individuals and business firms, and denial of ordinance adoption
- 7:14B-12.3 Liability for compliance
- 7:14B-12.4 Civil administrative penalties for violations of N.J.A.C. 7:14B-13

SUBCHAPTER 13. CERTIFICATION OF INDIVIDUALS AND BUSINESS FIRMS

- 7:14B-13.1 General requirements for certification
- 7:14B-13.2 Classifications of underground storage tank services
- 7:14B-13.3 Application procedures
- 7:14B-13.4 Eligibility
- 7:14B-13.5 Examinations
- 7:14B-13.6 Continuing education requirements
- 7:14B-13.7 Renewal requirements
- 7:14B-13.8 Financial responsibility assurance
- 7:14B-13.9 Denial, suspension, revocation and refusal to renew a certification

SUBCHAPTER 14. CONFIDENTIALITY

- 7:14B-14.1 Scope and exchange of information
- 7:14B-14.2 Confidential claims
- 7:14B-14.3 Disclosure of confidential information to contractors
- 7:14B-14.4 Confidentiality determinations
- 7:14B-14.5 Substantive criteria for use in confidentiality determinations
- 7:14B-14.6 Disclosure of confidential information to USEPA and other public agencies
- 7:14B-14.7 Disclosure by consent
- 7:14B-14.8 Imminent and substantial danger
- 7:14B-14.9 Security procedures
- 7:14B-14.10 Wrongful access or disclosure; penalties

SUBCHAPTER 1. GENERAL INFORMATION

7:14B-1.1 Scope

This chapter shall constitute the rules of the Department of Environmental Protection for all underground storage tank facilities regulated by N.J.S.A. 58:10A-21 et seq.

7:14B-1.2 Construction

This chapter shall be construed so as to permit the Department to implement its statutory functions and to effectuate the purposes of the law.

7:14B-1.3 Purpose

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

1. To establish the Department's underground storage tank program;
2. To implement the registration requirements of the State Act;
3. To establish Initial Registration and Annual Certification fees;
4. To implement the technical requirements of the State Act;
5. To implement the reporting requirements of the State Act;
6. To implement the corrective action requirements of the State Act;
7. To implement the permitting requirements for the State Act;
8. To implement the underground storage tank services certification requirements of the State Act; and
9. To protect human health and the environment of the State by ensuring sound underground storage tank management, thereby preventing, controlling, remediating and/or abating actual or potential groundwater contamination.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Purpose amended to include technical, reporting, corrective action and permitting requirements of N.J.S.A. 58:10A-21 et seq. Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Inserted new (a)8; and recodified existing (a)8 as (a)9.

7:14B-1.4 Applicability

(a) This chapter applies to all underground storage tanks containing hazardous substances except as provided in (b) below.

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

1. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tanks with a capacity of 2,000 gallons or less used to store heating oil for onsite consumption in a nonresidential building;
3. Tanks used to store heating oil for onsite consumption in a residential building;
4. Septic tanks installed in compliance with rules adopted by the Department pursuant to The Realty Improvement Sewerage and Facilities Act (1954), Pub. L. 1954, c.199 (N.J.S.A. 58:11-23 et seq.);
5. Pipelines, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, Pub. L. 90-481 (49 U.S.C. §§ 1678 et seq.), the Hazardous Liquid Pipeline Safety Act of 1979, Pub. L. 96-129 (49 U.S.C. §§ 2001 et seq.), or intrastate pipelines regulated under State law as approved by the Department;
6. Surface impoundments, pits, ponds, lagoons, storm water or wastewater collection systems operated in compliance with N.J.A.C. 7:14A-1 et seq.;
7. Liquid traps or associated gathering lines directly related to oil and gas production and gathering operations;
8. Tanks situated in an underground area including, but not limited to, basements, cellars, 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, 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 9 above, and 11 to 14 below;
11. Flow-through process tanks;
12. Wastewater treatment tanks;

13. Electrical equipment; and
14. Hydraulic lift tanks.

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

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 by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A.

(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.

(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) Underground storage tank systems storing a mixture of petroleum and other hazardous substances are considered petroleum storage tank systems if the quantity of other hazardous substances does not alter the detectability, effectiveness of remedial action, or toxicity of the petroleum to any significant degree.

(g) For the purpose of this chapter, all underground storage tank systems shall be regulated based upon the most stringent regulated use of the underground storage tank system, when there are multiple uses of the tank at the site.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Citations corrected; (c) and (d) added.

Administrative Correction.

See: 27 N.J.R. 1978(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Deleted (c)3 and (d); and inserted new (d) through (g).

7:14B-1.5 Severability

If any section, subsection, provision, clause or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

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 by following the procedures in American Petroleum Institute Recommended Practice 1604, “Removal and Disposal of Used Underground Storage Tanks,” and left in the ground.

“Activity” means any one of the following:

1. Installation of a new underground storage tank system;
2. Closure of an underground storage tank system; or
3. Substantial modification of an underground storage tank system.

“Amendment to certification” means any change of the certification for the purpose of correction, addition or deletion of information.

“Annular space” means the space created between the primary and secondary container of a secondarily contained underground storage tank system.

“Aquifer” means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

“Beneath the surface of the ground” means beneath the ground surface or otherwise covered with earthen materials.

“Business firm” means any entity, whether a sole proprietorship, partnership, or corporation, which provides services to underground storage tanks, such services being required for the purposes of complying with the provisions of N.J.S.A. 58:10A-21 et seq. The service does not have to be performed for profit.

“Casing” means a pipe used to support the sides of a hole to prevent caving or the entrance of water or other fluids into the hole.

“Cathodic protection” means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell.

“Close” or “closure” means the permanent elimination from service of any underground storage tank system by removal or abandonment in place.

“Commercial” means any activity involving a hazardous substance from an underground storage tank system including, but not limited to, the resale, distribution, processing and transportation of any hazardous substance, as well as the use of any hazardous substance to perform or carry out these or other activities, that results in monetary gain.

“Commissioner” means the Commissioner of the Department of Environmental Protection.

“Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the tank system.

“Contaminant” means any discharged hazardous substance.

“Continuous monitoring” means a monitoring system that incorporates automatic equipment that can detect leaks and/or discharges without interruption.

“Corrosion” means the deterioration of a material by direct or electrochemical reaction with its environment.

“Daily” means at least five days per week.

“Decommissioning” means the excavating, cleaning, degassing, removal or abandonment in place of an underground storage tank system.

“Department” means the Department of Environmental Protection.

“Discharge” means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or onto the lands of the State or into the waters outside the jurisdiction of the State, when damage may result to the lands, waters, or natural resources within the jurisdiction of the State.

“Discharge detection system” means a method of detecting a discharge of hazardous substances from an underground storage tank system.

“Double-walled tank” means an underground storage tank in which a rigid secondary container is attached to the primary container and which has an annular space.

“Electrical equipment” means underground equipment which contains dielectric fluid which is necessary for the operation of equipment such as transformers and buried electrical cable.

“Empty” means all hazardous substances have been removed that can be removed by direct pumping or drainage and no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the system remains, whichever is the smaller amount.

“Entire piping run” means the total length of piping from the tank to the dispenser.

“Excavation area” means the area containing the underground storage tank system and backfill material and bounded by the above ground surface, walls, and pit and trenches into which the underground storage tank system is placed at the time of installation.

“Existing underground storage tank system” means an underground storage tank system which was installed before September 4, 1990.

“Facility” means one or more underground storage tank systems owned by one person on a contiguous piece of property.

“Facility certification” means the periodic renewal of the registration of a facility with the Department pursuant to this chapter.

“Farm tank” means an underground storage tank which contains or contained hazardous substances located on a tract of land devoted to the production of crops or raising animals pursuant to the Farmland Assessment Act of 1964, (N.J.S.A. 54:4-23.1 et seq.), and including fish hatcheries, rangeland, and nurseries with growing operations.

“Financial responsibility assurance” means the assurance, through one or more allowable mechanisms pursuant to N.J.A.C. 7:14B-13.8, of the availability of funds necessary for the cleanup or mitigation of a discharge of hazardous substances.

“Flow-through process tank” means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

“Free product” means a nonaqueous phase liquid present in concentrations greater than a contaminant’s residual saturation point, with a positive pressure such that the material can flow.

“Hazardous substances” means:

1. Motor fuel;
2. Petroleum products which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute);
3. All substances which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute) listed in Appendix A of N.J.A.C. 7:1E; and
4. Waste oil.

“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, diesel and kerosene of any grade or type used to heat residential, industrial or commercial premises.

“Hydraulic lift tank” means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air and hydraulic fluid to operate lifts, elevators and other similar devices.

“Installation” means the emplacement of a new underground storage tank or underground storage tank system including the replacement of an existing underground storage tank or underground storage tank system.

“Inventory controls” means the techniques used to identify a loss of product that are based on volumetric measurements in the underground storage tank and reconciliation of these measurements with hazardous substance delivery and withdrawal records.

“Leak” means the release of a hazardous substance from an underground storage tank system into a space created by a method of secondary containment wherein hazardous substances can be detected by visual inspection or a monitoring system before it enters the environment.

“Leak detection system” means a method of detecting a leak in the space created by a method of secondary containment.

“Legal entity” means all public and private entities including all political subdivisions of the State such as counties and municipalities as well as utility authorities.

“Lining” means a layer of non-corrodible material resistant to the hazardous substance stored and bonded firmly to the interior surface of the tank, pipe, line, fixture or other equipment.

“Liquid” means any material which has a fluidity greater than that of 300 penetration asphalt when tested in accordance with the ASTM D-5-78 Test for Penetration for Bituminous Materials. If not specified, liquid shall mean both combustible and noncombustible liquids.

“Liquid sensor” means a monitoring system which detects the liquid phase of a hazardous substance.

“Modify” or “modification” means a revision, update, adjustment, correction or change in any information included in a facility’s registration material.

“Monitor well” means a well used to observe the elevation of the water table or potentiometric surface, or to determine water quality in an aquifer.

“Monitoring system” means either a discharge detection system or leak detection system capable of detecting leaks or discharges, or both, other than an inventory control system, used in conjunction with an underground storage tank, or a facility conforming to criteria established in N.J.A.C. 7:14B-6.

“Motor fuel” means any petroleum product that includes, but is not limited to, all grades of gasoline, diesel fuel and kerosene used in the operation of any type of engine.

“New underground storage tank system” means an underground storage tank system that was installed on or after September 4, 1990.

“Nonoperational storage tank” means any underground storage tank in which hazardous substances are not con-

tained or from which hazardous substances are not dispensed.

“Non-public water supply” means a water system that is not a public water system.

“Numbers 4, 5, and 6 fuel oil” means grades of fuel oil used for power generation or heating with properties listed with ASTM Specifications D-396 and 975.

“Officer” means an officer as defined in N.J.S.A. 14A:6-15.

“Operational storage tank” means any underground storage tank in which hazardous substances are contained or from which hazardous substances are dispensed.

“Operator” means any person who leases, operates, controls, supervises or has responsibility for, the daily operation of a facility, or any person who has the authority to operate, control or supervise the daily operation of a facility.

“Out of service storage tank” means any underground storage tank system in which hazardous substances are contained or have been contained, but from which hazardous substances are not or have not been introduced or dispensed pending a decision to close the system or begin reuse of the system.

“Overfill prevention” means the use of a mechanical or electrical device designed to restrict or stop the transfer of hazardous substances from a delivery vehicle to a tank or alert the operator that the tank is nearly full.

“Owner” means any person who owns a facility, or any person who has a legal or equitable title to a site containing a facility and has exercised control of the facility. In the case of a nonoperational storage tank, the person who owned the facility containing the nonoperational storage tank immediately prior to discontinuation of its use.

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

“Permanent employee” means any individual who is employed by a business firm for greater than two calendar months, working 20 hours or more per week.

“Permit” means an authorization or license or equivalent control document issued by the Department or its designee to implement the requirements of N.J.A.C. 7:14B-10.

“Person” means any individual or entity, including without limitation, a public or private corporation, company, 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 political subdivisions of or found within the State of New Jersey, or any of the other meanings which apply to the common understanding of the term.

“Petroleum” or “petroleum products” means all hydrocarbons which are liquid at one atmosphere pressure (760 millimeters or 29.92 inches Hg) and temperatures between -20°F and 120°F (-29°C and 49°C), and all hydrocarbons which are discharged in a liquid state at or nearly at atmospheric pressure at temperatures in excess of 120°F (49°C) including, but not limited to, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oil, and purified hydrocarbons that have been refined, re-refined, or otherwise processed for the purpose of being burned as a fuel to produce heat or useable energy or which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine.

“Piping” or “pipe” means any hollow cylinder or tubular conveyance which contains a hazardous substance or routinely contains a hazardous substance, is in contact with the ground and is constructed of nonearthen materials including any fill pipe, valves, elbows, joints, flanges and flexible connections. Piping does not include vent lines, vapor recovery lines or fittings located on top of the tank.

“Primary container” means the first level of containment which comes into immediate contact on its inner surface with the hazardous substance being contained (for example, single-walled tank).

“Product tight” means impervious to the hazardous substance contained or to be contained so as to prevent a release.

“Public community water system” means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

“Public non-community water system” means a public water system that is not a community water system.

“Public water system” means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

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

“Release” means a leak or discharge.

“Release detection observation well” means an access point constructed of screen and casing used in conjunction with a monitoring system to detect a release of hazardous substance in the vapor or liquid phase which is stored in the underground storage tank system, for the operational life of the underground storage tank system.

“Remedial action” means remedial action as defined in N.J.A.C. 7:26E.

“Remedial investigation” means remedial investigation as defined in N.J.A.C. 7:26E-1.8.

“Removal” or “removed” means an underground storage tank(s) that has been taken out of the ground and been disposed of in accordance with applicable local, State and Federal laws.

“Residential building” means a single or multi-family dwelling, nursing home, trailer, condominium, boarding house, apartment house, or other structure designed and used primarily as a dwelling.

“Saturated zone” or “zone of saturation” means that part of the subsurface under greater than atmospheric pressure in which all voids are filled with water.

“Screen” means a pipe used to support the sides of a hole which allows the entrance of water, vapor, or other fluid into the hole.

“Secondary containment” 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.

“Site” means the contiguous piece of property at which a facility is located.

“Site investigation” means site investigation as defined in N.J.A.C. 7:26E-1.8.

“Spill prevention” means the use of a device on the fill pipe to prevent a discharge during the transfer of hazardous substances from a delivery vehicle to a tank.

“State Act” means P.L. 1986, c.102 (codified at N.J.S.A. 58:10A-21 et seq.) and any amendments thereto.

“Substantial modification” means any construction at, or restoration, refurbishment or renovation of, an existing facility which increases or decreases the in-place storage capacity of the facility or alters the physical configuration or impairs or affects the physical integrity of the facility or its monitoring systems.

“Sump” means any pit or reservoir that meets the definition of an underground storage tank (including pipes, troughs or trenches connected to it) that serves to collect or contain a hazardous substance for no more than 48 hours.

“Tank” means a stationary device designed to contain an accumulation of hazardous substances which is constructed of non-earthen materials (for example, concrete, steel, plastic) that provide structural support.

“Tank capacity” means the manufacturer’s nominal tank size, when referring to a single tank. When referring to multiple tanks storing hazardous substances used for the same purpose at the same site within one of the following

two categories: motor fuel and heating oil, the aggregate of the nominal tank sizes will be used to determine capacity.

“Test” means the testing of underground storage tanks in accordance with standards adopted by the Department.

“Transfer of ownership” means a change in the ownership of a facility.

“Treatment works” means a treatment works as defined within the New Jersey Pollutant Discharge Elimination System regulations at N.J.A.C. 7:14A-1.2.

“Underground storage tank” 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 program” means the regulatory requirements and activities conducted pursuant to the authority of N.J.S.A. 58:10A-21 et seq.

“Underground storage tank system” or “tank system” means an underground storage tank and its associated ancillary equipment and containment system, if any.

“Unsaturated zone” means the subsurface zone containing water under a hydrostatic pressure less than atmospheric, including water held by capillary forces within the soil containing air or gases generally under atmospheric pressure. This zone is limited above by the ground surface and below by the upper surface of the zone of saturation.

“Use” means the filling, dispensing or storing of any hazardous substance from or in an underground storage tank system.

“Waste oil” means but is not limited to used oil and waste oil as defined in N.J.A.C. 7:26.

“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 receives and treats 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.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Definitions for temporary, extended and long-term out of service deleted; definitions amended and added to conform to new subchapters 4-12 and 15.

Petition for Rulemaking: Request the repeal of the definition "Tank capacity"; denied.

See: 23 N.J.R. 3534(b), 23 N.J.R. 3825(c).

Amended by R.1994 d.98, effective February 22, 1994.

See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Amended "Abandon in place", "Annular space", "Discharge", "Discharge detection system", "Existing underground storage tank system", "Free product", "Hazardous substances", "New underground storage tank system", "Operator", "Owner", "Person", "Piping", "Sump", and "Tank capacity"; added "Amendment to certification", "Business firm", "Contaminant", "Entire piping run", "Financial responsibility assurance", "Officer", "Out of service storage tank", "Overfill prevention", "Permanent employee", "Release detection observation well", "Remedial action", "Spill prevention", "Treatment works", "Waste oil", and "Wellhead protection area"; and deleted "Cathodic Protection tester", "Corrosion expert", "Discharge detection observation well", "Exposure assessment", "Field constructed tank", "Holiday", "Liquid level indicator", "Liquid trap", "Membrane liner", "Piping containment chambers", "Potential receptor", "Pressure loss sensor", "Qualified Ground Water Consultant", "Stage", "Standard reporting form", "Surface impoundment", "U-tube", "Vacuum loss sensor", "Vadose zone", "Vapor sensor", "Volatile organic substance", and "Water table".

7:14B-1.7 Certifications

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

(b) The person designated in (b)2 below shall sign the following certification:

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) Any New Jersey professional engineer submitting plans in accordance with N.J.A.C. 7:14B-10.3(b)1 shall sign and submit to the Department the following certification:

"I certify under the penalty of law that the information provided in this document is true, accurate and complete and is in conformance with the requirements of this chapter. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment."

(d) Any individual certified in accordance with N.J.A.C. 7:14B-13 in the classification of subsurface evaluator submitting documents in accordance with N.J.A.C. 7:14B-10.3(b)9 shall sign and submit to the Department the following certification:

"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) Any individual submitting documents in accordance with N.J.A.C. 7:14B-13.3(c) shall sign and submit to the Department the following certification:

"I certify under penalty of law that the information provided in this document 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."

New Rule, R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

7:14B-1.8 Use of regulated underground storage tank systems

(a) No person or business firm shall introduce hazardous substances into an underground storage tank system which is known to be or suspected to be leaking or discharging hazardous substances except in accordance with N.J.A.C. 7:14B-8.1(a)2ii.

(b) No person or business firm shall introduce hazardous substances into a regulated underground storage tank which is not properly registered with the Department pursuant to N.J.A.C. 7:14B-2.1.

New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

SUBCHAPTER 2. REGISTRATION REQUIREMENTS AND PROCEDURES

7:14B-2.1 General registration requirements

(a) Any person that owns or operates an underground storage tank system shall register each tank with the Department.

(b) Any person that owns or operates an underground storage tank system 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 all requirements set forth in this chapter.

(c) Any person that owns or operates an underground storage tank system shall only use such tank upon receipt of a valid Registration Certificate issued by the Department.

(d) Any person that owns or operates an underground storage tank system that began use of the tank on or before December 21, 1987 shall register the tank system with the Department no later than 60 days following this date. Any person that owns or operates 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) Any person that owned or operated an underground storage tank system which 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) Any owner or operator intending to close an underground storage tank system shall register the underground storage tank system with the Department before these closure activities are begun.

Amended by R.1990 d.443, effective September 4, 1990.
See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).
Registration required prior to closure of tanks.

7:14B-2.2 Registration and certification procedures

(a) Any person that owns or operates a facility shall file registration and certification information on the New Jersey Underground Storage Tank Facility Certification Questionnaire.

(b) All registration and certification forms shall be obtained from and accurately completed, signed, dated and returned to the address below:

Industrial Site Evaluation Element
Division of Responsible Party Site Remediation
PO Box 028
401 E. State St.
Trenton, NJ 08625-0028
Attn: UST Registration/Certification

(c) The owner or operator of a facility shall complete the New Jersey Underground Storage Tank Facility Certification Questionnaire prior to 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) The owner or operator of a facility shall during initial registration, at a minimum, supply the following information on the New Jersey Underground Storage Tank Facility Certification Questionnaire:

1. The name, location, and contact person for the facility;
2. The name and address of the facility owner;
3. 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 tank system;
4. 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
5. 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).

(e) The owner or operator of a facility shall during Certificate renewal, at a minimum, 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 of a facility having made any change in status to the underground storage tank system since the initial registration shall, at a minimum, 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).

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Information required on the New Jersey Underground Storage Tank Questionnaire and Standard Reporting Form added at (d) and (e). Amended by R.1994 d.98, effective February 22, 1994 (operative January 1, 1995).

See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

7:14B-2.3 Transfer of registration

(a) A Registration Certificate issued by the Department is not transferable.

(b) The owner or operator of an underground storage tank system shall notify the Department of any change in the ownership of a facility within 30 days after the contract date or the date of closing on the New Jersey Underground Storage Tank Facility Certification Questionnaire obtainable from the Department at the address provided in N.J.A.C. 7:14B-2.2(b) and in accordance with the procedures for reporting modifications set forth in N.J.A.C. 7:14B-2.4.

(c) The Department may issue to the new owner or operator a new Registration Certificate indicating all changes that appear on the New Jersey Underground Storage Tank Facility Certification Questionnaire.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

System added to (b), to clarify application of requirements.

Recodified from N.J.A.C. 7:14B-2.4 and amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Former N.J.A.C. 7:14B-2.3, "Signatories", repealed.

7:14B-2.4 Changes to registration

(a) The owner or operator of a facility shall amend a facility's registration to reflect any modification of any information included in the New Jersey Underground Storage Tank Facility Certification Questionnaire. Each modification shall be reported to the Department on a separate New Jersey Underground Storage Tank Facility Certification Questionnaire within 30 days after completion of the modification except as provided for in (c) below.

(b) Modifications include, but are not limited to, the following:

1. The sale or transfer of ownership of a facility;
2. The substantial modification of a facility;
3. A change in the type of hazardous substances stored at a facility.

(c) The owner or operator intending to close an underground storage tank system in accordance with N.J.A.C. 7:14B-9 shall submit a New Jersey Underground Storage Tank Facility Certification Questionnaire within seven calendar days after the closure of the tank system.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Reporting required prior to closure of tanks.

Recodified from N.J.A.C. 7:14B-2.5 and amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Former N.J.A.C. 7:14B-2.4, "Transfer of registration", recodified to N.J.A.C. 7:14B-2.3.

7:14B-2.5 Public access to registration information

(a) All completed New Jersey Underground Storage Tank Facility Certification Questionnaires, as well as documented information pertaining to the registration, shall be considered public records pursuant to N.J.S.A. 47:1A-1 et seq.

(b) Interested persons shall request in writing an appointment to review the public records.

Amended by R.1994 d.98, effective February 22, 1994.
See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).
Recodified from N.J.A.C. 7:14B-2.6 and amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Former N.J.A.C. 7:14B-2.5, "Changes to registration", recodified to N.J.A.C. 7:14B-2.4.

7:14B-2.6 Registration Certificate

(a) The owner or operator of an underground storage tank system shall prominently display a valid Registration Certificate at the facility or shall make the Registration Certificate available for inspection by any authorized local, State or Federal representative.

(b) The owner or 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 Registration Certificates of the multiple facilities to a single address. The owner or operator shall be responsible for ensuring that the Registration Certificates are then sent to the proper facilities.

Amended by R.1990 d.443, effective September 4, 1990.
See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).
System added to clarify application of requirements.
Amended by R.1994 d.98, effective February 22, 1994.
See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).
Recodified from N.J.A.C. 7:14B-2.7 by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Former N.J.A.C. 7:14B-2.6, "Public access to registration information", recodified to N.J.A.C. 7:14B-2.5.

7:14B-2.7 Denial or revocation of registration

(a) The Department may, in its discretion, deny the issuance of a Registration Certificate upon a determination of the following:

1. The New Jersey Underground Storage Tank Facility Certification Questionnaire is incomplete, contains inaccurate information and/or is illegible;
2. The owner or operator fails to enclose the accurate Registration Fee with the New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-3.1; or
3. The owner or operator fails to comply with any requirement of the State Act or this chapter.

(b) The Department may revoke the registration of a facility upon a determination of the following:

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

2. The owner or operator has failed to submit a New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2.2;

3. The owner or operator has failed to pay the Facility Certification fee pursuant to N.J.A.C. 7:14B-3.2;

4. An authorized representative is denied access to the facility during any reasonable hour; or

5. The owner or operator has failed to comply with any requirement of the State Act or this chapter.

(c) The Department shall inform an owner or operator of the denial or revocation of registration by Notice of Intent to Deny Registration or Notice of Intent to Revoke Registration. This Notice shall include:

1. The specific grounds for denial of issuance as set forth in N.J.A.C. 7:14B-2.8(a) above; or

2. The specific grounds for revocation as set forth in N.J.A.C. 7:14B-2.8(b) above.

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

(e) An owner or operator that receives a Notice from the Department denying or revoking a registration shall not use the tank 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).

New Rule, R.1990 d.443, effective September 4, 1990.
See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).
Amended by R.1994 d.98, effective February 22, 1994.
See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).
Recodified from N.J.A.C. 7:14B-2.8 and amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Former N.J.A.C. 7:14B-2.7, "Registration Certificate", recodified to N.J.A.C. 7:14B-2.6.

7:14B-2.8 (Reserved)

Recodified to N.J.A.C. 7:14B-2.7 by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Section was, "Denial or revocation of registration".

SUBCHAPTER 3. FEES**7:14B-3.1 Registration fee**

The owner or operator of an underground storage tank system shall submit a \$100.00 Registration Fee for each

facility upon registration of the facility with the Department. The Department shall only issue a Registration Certificate following the submission of the Registration Fee.

Amended by R.1990 d.443, effective September 4, 1990.
See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

System added to clarify application of requirements; operative date deleted.

Amended by R.1994 d.98, effective February 22, 1994.
See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Deleted the third sentence.

7:14B-3.2 Facility Certification fee

(a) The owner or operator of an underground storage tank system shall submit a Facility Certification fee for each facility upon the periodic renewal of the Facility Certification with the Department.

(b) The owner or operator shall pay the Facility Certification fee of \$100.00 per facility for the three year facility certification cycle and after receiving an invoice from the Department within the time frame set forth in the invoice. The Department may renew the Registration Certificate following the submission of the Facility Certification Fee.

(c) The owner or operator of an underground storage tank system who failed to register the 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 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 operator does not restrict the Department from taking enforcement action against the owner or operator pursuant to N.J.A.C. 7:14B-12.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

System added to clarify application of requirements.

Amended by R.1994 d.98, effective February 22, 1994 (operative January 1, 1995).

See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

In (a), deleted the second sentence; and in (c), added the reference to API recommended practice 1604.

7:14B-3.3 Duplicate Registration Certificate charges

The Fee for duplicate Registration Certificates will be \$25.00 per document.

Repeal and New Rule, R.1994 d.98, effective February 22, 1994.

See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

7:14B-3.4 Exemption from fees

The Department will not assess a Registration or Facility Certification fee for underground storage tank systems which have been abandoned in place or removed prior to September 4, 1990.

Amended by R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Term "public school" clarified at (a)1; (b) added.

Amended by R.1994 d.98, effective February 22, 1994.

See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

7:14B-3.5 Program oversight cost fees

(a) The owner or operator of an existing, former or proposed underground storage tank system shall:

1. Submit a separate fee for each activity at a facility which requires a permit or approval at the time the application, or report is submitted. The owner or operator shall pay a separate fee for resubmissions of the same application or report when the application or report is disapproved due to technical deficiencies in the initial submittal. The fees required by this section are not one time fees but rather the fees required to perform the review of the specific submittals to the Department;

2. Submit a separate fee for each application, or report which is contained within a single document; and

3. Submit a separate fee for each facility where an activity occurs.

(b) The Department will not approve any application or report unless all fee requirements of this subchapter are met.

(c) The fee schedule is as follows:

| Activity | Fee |
|--|-------------|
| 1. Permit for the installation or substantial modification of an underground storage tank system | \$ 300.00 |
| 2. Review of the closure plan for an underground storage tank system | \$ 300.00 |
| 3. Review of the site investigation report | \$ 500.00 |
| 4. Review of the initial remedial investigation report | \$ 1,000.00 |

(d) The owner or operator shall submit oversight cost fees pursuant to the provisions found in the rules for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C-9.3 and submit payment pursuant to N.J.A.C. 7:26C-9.5. In addition, the Department may consider the failure to pay a fee to be a violation of the Act.

New Rule, R.1990 d.443, effective September 4, 1990.

See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

Amended by R.1994 d.98, effective February 22, 1994.

See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Inserted new (e); and recodified existing (e) as (f).

Amended by R.1999 d.241, effective August 2, 1999.

See: 30 N.J.R. 2373(a), 31 N.J.R. 2167(a).

Rewrote (d); and deleted former (e) and (f).

7:14B-3.6 Payment for Department services

(a) All fees submitted in compliance with N.J.A.C. 7:14B-3.2 shall be made by check or money order, payable to "Treasurer, State of New Jersey," and submitted to:

Division of Revenue
 Department of Treasury
 PO Box 417
 Trenton, NJ 08625-0417

All other fee payments shall be made by check or money order, payable to "Treasurer, State of New Jersey" and submitted to the address at N.J.A.C. 7:14B-2.2(b).

(b) No UST fees or charges are pro-rated.

New Rule, R.1994 d.98, effective February 22, 1994.
 See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).
 Amended by R.1997 d.487, effective November 17, 1997.
 See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

7:14B-3.7 Confidentiality claims

Any confidentiality claim submitted in accordance with N.J.A.C. 7:14B-15 shall be accompanied by a fee of \$350.00.

New Rule, R.1994 d.98, effective February 22, 1994.
 See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).

7:14B-3.8 Oversight cost review

To contest on oversight cost imposed pursuant to the rules for Department Oversight of the Remediation of Contaminated Sites, N.J.A.C. 7:26C-9.3, the contestor shall follow the procedures found in N.J.A.C. 7:26C-9.4.

New Rule, R.1994 d.98, effective February 22, 1994.
 See: 25 N.J.R. 1363(a), 26 N.J.R. 1132(a).
 Amended by R.1997 d.487, effective November 17, 1997.
 See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
 Amended by R.1999 d.241, effective August 2, 1999.
 See: 30 N.J.R. 2373(a), 31 N.J.R. 2167(a).
 Rewrote the section.

7:14B-3.9 Payment of fees in installments

Any fee under this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

New Rule, R.1995 d.205, effective April 17, 1995.
 See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

7:14B-3.10 Fees for individual and business firm certification in underground storage tank management services

(a) The fee schedule for the certification of individuals and business firms pursuant to N.J.A.C. 7:14B-13 is as follows:

| | |
|--|----------|
| 1. Nonrefundable examination application fee (see (c) and (d) below) | \$35.00 |
| 2. Certification for an individual (see (f) below) | \$250.00 |
| 3. Business firm certification (see (e) below) | \$35.00 |
| 4. Renewal of individual certification | \$250.00 |
| 5. Renewal of business firm certification | \$35.00 |

| | |
|---|---------|
| 6. Amendment to individual certification card and certificate (see (g) below) | \$20.00 |
| 7. Replacement of certification card or certificate (see (h) below) | \$20.00 |
| 8. Duplicate certificate, as required by N.J.A.C. 7:14B-13.1(c). | \$10.00 |

(b) Plumbing contractors engaged in installation, closure or testing of waste oil tanks and New Jersey Licensed Professional Engineers are exempt from the fees described in (a)1, 2, 4, 6 and 7 above.

(c) Individuals applying for the certification examination shall pay the nonrefundable \$35.00 application fee per classification for which they apply. Each examination classification applied for after the initial certification shall require an additional nonrefundable \$35.00 fee to accompany the examination application.

(d) Individuals failing examinations shall pay an additional nonrefundable \$35.00 fee for each subsequent application for each classification.

(e) Business firms applying for certification shall pay a single \$35.00 filing fee per application, regardless of the number of classifications for which application is being made. Business firms applying for additional classifications after the original certification is issued shall pay an additional \$35.00 application fee. The Department shall issue one certification per business firm regardless of the number of classifications.

(f) Individual applicants satisfying the certification requirements shall pay \$250.00 for the certification or the renewal of the certification. The Department shall issue one certification per individual, including to those individuals being certified in multiple classifications. Individuals adding additional classifications after the original certification card is issued do not need to pay an additional \$250.00 certification fee.

(g) Issuance of a new certification card or certificate required as a result of amendment to certification, shall result in a \$20.00 fee to the individual.

(h) Issuance of a replacement certification card or certificate required as a result of loss shall result in a \$20.00 fee to the individual or business firm.

New Rule, R.1997 d.487, effective November 17, 1997.
 See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

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:

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. The tank shall be constructed of fiberglass-reinforced plastic;

ii. The tank shall be constructed of steel and cathodically protected in the following manner:

(1) The tank shall be coated with a suitable dielectric material;

(2) Field-installed cathodic protection systems shall be designed by a Cathodic Protection Specialist certified in accordance with N.J.A.C. 7:14B-13. The design shall be based upon data collected onsite by a Cathodic Protection Specialist or Cathodic Protection Tester certified in accordance with N.J.A.C. 7:14B-13;

(3) Impressed current systems shall be designed to allow determination of current operating status as required in N.J.A.C. 7:14B-5.2(a)3; and

(4) Cathodic protection systems shall be operated and maintained in accordance with N.J.A.C. 7:14B-5.2;

iii. The tank shall be constructed of a steel-fiberglass-reinforced-plastic composite;

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

(1) The tank is 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; and

(2) Owners and operators maintain records that demonstrate compliance with the requirements (a)liv(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)li through iv above.

2. The piping 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. The piping shall be constructed of fiberglass-reinforced plastic;

ii. The piping shall be constructed of metal and cathodically protected in the following manner:

(1) The piping shall be coated with a suitable dielectric material;

(2) Field-installed cathodic protection systems shall be designed by a person certified as a Cathodic Protection Specialist pursuant to N.J.A.C. 7:14B-13;

(3) Impressed current systems shall be designed to allow determination of current operating status as required in N.J.A.C. 7:14B-5.2(a)3; and

(4) Cathodic protection systems shall be operated and maintained in accordance with N.J.A.C. 7:14B-5.2;

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

(1) The piping is installed at a site that is determined by a Department certified Cathodic Protection Specialist to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

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

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.

3. Except as provided in (a)3iii 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

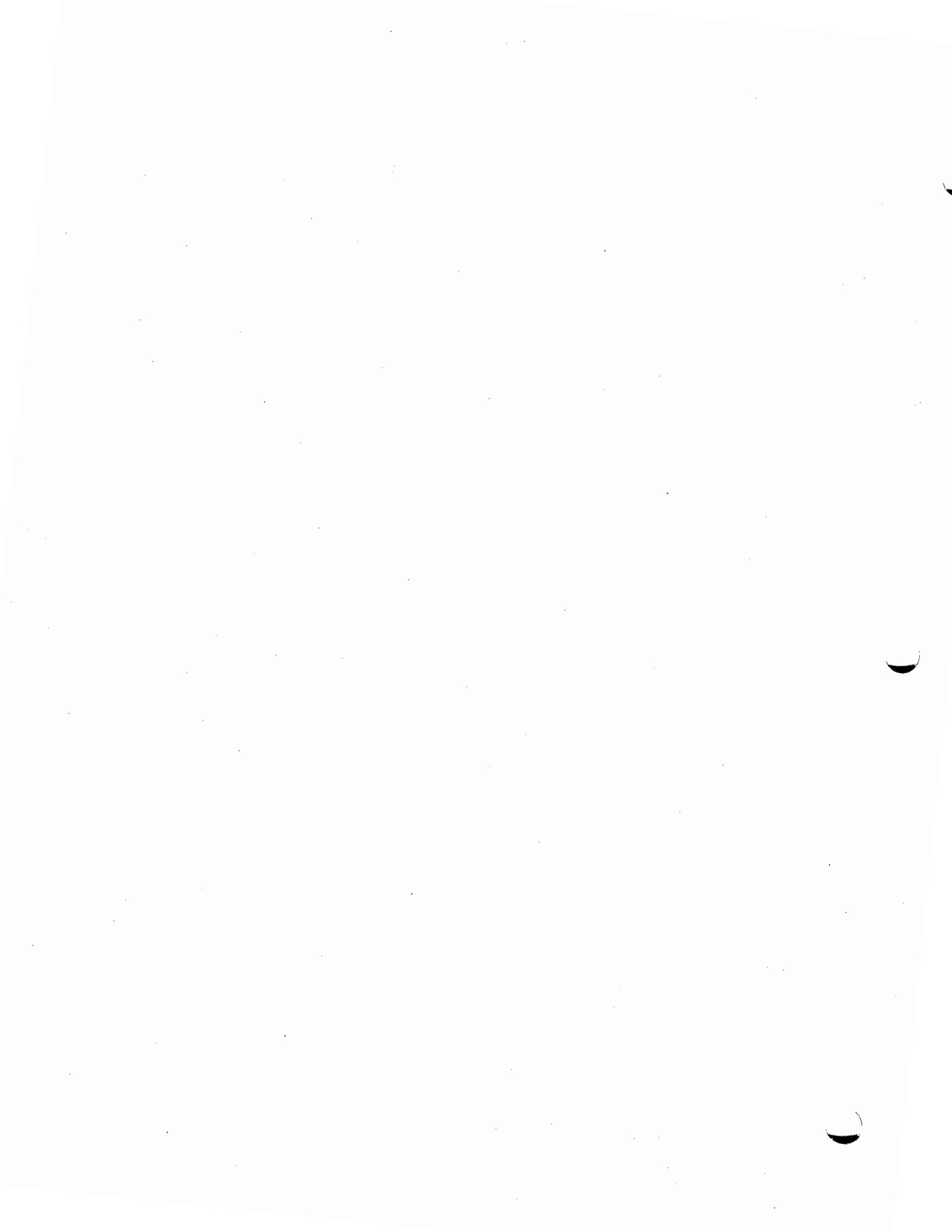
ii. Overfill prevention equipment that shall:

- (1) Automatically shut off flow into the tank when the tank is no more than 95 percent full;
- (2) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or
- (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.

iii. Owners and operators are not required to use the spill and overfill prevention equipment specified in (a)3i and ii 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 underground storage tank system is filled by transfers of no more than 25 gallons at one time.

4. All tanks and piping 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 record-keeping requirements of N.J.A.C. 7:14B-5.6.

i. The installer has been certified by the tank and piping manufacturers;

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.

(b) All new underground storage tank systems installed 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) All new underground storage tank systems using monitoring systems such as vapor or liquid sensors and discharge detection observation wells which use screen and casing and which are being placed in the excavation area during installation of the tank system shall obtain a well permit as specified in the Subsurface and Percolating Waters Act, N.J.S.A. 58:4A-4.1 et seq., unless the wells are constructed in the following manner:

1. Screen and casing materials shall be compatible with the substances stored in the underground storage tank system so as not to preclude the use of the monitoring system;

2. Solid casing shall extend at least two feet below the surface. Glue shall not be used to attach screen to casing. The casing shall be grouted with at least two feet of neat cement to protect against surface infiltration. Screens shall be capped at the bottom;

3. All monitoring systems using screen and casing shall have protective coverings at the surface. Grade level access ports shall be four inches greater in diameter than the casing, watertight and strong enough to withstand the anticipated traffic load. For casing that extends above grade, a protective outer casing at least four inches greater in diameter than that of the inner casing shall be used. The protective coverings shall be seated in neat cement;

4. The top of the screen shall be located at least two feet above the seasonal high water table and five feet into the water table for ground water observation wells;

5. The innermost casing or cap shall be perforated with one hole to allow for venting; and

6. The screen shall be designed to minimize migration of natural soils or filter pack in the well.

(d) The owner or 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) 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, "Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products" (obtained from: 333 Pflugsten Road, Northbrook, IL 60062);

2. Underwriters Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products" (obtained from: 7 Crouse Road, Scarborough, Ontario M1R 3A9, Canada); or

3. American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks" (obtained from: 1916 Race Street, Philadelphia, PA 19103).

(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 External Corrosion Protection of Underground Steel Storage Tanks" (obtained from: 570 Oakwood Road, Lake Zurich, IL 60047);

2. Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and CAN4-G03.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids," and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coating and Galvanic Systems"; or

3. NACE International Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," 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).

(g) Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for 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.

(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 971, "UL Listed Non-Metal Pipe";
2. Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";
3. Underwriters Laboratories of Canada Guide ULC-107, "Glass fiber reinforced Plastic Pipe and Fittings for Flammable Liquids"; or
4. Underwriters Laboratories of Canada Standard CAN4-S633-M81, "Flexible Underground Hose Connectors."

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

1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" (obtained from: P.O. Box 9101, Quincy, MA 02269-9101);
2. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems" (obtained from: 1220 L Street, Northwest, Washington, D.C. 20005);
3. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or
4. NACE International Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems."

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

1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; or
2. NACE International Standard RP-01-69, "Control of External Corrosion on submerged Metallic Piping Systems."

(k) The tank and piping 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 the requirements of (a)4 above:

1. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";
2. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" (obtained from: P.O. Box 2380, Tulsa, OK 74101); or
3. American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4, "Liquid Petroleum Transportation Piping Systems" (obtained from: 11 West 42nd Street, 13th Floor, New York, NY 10036).

(l) No underground storage system shall be installed:

1. Within 50 feet of a public community supply system well, pursuant to N.J.A.C. 7:10-11.4(b)2; and
2. Within 50 feet of a nonpublic community supply system well.

7:14B-4.2 Upgrading of existing underground storage tank systems

(a) All existing underground storage tank systems shall comply with one of the following requirements not later than December 22, 1998:

1. The new underground storage tank system performance standards under N.J.A.C. 7:14B-4.1;
2. The upgrading requirements in sections (b) through (d) below; or
3. Closure requirements under N.J.A.C. 7:14B-9, including applicable requirements for corrective action under N.J.A.C. 7:14B-8.

(b) If an owner or operator chooses to upgrade an underground storage tank, a steel tank shall be upgraded to meet one of the following requirements 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.
 - i. Within 10 years after installing the lining, and every five years thereafter, the lined tank shall be internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.
2. A tank may be upgraded by cathodic protection if the cathodic protection system meets 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 and free of corrosion holes prior to installing the cathodic protection system;

ii. The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with N.J.A.C. 7:14B-6.5(a)4 through 8;

iii. The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of N.J.A.C. 7:14B-6.5(a)3. The first tightness test shall be conducted prior to installing the cathodic protection system. The second tightness test shall be conducted between three and six months following the first operation of the cathodic protection system; or

iv. The tank is assessed for corrosion holes by a method that is determined by the Department to be no less protective of human health and the environment than (b)2i through iii above.

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. Any drilling performed for the installation of the cathodic protection systems shall be performed in accordance with N.J.S.A. 58:4A-4.1 et seq., the Subsurface and Percolating Waters Act.

(c) Metal piping that routinely contains regulated substances and is in contact with the ground shall be cathodically protected 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 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 requirements specified in N.J.A.C. 7:14B-4.1(a)3.

(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, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

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);

3. NACE International Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; or

4. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

(f) The following codes and standards, incorporated herein by reference, as amended and supplemented, 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. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Storage Tanks and Piping Systems"; or

4. NACE International Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems."

SUBCHAPTER 5. GENERAL OPERATING REQUIREMENTS

7:14B-5.1 Spill and overfill control

(a) The owner or operator of an underground storage tank system shall ensure the following:

1. There shall be no release of hazardous substance due to spills or overfills at an underground storage tank facility;

2. The available volume in an underground storage tank shall always be greater than the volume of hazardous substance being transferred to the tank; and

3. The transfer operation is monitored constantly to avoid spilling and overfilling.

(b) The transfer procedures described in National Fire Protection Association Publication 385, and American Petroleum Institute Publication 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 and operator shall report, investigate, and remediate any spills and overfills in accordance with N.J.A.C. 7:14B-8.

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. All corrosion protection systems shall be operated and maintained in accordance with (a)2 and 3 below to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

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. All cathodic protection systems shall be tested within six months of installation and at least every three years thereafter by an individual certified in accordance with N.J.A.C. 7:14B-13; and

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-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used to comply with this requirement.

3. Underground storage tank systems with impressed current cathodic protection systems shall be inspected every 60 calendar days to ensure the equipment is running properly.

4. For underground storage tank systems using cathodic protection, records of the operation of the cathodic protection shall be maintained in accordance with N.J.A.C. 7:14B-5.6 to demonstrate compliance with the operation and maintenance standards in this section. These records shall provide the following:

i. The results of testing from all inspections required in (a)2 above; and

ii. The results of all inspections required in (a)3 above.

7:14B-5.3 Compatibility

(a) Owners and operators shall use an underground storage tank system made of or lined with materials that are compatible with the substance stored in the underground storage tank system.

(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."

(c) All compartmentalized 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.

7:14B-5.4 Repairs

(a) Owners and operators of underground storage tank systems 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. Repairs to underground storage tank systems shall be properly conducted in accordance with a code of practice developed by a nationally recognized association as listed in N.J.A.C. 7:14B-5.4(c), or an independent testing laboratory.

2. Repairs to fiberglass-reinforced plastic tanks shall be made in accordance with the manufacturer's specifications or in accordance with a code of practice developed by a nationally recognized association as listed in N.J.A.C. 7:14B-5.4(c) or an independent testing laboratory.

3. Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings shall be repaired or replaced in accordance with the manufacturer's specifications.

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. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association as listed in N.J.A.C. 7:14B-5.4(c) or an independent testing laboratory; or

ii. The repaired portion of the underground storage tank system is monitored monthly for releases in accordance with a method specified in N.J.A.C. 7:14B-6.5(a)4 through 8.

5. Within six months following the repair of any cathodically protected underground storage tank system, the cathodic protection system shall be tested in accordance with N.J.A.C. 7:14B-5.2(a)2 and 3 to ensure that it is operating properly.

6. Underground storage tank system owners and operators shall maintain records of each repair and associated tightness test for the remaining operating life of the underground storage tank system that demonstrate 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) The owner and operator of an underground storage tank system shall obtain a permit from the Department pursuant to N.J.A.C. 7:14B-10.1(a), prior to performing repairs which constitute a substantial modification under N.J.A.C. 7:14B-10.

(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";
2. American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines";
3. American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"; 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."

7:14B-5.5 Release response plan

(a) The owner or operator of an underground storage tank system shall prepare a release response plan which includes the following information:

1. The emergency telephone numbers of the local fire department, local health department, Department of Environmental Protection Hotline (609) 292-7172), 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;
3. The name and telephone number of any retained corrective action contractor; and

4. The procedures to be followed pursuant to N.J.A.C. 7:14B-8 in the event of a leak or discharge of a hazardous substance from the facility and N.J.A.C. 7:14B-9 if the underground storage tank system must be closed.

(b) The release response plan shall be available for on site inspection.

(c) Any release response plan which is required by and is in compliance with the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., shall suffice for this requirement.

7:14B-5.6 Recordkeeping

(a) Owners and operators shall maintain the following information until the owner or 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 analysis of site corrosion potential if corrosion protection equipment is not used in accordance with N.J.A.C. 7:14B-4.1(a)iv and 2iii; and
 - ii. Documentation of operation of corrosion protection equipment pursuant to N.J.A.C. 7:14B-5.2;
2. Documentation of underground storage tank system repairs made in accordance with N.J.A.C. 7:14B-5.4;
3. Recent compliance with release detection requirements pursuant to N.J.A.C. 7:14B-6.7;
4. Results of all site investigations and remedial investigations conducted pursuant to N.J.A.C. 7:14B-8 and 9; and
5. An installation checklist as required by N.J.A.C. 7:14B-4.1(a)5.

(b) Owners and operators shall keep the records required either:

1. At the underground storage tank site and immediately available for inspection by the implementing agency; or
2. At a readily available alternative site and be provided for inspection to the implementing agency upon request.

(c) After a site is no longer operational, an owner or 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 operator may discard only those documents that are not required to be preserved for a longer time period.

(d) A request for written approval to discard documents shall be sent to:

New Jersey Department of Environmental Protection
 Bureau of Underground Storage Tanks
 PO Box 433
 401 East State Street
 Trenton, NJ 08625-0433

7:14B-5.7 Right of entry

(a) The owner or 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. 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 this chapter are kept, for purposes of inspection, sampling, copying or photographing. Photographing shall be allowed only as related to the underground storage tank system;
2. Have access to and copy any records that must be kept pursuant to this chapter;
3. Inspect all facilities or equipment (including monitoring and control equipment);
4. Observe practices or operations regulated or required under this chapter; and
5. Sample soil, ground water, surface water and/or air.

7:14B-5.8 Fill port markings

The owner or operator of an underground storage tank system 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.

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. Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;
2. Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
3. Meets the performance requirements in N.J.A.C. 7:14B-6.5 or 6.6, 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) When a release detection method operated in accordance with the performance standards in N.J.A.C. 7:14B-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.

(c) Any underground storage tank system regulated pursuant to N.J.S.A. 58:10A-21 et seq. and 42 U.S.C. §§ 6991 et seq. that cannot apply a method of release detection that complies with the requirements of this subchapter shall complete the closure procedures in N.J.A.C. 7:14B-9.

(d) Underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. but not 42 U.S.C. §§ 6991 et seq. shall begin release detection monitoring in accordance with the performance standards of N.J.A.C. 7:14B-6.5 and 6.6 no later than December 22, 1998.

(e) Any underground storage tank system regulated pursuant to N.J.S.A. 58:10A-21 et seq. but not 42 U.S.C. §§ 6991 et seq. that cannot apply a method of release detection with the requirements of this subchapter by December 22, 1998, shall complete the closure requirements of N.J.A.C. 7:14B-9 by that date.

7:14B-6.2 Requirements for underground storage tank systems containing petroleum products and waste oil

(a) Owners and operators of petroleum underground storage tank systems shall provide release detection for tanks and piping as follows:

1. Tanks shall be monitored 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) may use tank tightness testing (conducted in accordance with N.J.A.C. 7:14B-6.5(a)3) at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded under N.J.A.C. 7:14B-4.2, whichever is later;

ii. Underground storage tank systems that do not meet the performance standards in N.J.A.C. 7:14B-4.1 or 4.2 may use monthly inventory controls (conducted in accordance with N.J.A.C. 7:14B-6.5(a)1 or 2) and annual tank tightness testing (conducted in accordance with N.J.A.C. 7:14B-6.5(a)3) until December 22, 1998 when the tank must be upgraded under N.J.A.C. 7:14B-4.2 or permanently closed under N.J.A.C. 7:14B-9; and

iii. Tanks with capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with N.J.A.C. 7:14B-6.5(a)2.

2. Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the following requirements:

i. Underground piping that conveys regulated substances under pressure shall:

(1) Be equipped with an automatic line leak detector conducted pursuant to N.J.A.C. 7:14B-6.6(a)1; and

(2) Have an annual line tightness test conducted in accordance with N.J.A.C. 7:14B-6.6(a)2 or have monthly monitoring conducted in accordance with N.J.A.C. 7:14B-6.6(a)3.

ii. Underground piping that conveys regulated substances under suction shall either have a line tightness test conducted at least every three years in accordance with N.J.A.C. 7:14B-6.6(a)2, or use a monthly monitoring method conduct in accordance with N.J.A.C. 7:14B-6.6(a)3. No release detection is required for suction piping that is designed and constructed to meet the following standards:

(1) The below-grade piping operates at less than atmospheric pressure;

(2) The below-grade piping is sloped so that the contents of the pipe shall drain back into the storage tank if the suction is released;

(3) Only one check valve is included in each suction line;

(4) The check valve is located directly below and as close as practical to the suction pump; and

(5) A method is provided that allows compliance with (a)2ii(1) through (4) above to be readily determined.

(b) Owners and operators of petroleum underground storage tank systems that utilize separate product bearing supply and return lines shall provide release detection for tanks and piping as follows:

1. Tanks shall be monitored 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 9; or

2. Owners and operators may use tank tightness testing conducted in accordance with N.J.A.C. 7:14B-6.5(a)3 at least every three years and check for the presence of water in the tank at the time of each product delivery.

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 shall meet the requirements for petroleum underground storage tank systems in N.J.A.C. 7:14B-6.2. By December 22, 1998, all existing underground storage tank systems containing hazardous substances other than petroleum products and waste oil shall meet the release detection requirements for new systems in (a)2 below.

2. Release detection at new 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 from the tank system until they are detected and removed;

(2) Prevent the release of regulated substances to the environment at any time during the operational life of the underground storage tank system; and

(3) Be checked for evidence of a release at least every 30 calendar days.

ii. Double-walled tanks shall be designed, constructed, and installed to:

(1) Contain a release from any portion of the inner tank within the outer wall; and

(2) Detect the failure of the inner wall.

iii. External liners (including vaults) shall be designed, constructed, and installed to:

(1) Contain 100 percent of the capacity of the largest tank within its boundary;

(2) Prevent the interference of precipitation or ground-water intrusion with the ability to contain or detect a release of regulated substances; and

(3) Surround the tank completely so that the upper perimeter of the liner is above the top of the tank.

iv. Underground piping shall be equipped with secondary containment that satisfies the requirements of (a)2i above (for example, trench liners, jacketing of double-walled pipe). In addition, underground piping

that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with N.J.A.C. 7:14B-6.6(a)1.

v. Other methods of release detection may be used if owners and operators:

(1) Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in N.J.A.C. 7:14B-6.5(a)2 through 6.5(a)8 can detect a release of petroleum;

(2) Provide information to the Department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the underground storage tank site; and

(3) Obtain approval from the Department, through the issuance of a permit pursuant to N.J.A.C. 7:14B-10, to use the alternate release detection method before the installation and operation of the new underground storage tank system.

3. The provisions of 40 C.F.R. 265.193, Containment and Detection of Releases, may be used to comply with the requirements of (a)2 above.

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 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 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) Each method of release detection for tanks used to meet the requirements of N.J.A.C. 7:14B-6.2, 6.3 and 6.4 shall be conducted 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. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank shall be recorded each operating day;

ii. The equipment used shall be capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

iii. The regulated substance inputs shall be reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

iv. Deliveries shall be made through a drop tube that extends to within one foot of the tank bottom;

v. Product dispensing shall be metered and recorded within the standards for meter calibration pursuant to N.J.A.C. 13:47B-1.20;

vi. The measurement of any water level in the bottom of the tank shall be made to the nearest one-eighth of an inch at least once a month; and

vii. The practices described in American Petroleum Institute Publication 1621, "Recommended Practice for 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 of at least 36 hours during which no liquid is added to or removed from the tank;

ii. Level measurements shall be based on an average of two consecutive stick readings at both the beginning and ending of the period;

iii. The equipment used shall be capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

iv. Only tanks of 550 gallons or less nominal capacity may use manual tank gauging as the sole method of release detection. Tanks of 551 to 2,000 gallons 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 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 | Weekly Standard (one test) | Monthly Standard (average of four tests) |
|------------------------|----------------------------|--|
| 550 gallons or less | 10 gallons | 5 gallons |
| 551 to 1,000 gallons | 13 gallons | 7 gallons |
| 1,001 to 2,000 gallons | 26 gallons | 13 gallons |

3. Tank tightness testing shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

(e) The owner or 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) All underground storage tank system owners and operators shall maintain records of the results of any sampling, testing or monitoring, and monthly inventory reconciliations for as long as the site is operational.

(g) After a facility is closed pursuant to N.J.A.C. 7:14B-9, an owner or operator may make a written request to the Department at the address at N.J.A.C. 7:14B-5.6(d) 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.

(h) Upon receipt of a written request by the Department, the owner or operator shall submit to the 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 operator of an underground storage tank system 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 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.

SUBCHAPTER 7. RELEASE REPORTING AND INVESTIGATION

7:14B-7.1 Suspected releases

(a) The owner or operator of an underground storage tank system 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. Inventory control records maintained in accordance with N.J.A.C. 7:14B-6.5(a)1 indicate a release may have occurred in excess of one percent of the tank's monthly flow-through plus 130 gallons;
2. Inventory control records for an underground storage tank system maintained in accordance with the manual tank gauging requirements of N.J.A.C. 7:14B-6.5(a)2 indicate that a release of hazardous substances may have occurred;
3. There is evidence of a hazardous substance or resulting vapors in the soil, in surface water, or in any underground structure or well in the vicinity of the facility;
4. There is water in the underground storage tank not attributable to condensation or deliveries;
5. Product dispensing equipment exhibits erratic behavior such as the loss of, or decrease in, line pressure;
6. There is the sudden loss of product from the underground storage tank system;
7. Test results from a single precision test of an underground storage tank system performed in accordance with N.J.A.C. 7:14B-6.5(a)3 that indicates that a release may have occurred; or
8. Any other method of discovery of a suspected release.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Changed N.J.A.C. references throughout the section.

7:14B-7.2 Investigating a suspected release

(a) The owner or operator of an underground storage tank system shall confirm or disprove a suspected release by conducting an investigation in accordance with all of the applicable following procedures:

1. Check inventory control records for mathematical accuracy;
2. Conduct a visual inspection of all readily accessible physical facilities for evidence of leakage or discharge;
3. Check the calibration of all dispenser meters associated with hazardous substance withdrawal and if necessary perform calibration;
4. Check for a malfunction of the monitoring system; or
5. If the release is suspected due to the results of a previously conducted precision test which indicated that a release occurred, then an additional precision tank test shall be conducted on the underground storage tank system in accordance with N.J.A.C. 7:14B-6.5(a)3, if the test results indicated the following:

i. The results were inconclusive due to failure of the test to take into account and compensate for those factors outlined in N.J.A.C. 7:14B-6.5(a)3; or

ii. There were loose fittings not associated with any product bearing part of the tank system or above the holding capacity of the tank where an overfill device has been installed pursuant to this chapter.

(b) If the investigation conducted in accordance with (a) above is inconclusive in confirming or disproving a suspected release, the owner or operator shall within 60 calendar days of discovery of a suspected release conduct and complete a site investigation designed to confirm or disprove a suspected discharge in accordance with N.J.A.C. 7:26E-3.3. If a discharge is confirmed, the owner or operator shall initiate action pursuant to N.J.A.C. 7:14B-7.3. Documentation of an investigation in accordance with this section which disproves a suspected discharge shall be kept at the facility and made available for inspection by the Department for the operational life of the underground storage tank system.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Inserted (a)5; rewrote (b); and deleted (b)1 through (b)3.

7:14B-7.3 Confirmed discharges

(a) Any person, including, but not limited to, the owner or operator of an underground storage tank system or individual certified pursuant to N.J.A.C. 7:14B-13 hired to install, remove, test or perform a subsurface evaluation on an underground storage tank system, 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 (609) 292-7172. Discharges may be confirmed on the basis of the following:

1. Test, sampling or monitoring results from a discharge detection method specified in N.J.A.C. 7:14B-6.2, 3, 4, and 5 that indicate that a discharge has occurred;

2. Analyses by a laboratory, certified pursuant to N.J.A.C. 7:18, of soil or ground water samples which indicate the presence of contamination in the soil or ground water immediately beneath and/or in the immediate vicinity of the underground storage tank system;

3. Results from a closure plan conducted in accordance with the requirements of N.J.A.C. 7:14B-9.2(b) or 9.3(b) which indicate the presence of contamination in the soil or ground water immediately beneath and/or in the immediate vicinity of the underground storage tank system;

4. Any other method, including visual and olfactory inspection, and field screening analyses, that confirms that a discharge has occurred; or

5. A discharge is confirmed based upon the site investigation conducted pursuant to N.J.A.C. 7:14B-7.2.

(b) When notifying the Department in accordance with (a) above, the following information shall be provided:

1. The type and estimated quantity of substance discharged;

2. The location of the discharge;

3. The actions being taken to contain, remediate, and or remove the substance discharged;

4. The existing case number if a discharge had been reported previously for a separate area of concern; and

5. Any other relevant information which the Department may request at the time of notification.

(c) The owner or operator of an underground storage tank system shall take remedial action as set forth in N.J.A.C. 7:14B-8 when a discharge is confirmed.

(d) The owner or operator of an underground storage tank system 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 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.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Inserted new (b)4; and recodified existing (b)4 as (b)5.

7:14B-7.4 Unknown sources

If the Department has information indicating that a facility may be the source of a discharge, the Department shall require the owner or operator of the facility to perform a site investigation of the underground storage tank system(s) at the facility in accordance with N.J.A.C. 7:26E-3.3 and to prepare a site investigation report in accordance with N.J.A.C. 7:26E-3.13 within 90 calendar days after the Department's written request for a site investigation. The Department shall require the owner or operator of a facility that is the suspected source of a discharge to perform additional investigation(s) as the Department determines to be necessary.

New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

SUBCHAPTER 8. REMEDIATION ACTIVITIES

7:14B-8.1 Immediate corrective action requirements and procedures

(a) The owner or operator of an underground storage tank system shall, upon confirming a release, take immediate action to:

(e) The Department may conduct inspections of the facility that is subject to a remedial action workplan to determine compliance with the workplan.

Repeal and New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Section was "Health and safety requirements".

7:14B-8.5 Remedial action reports

(a) After the remedial action workplan is fully implemented, the owner or operator of the facility shall submit a remedial action report to the Department. The remedial action report shall be prepared and presented in accordance with N.J.A.C. 7:26E-6.6, and discuss all the data and information collected in accordance with the approved remedial action workplan. The remedial action report shall compare the proposed remedial actions described in the remedial action workplan and actual action undertaken to perform the remediation.

(b) If the Department notifies the owner or operator that the remedial action workplan has not been fully completed, the owner or operator of the facility shall correct any deficiencies, and amend the remedial action report, in the time frames specified by the Department.

(c) The Department shall issue a no further action determination to the owner or operator of the facility upon satisfactory completion of the remedial action workplan and submission of the remedial action report.

Repeal and New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Section was "Additional corrective action requirements".

7:14B-8.6 Applicable remediation standards

(a) The owner or operator of a facility which has discharged hazardous substances shall remediate ground water and/or soils that contribute to a violation of the Ground Water Quality Standards, N.J.A.C. 7:9-6, Surface Water Quality Standards, N.J.A.C. 7:9-4, or any other applicable remediation standard, or that shall result in vapor hazards.

(b) The owner or operator of a facility which has discharged hazardous substances shall submit a proposal, contained within the remedial investigation report or the remedial action report, to the Department of the remediation levels to be achieved for each contaminated medium. The proposal shall detail the site specific circumstances and technical rationale for the remediation goals.

New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Former N.J.A.C. 7:14B-8.6, "Leak mitigation requirements", recodified to N.J.A.C. 7:14B-8.8.

7:14B-8.7 Health and safety requirements

All remedial investigation and remedial action activities required under this chapter shall be undertaken in accordance with N.J.A.C. 7:26E-1.9.

New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Former N.J.A.C. 7:14B-8.7, "Recordkeeping", repealed.

7:14B-8.8 Leak mitigation requirements

(a) The owner or operator of an underground storage tank system which has leaked a hazardous substance into the annular space created by the secondary containment system shall:

1. Determine the source of the leak;
2. Properly remove all hazardous substances from the underground storage tank system; and
3. Repair, replace or close the underground storage tank system in accordance with the requirements of this chapter.

(b) Within 30 calendar days after identifying a leak into the annular space of an underground storage tank system in accordance with N.J.A.C. 7:14B-7, the owner or operator shall prepare a written report containing a detailed description of the remedial actions taken concerning the leak into the annular space. The report shall be maintained on site and available for inspection by any Department representative.

Recodified from N.J.A.C. 7:14B-8.6 and amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
In (b), added the second sentence.

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 operator of an underground storage tank system which is out-of-service shall:

1. Notify the Department of such in writing, on forms obtained from the Department within 30 calendar days of the tank becoming out of service. The information shall include:
 - i. The location of the underground storage tank facility;
 - ii. The underground storage tank facility registration number;
 - iii. The underground storage tank number; and
 - iv. A description of the activity being performed.

2. Remain in compliance with all applicable environmental rules, including N.J.A.C. 7:14B-7 and 7:26E;

3. Maintain release detection monitoring in accordance with N.J.A.C. 7:14B-6.1 and 6.2 or 6.1 and 6.3;

4. Maintain all existing corrosion protection systems pursuant to N.J.A.C. 7:14B-4.1, 4.2 and 5.2;

5. Install spill and overflow prevention and corrosion protection in accordance with the requirements of N.J.A.C. 7:14B-4.1 and 4.2 for systems which do not have these, by December 22, 1998, or when the underground storage tank system is put back into service, whichever is later.

(b) The owner or operator of an underground storage tank system which is out of service for a period greater than three months shall follow the guidelines in the American Petroleum Institute Bulletin No. 1604, "Removal and Disposal of Used Underground Petroleum Storage Tank" 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 operator of an underground storage tank system may request that the underground storage tank system remain 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. Submitting to the Department a site investigation report prepared and presented in accordance with N.J.A.C. 7:26E-3.13 at least 30 calendar days prior to the expiration of the 12-month period referenced in (c) above; or

2. Submitting documentation at least 30 calendar days prior to the expiration of the 12-month period referred to in (c) above that the requirements of (a)3 above have been completed and that 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 N.J.A.C. 7:26E.

(d) Any underground storage tank system which is out of service for greater 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) An individual certified in subsurface evaluation in accordance with N.J.A.C. 7:14B-13 shall be on site during the removal or abandonment-in-place of the underground storage tank system and make all observations and decisions regarding site investigation and remedial investigation activities.

Amended by R.1992 d.99, effective March 2, 1992.

See: 23 N.J.R. 2854(a), 24 N.J.R. 787(a).

Compliance deadlines amended to comply with deadlines at N.J.A.C. 14B-4.5(b).

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Rewrote the section.

Law Review and Journal Commentaries

Upgrade Deadline Looms for Underground Storage Tanks. Daniele Cervino, 154 N.J.L.J. 845 (1998).

Case Notes

Contractor's license properly suspended; fuel oil removed without a valid UST System Closure Approval. Department of Environmental Protection and Energy v. Tank Management, Inc., 95 N.J.A.R.2d (EPE) 1.

7:14B-9.2 Closure requirements for underground storage tank systems containing hazardous substances which are not hazardous wastes

(a) The owner or operator of an underground storage tank system containing hazardous substances which are not hazardous wastes who intends to close the underground storage tank system shall:

1. Notify the Department and all applicable municipal and county health departments of the closure activity in writing on forms provided by the Department at least 30 calendar days prior to the anticipated closure date. This notification shall include:

i. The facility registration number;

ii. A statement as to whether the tank system is being removed or abandoned in place in accordance with N.J.A.C. 7:26E-6.3(b);

iii. The date the underground storage tank system is to be closed;

iv. The certification numbers and categories of service of the business firm(s) performing the closure activities and subsurface evaluation required pursuant to N.J.A.C. 7:14B-13; and

v. Any additional information of the person submitting the notification as required by the Department in order that the closure shall be performed in accordance with this chapter.

2. Comply with all applicable requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23;

3. Include a copy of the Department notification required in (a)1 above with the application for a local demolition permit; and

4. If the facility is not registered as required by N.J.A.C. 7:14B-2.2, the owner or operator shall submit to the Department a completed New Jersey Underground Storage Tank Registration Questionnaire with the appropriate fee as specified by N.J.A.C. 7:14B-3.2(c) and 3.5 at least 60 calendar days prior to the date of tank closure.

(b) The owner or operator who intends to close an underground storage tank containing hazardous substances which are not hazardous wastes shall develop and implement a closure plan which consists of a site investigation work plan and a tank decommissioning plan which includes the procedures set forth at N.J.A.C. 7:26E-6.3(b). The owner or 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 operator of an underground storage tank system may choose to submit a closure plan to the Department for review. The appropriate fees pursuant to N.J.A.C. 7:14B-3.5 shall accompany the closure plan. A variance from the site investigation requirements of N.J.A.C. 7:26E may be requested pursuant to N.J.A.C. 7:26E-1.6(d) and included with the closure plan.

(d) The owner or operator of an underground storage tank system shall ensure the system is closed by an individual certified for closure in accordance with N.J.A.C. 7:14B-13.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Inserted new (a)1; recodified existing (a)1 and (a)2 as (a)1i and (a)1ii; inserted (a)1iii through (a)1v, and new (a)2 and (a)3; deleted existing (a)3 and (a)4; recodified existing (a)5 as (a)4; rewrote (b); deleted (b)1 through (b)4; rewrote (c); deleted (c)1 through (c)5; and added (d).

Case Notes

Removal of underground storage tanks without a valid system closure approval for removal warranted suspension of license certification. Department of Environmental Protection v. Tank Management, 95 N.J.A.R.2d (EPE) 1.

7:14B-9.3 Closure requirements for underground storage tank systems containing hazardous wastes

(a) The owner or operator of an underground storage tank system regulated by the New Jersey Hazardous Waste Regulations, N.J.A.C. 7:26, shall follow the closure procedures in that chapter (see N.J.A.C. 7:26-9).

(b) The owner or operator of an underground storage tank system containing hazardous waste which is exempt from the requirements of the New Jersey Hazardous Waste Regulations, N.J.A.C. 7:26, shall comply with the closure procedures in N.J.A.C. 7:14B-9.2.

(c) The owner or operator of an underground storage tank system shall ensure the system is closed by an individual certified for closure in accordance with N.J.A.C. 7:14B-13.

(d) An individual certified in subsurface evaluation in accordance with N.J.A.C. 7:14B-13 shall be on site during the removal or abandonment-in-place of the underground storage tank system and make all observations and decisions

regarding site investigation and remedial investigation activities.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Rewrote (b); deleted (b)1 and (b)2; and added (c) and (d).

7:14B-9.4 Change in service to a nonregulated substance

(a) The owner or 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. Prior to storing the nonregulated substance, empty and clean the tank by removing all liquid and accumulated sludge;
2. Prior to storing the nonregulated substance, conduct a site investigation of the underground storage tank system in accordance with N.J.A.C. 7:26E-3; and
3. Submit a site investigation report prepared and presented in accordance with N.J.A.C. 7:26E-3.13 within 120 calendar days after the tank cleaning.

(b) Should a discharge of hazardous substances be identified during (a) above, the owner or operator shall notify the Department's Environmental Action Hotline in accordance with N.J.A.C. 7:14B-7.3(a) and conduct a remedial investigation in accordance with the requirements of N.J.A.C. 7:14B-8. The owner or operator shall submit a New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2.5(c).

Repeal and New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Section was "Exemptions to site assessment requirements".

7:14B-9.5 Reporting and recordkeeping requirements

(a) The owner or operator of an underground storage tank shall, within 120 calendar days of initiation of closure activities, such as breaking ground for removal or cleaning for abandonment, submit to the Department a site investigation report prepared and presented in accordance with N.J.A.C. 7:26E-3.13 accompanied by the appropriate fees required pursuant to N.J.A.C. 7:14B-3.5.

(b) The report described in (a) above shall be prepared by an individual certified in subsurface evaluation pursuant to N.J.A.C. 7:14B-13. The report shall include the name and address for both the owner and the operator, the underground storage tank system facility registration number, and all applicable case numbers or tank closure approval numbers.

(c) The owner of the property on which an underground storage tank system exists and was closed shall maintain all records generated to comply with the requirements of this subchapter. These records shall be made available to the Department upon request for an indefinite period of time. These records shall be made available for inspection by any

authorized local, State and/or Federal representative and shall be submitted to the Department upon request.

Amended by R.1997 d.487, effective November 17, 1997.

See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Rewrote (a); deleted (a)1 through (a)5; rewrote (b); deleted (c); and recodified (d) and (e) as (c).

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, 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.

(b) An owner or operator of an existing or proposed underground storage tank system need not apply for a permit with the Department when:

1. The underground storage tank and piping being installed, upgraded or modified is or shall be upon completion of installation or modification protected from corrosion, spills and overfills in accordance with N.J.A.C. 7:14B-4.1(a) or 4.2 and is secondarily contained and interstitially monitored in accordance with N.J.A.C. 7:14B-6.4(a)2;

2. The only portion of the tank system being installed is the product piping and the piping is protected from corrosion in accordance with N.J.A.C. 7:14B-4.1(a)2 and designed and constructed to meet the following standards:

- i. The piping operates at less than atmospheric pressure;

- ii. The piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

- iii. Only one check valve is included in each suction line;

- iv. The check valve is located directly below and as close as practical to the suction pump; and

- v. A method is provided that allows compliance with these requirements to be readily determined (for example, the check valve can be viewed at the dispenser);

3. The only portion of the tank system being installed is the product piping and the piping is protected from corrosion in accordance with N.J.A.C. 7:14B-4.1(a) and is secondarily contained and interstitially monitored in accordance with N.J.A.C. 7:14B-6.4(a)2, or

4. The underground storage tank and piping being installed, upgraded or modified is or shall be protected from corrosion, spills and overfills in accordance with N.J.A.C. 7:14B-4.1(a) or 4.2 and the tank is secondarily contained and interstitially monitored in accordance with N.J.A.C. 7:14B-6.4(a)2 and the piping meets the requirements of (b)2i through v above.

(c) Installation of replacement appurtenant piping sections (new piping is placed where the old piping was removed) shall not require a permit as long as the appurtenant piping meets standards set forth in N.J.A.C. 7:14B-4.1(a)2, the entire length of piping from the dispenser to the tank is not being replaced, and the installation does not affect the existing cathodic protection system. Replacement of the entire length of piping from the dispenser to the tank shall constitute a closure of piping and a new installation and require a permit in accordance with (a) above unless it meets the conditions of (b) above.

(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, overflow 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.

(e) For the purposes of this subchapter only, the following activities shall not constitute substantial modifications which require a permit issued by the Department:

1. Installation of vapor control systems required by N.J.A.C. 7:27-16, Control and Prohibition of Air Pollution by Volatile Organic Substances;

2. Minor repairs which shall not:

- i. Involve cutting the tank shell;

- ii. Affect cathodic protection systems; or

- iii. Otherwise affect the storage, capacity, physical configuration or integrity of the facility or its monitoring system;

3. The installation of an automatic line leak detector as required in N.J.A.C. 7:14B-6.2(a)2i; or

4. Any other activities which, upon written determination by the Department, shall not affect storage capacity, physical configuration, or the physical integrity of the facility or its monitoring system.

(f) The owner or operator of an underground storage tank system 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-10.2 Permits required in wellhead protection areas

(a) The owner or 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 operator:

i. Notifies the Department's Environmental Action Hotline at (609) 292-7172 of the discharge;

ii. Submits a remedial investigation/remedial action workplan in accordance with requirements N.J.A.C. 7:14B-8 and 7:26E; and

iii. Identifies the source of the discharge and documents that the underground storage tank system was repaired or identifies the source of the discharge and submits a plan for repair of the underground storage tank system.

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:

New Jersey Department of Environmental Protection
Bureau of Field Operations
PO Box 435
401 East State Street
Trenton, NJ 08625-0435

(b) Any owner or 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);

2. Submit a copy of the scaled site diagram showing the size and location of all underground storage tank systems, all existing structures on the site, and distances from lot lines;

3. Submit information documenting soil permeability as required pursuant to N.J.A.C. 7:14B-6.5(a)5 and 6;

4. Submit documentation of the depth to ground water as required pursuant to N.J.A.C. 7:14B-6.5(a)6;

5. Submit all corrosion system designs required pursuant to N.J.A.C. 7:14B-4.1(a) or 4.2. The design of all field installed cathodic protection systems shall be certified in the manner described in (b)1 above by a cathodic protection specialist certified by the Department pursuant to N.J.A.C. 7:14B-13;

6. Submit a detailed description of the upgrade, installation, or repair to be performed;

7. Submit documentation demonstrating the precision of the performance of the release detection monitoring method chosen pursuant to N.J.A.C. 7:14B-6.1, 6.2 and 6.3;

8. Submit a scaled site diagram which accurately indicates the location of all sampling and monitoring points in relation to all underground storage tanks systems at the facility; and

9. Submit a certification in accordance with N.J.A.C. 7:14B-1.7(d) signed by a subsurface evaluator certified by the Department pursuant to N.J.A.C. 7:14B-13, 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.

(c) The Department shall make an administrative review of each application as follows:

1. If the application does not contain all documents and information required pursuant to (a) and (b) above, the Department shall within 30 working days of receipt of the application, either return the application or advise the applicant in writing as to the additional information required to make the application administratively complete and the date by which the additional information must be received by the Department. If an application is returned, the applicant shall be advised in writing as to the additional information required to make the application complete.

2. If the application contains all documents and information required pursuant to (a) and (b) above and is determined to be administratively complete, the Department, within 30 working days of receipt of the application, shall so advise the applicant in writing.

(d) The Department shall make a technical review of each application within 60 working days after it declares the application administratively complete as follows:

1. If the application does not contain sufficient technical information as required pursuant to (b) above or if the technical information requires clarification, the Department shall so advise the applicant in writing and establish a date by which additional or clarifying information must be received by the Department. If additional or clarifying information is not received by the specified date, the Department may:

- i. Return the application;
- ii. Extend the date by which the applicant must provide the additional or clarifying information; or
- iii. Deny the application pursuant to N.J.A.C. 7:14B-10.8.

(e) The Department shall perform a detailed analysis of the technically complete application and shall develop a staff recommendation to issue the permit or deny the application. The staff recommendation shall include any conditions to be attached to the permit if the recommendation is to issue the permit, or an explanation of the reasons for denial if the recommendation is to deny the application.

(f) The Department shall issue a permit, with any conditions deemed appropriate or the Department shall deny the application in writing with an explanation of the reasons for denial pursuant to the criteria contained in N.J.A.C. 7:14B-10.8.

7:14B-10.4 Public access to permit information

(a) All completed New Jersey Underground Storage Tank permit application forms, as well as documented information pertaining to the permit, shall be considered public records pursuant to N.J.S.A. 47:1A-1 et seq.

(b) Interested persons shall submit a written request for an appointment to review the public records. This written request shall be sent to:

New Jersey Department of Environmental Protection
Bureau of Federal Case Management,
Negotiations/Enforcement Unit
PO Box 028
401 East State Street
Trenton, New Jersey 08625-0028

7:14B-10.5 Display of permit and availability of approved plans

(a) The owner or 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 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) The Department may, in its discretion based upon the criteria listed in (a)1 and 2 below, issue an emergency underground storage tank permit in the specific instance where a building's sole source of heat is from an oil burner and that building's underground storage tank system containing heating oil is determined to be discharging.

1. When this type of underground storage tank system is discovered to have released a hazardous substance into the environment, the owner or operator shall request an emergency permit to remove and replace, or repair, the discharging underground storage tank system; and

2. All permitted activities shall be performed in accordance with the requirements set forth in this chapter.

(b) The owner or operator of an underground storage tank system, 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 operator shall contact the Department on the next working day thereafter at (609) 633-0708 for issuance of an emergency permit. The owner or operator shall, within 14 calendar days of receipt of the emergency permit, submit a permit application pursuant to this subchapter, including the appropriate fee, to the Department for review of compliance with the requirements of this chapter.

(c) The owner or operator shall provide the following information when requesting an emergency permit:

1. The name, address and telephone number of the owner and the operator;

2. A clear and concise factual description of the nature and scope of the emergency;

3. The address and location of the facility where the emergency occurred;

4. The incident number assigned when the discharge was reported to the Department's Environmental Action Hotline in accordance with N.J.A.C. 7:14B-7.3; and

5. A description of the underground storage tank system installed or repaired, including all features necessary to be in compliance with this chapter.

(d) The Department, upon issuance of an emergency permit, shall assign to the owner or the operator of the underground storage tank system an emergency permit number. The owner or 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-10.7 Permit expiration

Any permit issued pursuant to this chapter shall expire if the work authorized by the permit is not commenced within 12 months after the effective date of the permit, or if the authorized work is suspended or abandoned for a period of six months at any time after work has begun.

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. The permit application is incomplete, contains inaccurate information and/or is illegible; or
2. The owner or operator fails 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. The permit application contains false or inaccurate information;
2. An authorized representative is denied access to the site;
3. The owner or operator fails to comply with any requirement of the State Act or this chapter; or
4. The owner or operator of an underground storage tank system is performing or has authorized an activity which is not in compliance with this chapter.

(c) The Department shall inform an owner or 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. The specific grounds for denial of issuance as set forth in (a) above; or
2. The specific grounds for revocation as set forth in (b) above.

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

(e) An owner or 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) An applicant or any person, subject to the limitation on third party appeal rights set forth in P.L. 1993, c.359 (N.J.S.A. 52:14B-3.1 through 3.3), who believes himself or herself to be aggrieved, with respect to decisions made by the Department regarding any permit, permit condition, or application denial may contest the decision and request a contested case hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Requests for a contested case hearing shall be made pursuant to N.J.A.C. 7:14B-12.2.

SUBCHAPTER 11. MUNICIPAL ORDINANCES

Authority

N.J.S.A. 13:1D-9, 58:10A-1 et seq., more particularly 58:10A-21 et seq.

Source and Effective Date

R.1990 d.443, effective September 4, 1990.
See: 21 N.J.R. 2242(a), 22 N.J.R. 2758(a).

7:14B-11.1 Local ordinance exemption

(a) This chapter supersedes any law or ordinance regulating underground storage tanks regulated subject to this chapter, enacted by a municipality, county or political subdivision thereof prior to the effective date of this chapter.

(b) No municipality, county, or political subdivision thereof shall enact any law or ordinance regulating underground storage tanks regulated subject to this chapter without express permission from the Department in accordance with N.J.A.C. 7:14B-11.2 below.

7:14B-11.2 Local ordinance enactment

(a) A municipality, county or political subdivision thereof may apply to the Department at the address listed at N.J.A.C. 7:14B-5.6(d) for authority to enact a municipal ordinance that provides rules and regulations that are more environmentally protective than this chapter. The application shall consist of the following:

1. A copy of the proposed ordinance;
2. A resolution from the governing body supporting the proposed ordinance;
3. A written statement setting forth all the provisions of the proposed ordinance which differ from those set forth, or are not found in, this chapter;
4. The legal and environmental basis for the difference;

5. All supporting facts and data; and
6. The means by which the local government will enforce the provisions of the ordinance.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Inserted (a)6; and deleted (b).

7:14B-11.3 Department determination

(a) The Department shall, within 180 days of receipt of a written petition from a municipality, evaluate the proposed municipal ordinance to determine whether the exemption is warranted and advise the municipality of its findings.

(b) The Department shall base its determination on the following criteria:

1. The municipal ordinance provides greater environmental protection for unique hydrologic conditions;
2. The municipal ordinance provides greater protection against imminent threats to human health; or
3. The municipal ordinance provides greater environmental protection for wetlands or flood plains.

(c) The Department shall provide public notice of all approvals of municipal ordinances under this section by publishing notice of each approval in the DEP Bulletin.

(d) The municipality, county or political subdivision receiving approval from the Department to adopt the ordinance shall submit to the Department a copy of the final ordinance.

(e) The municipality, county or political subdivision that is denied the right by the Department to adopt an ordinance may request an adjudicatory hearing pursuant to N.J.A.C. 7:14B-12.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a)

SUBCHAPTER 12. PENALTIES, REMEDIES, AND ADMINISTRATIVE HEARING PROCEDURES

7:14B-12.1 General penalty

(a) Failure by any person to comply with any requirement of the State Act or this chapter may result in denial or revocation of an owner's or operator's registration or permit for the tank system; denial, suspension, revocation or refusal to renew a certified individual's or business firm's certification issued pursuant to N.J.A.C. 7:14B-13; and/or the imposition of civil administrative penalties, issuance of administrative compliance orders, imposition of civil penalties, initiation of civil action for injunctive relief, or petitioning the Attorney General to bring a criminal action in accordance with N.J.S.A. 58:10A-10 and N.J.A.C. 7:14-8.

(b) An owner, operator, certified individual or certified business firm, may request an administrative hearing for appealing a penalty issued pursuant to the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq. or N.J.A.C. 7:14-8 by meeting the requirements of N.J.A.C. 7:14-8.4.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

7:14B-12.2 Procedures for requesting hearings after denial or revocation of registration, permits, certifications for individuals and business firms, and denial of ordinance adoption

(a) Within 30 calendar days from receipt of notification from the Department denying or revoking a permit, registration, or a certification of an individual or business firm issued pursuant to N.J.A.C. 7:14B-13 or denying an ordinance adoption, issued pursuant to N.J.A.C. 7:14B-11, the registrant, permittee, certificant or political subdivision, may request an adjudicatory hearing to contest such action by submitting a written request to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection and Energy, PO Box 402, Trenton, New Jersey, 08625-0402, which shall include the following information:

1. The name, address, and telephone number of the registrant, permittee, certificant, or political subdivision and its authorized representative, if any;
2. The Underground Storage Tank registration number for the facility (if applicable);
3. The registrant's, permittee's, certificant's or political subdivision's factual position on each question alleged to be at issue, its relevance to the Department's decision, specific reference to contested conditions as well as suggested revised or alternative conditions;
4. Information supporting the registrant's, permittee's, certificant's or political subdivision's factual position and proposed conditions and copies of other written documents relied upon to support the request for a hearing;
5. An estimate of the time required for the hearing (in days and/or hours); and
6. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 30 calendar days after receipt of the denial or revocation by the registrant, permittee, certificant or political subdivision shall be denied by the Department.

(c) If the registrant, permittee, certificant, or political subdivision fails to include all the information required by (a) above, the Department may deny the hearing request.

iii. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith; and

iv. The extent to which disclosure of the information would result in substantial damage to the owner or operator, including a description of the damage, an explanation of why the damage would be substantial, and an explanation of the relationship between disclosures and the damage.

4. Failure of an owner or operator to furnish timely comments or exceptions waives the owner's or operator's confidentiality claim.

5. The owner or operator may assert a confidentiality claim to any information submitted to the Department by an owner or operator as part of its comments pursuant to (c)3 above.

6. The Department may extend the time limit for submitting comments pursuant to (c)3 above for good cause shown by the owner or operator and upon receipt of a request in writing.

(d) After receiving the evidence, the Department shall review its initial determination and make a final determination.

1. If, after review, the Department determines that the information is not entitled to confidential treatment, the Department shall so notify the owner or operator by certified mail, return receipt requested. The notice shall state the basis for the determination, that it constitutes final agency action concerning the confidentiality claim, and that the Department shall make the information available to the public on the 14th day following receipt by the owner or operator of the written notice.

2. If, after review, the determination is made that information is entitled to confidential treatment, the information shall not be disclosed, except as otherwise provided by this subchapter. The owner or operator shall be notified of the Department's determination by certified mail, return receipt requested. The notice shall state the basis for the determination and that it constitutes final agency action.

7:14B-14.5 Substantive criteria for use in confidentiality determinations

(a) When the owner or operator satisfies each of the following substantive criteria, the Department shall determine that the information for which a confidentiality claim has been asserted is confidential:

1. The owner or operator has asserted a confidentiality claim which has not expired by its terms, been waived or withdrawn;

2. The owner or operator has shown that reasonable measures have been taken to protect the confidentiality of the information and that the owner or operator intends to continue to take such measures;

3. The information is not, and has not been, available or otherwise disclosed to other persons without the own-

er's or operator's consent (other than by subpoena or by discovery based on a showing of special need in a judicial or quasi-judicial proceeding, as long as the information has not become available to persons not involved in the proceeding);

4. No statute specifically requires disclosure of the information; and

5. Except for information related to national security, the owner or operator has shown that disclosure of the information would be likely to cause substantial damage to its competitive position.

7:14B-14.6 Disclosure of confidential information to USEPA and other public agencies

(a) The Department may disclose confidential information to persons other than Department employees, representatives, and contractors only as provided in this section or N.J.A.C. 7:14B-14.3.

(b) The Department may disclose confidential information to any other State agency or to a Federal agency if:

1. The Department receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency;

2. The request sets forth the official purpose for which the information is needed;

3. The Department notifies the other agency of the Department's determination that the information is entitled to confidential treatment, or of any unresolved confidentiality claim covering the information;

4. The other State or Federal agency has first furnished to the Department a written formal legal opinion from the agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the person who submitted the information to the Department to disclose such information to the other agency;

5. The other agency agrees not to disclose the information further unless:

i. The other agency has statutory authority both to compel production of the information and to make the proposed disclosure; or

ii. The other agency has obtained the consent of the affected owner or operator to the proposed disclosure; and

6. The other agency has adopted rules or operates under statutory authority that will allow it to preserve confidential information from unauthorized disclosure.

(c) Except as otherwise provided in N.J.A.C. 7:14B-14.7, the Department shall notify in writing the owner or operator who supplied the confidential information of:

1. Its disclosure to another agency;
2. The date on which disclosure was made;
3. The name of the agency to which disclosed; and
4. A description of the information disclosed.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Amended N.J.A.C. references throughout the section.

7:14B-14.7 Disclosure by consent

(a) The Department may disclose any confidential information to any person if it has obtained the written consent of the owner or operator to such disclosure.

(b) The giving of consent by an owner or operator to disclose shall not be deemed to waive a confidentiality claim with regard to further disclosures unless the authorized disclosure is of such nature as to make the disclosed information accessible to the general public.

7:14B-14.8 Imminent and substantial danger

(a) Upon a finding that disclosure of confidential information would serve to alleviate an imminent and substantial danger to public health and the environment, the Department may:

1. Prescribe and make known to the owner or operator such shorter comment period (see N.J.A.C. 7:14B-14.4(c)4), post-determination waiting period (see N.J.A.C. 7:14B-14.4(d)1), or both, as it finds necessary under the circumstances; or

2. Disclose confidential information to any person whose role in alleviating the danger to public health and the environment necessitates that disclosure. Any such disclosure shall be limited to information necessary to enable the person to whom it is disclosed to carry out the activities in alleviating the danger.

(b) Any disclosure made pursuant to this section shall not be deemed a waiver of a confidentiality claim, nor shall it, of itself, be grounds for any determination that information is no longer entitled to confidential treatment.

(c) The Department will notify the owner or operator of any disclosure made pursuant to this section as soon as is feasible.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Amended N.J.A.C. references throughout the section.

7:14B-14.9 Security procedures

(a) Submissions to the Department pursuant to the Act and this chapter will be marked confidential and opened only by persons authorized by the Department engaged in administering the Act and this chapter.

(b) All submissions entitled to confidential treatment shall be stored by the Department or its contractors only in locked cabinets.

(c) Any record made or maintained by Department employees, representatives, or contractors which contains confidential information shall contain appropriate indicators identifying the confidential information.

7:14B-14.10 Wrongful access or disclosure; penalties

(a) A person may not disclose, seek access to, obtain or have possession of any confidential information obtained pursuant to the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., or this chapter, except as authorized by this subchapter.

(b) Every Department employee, representative, and contractor who has custody or possession of confidential information shall take appropriate measures to safeguard such information and to protect against its improper disclosure.

(c) A Department employee, representative, or contractor shall not disclose, or use for his or her private gain or advantage, any information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment or contractual relationship with the Department.

(d) If the Department finds that any person has violated the provisions of this subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information.
2. Pursue any other remedy available by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a Department employee shall constitute grounds for dismissal, suspension, fine or other adverse personnel action.

(f) Use of any of the remedies specified under this section shall not preclude the use of any other remedy.